



**BOARD OF DIRECTORS  
EAST BAY MUNICIPAL UTILITY DISTRICT**

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375 – 11<sup>th</sup> Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0404

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**AGENDA  
Tuesday, August 12, 2014**

**REGULAR CLOSED SESSION  
11:00 a.m., Board Room**

**ROLL CALL:**

**PUBLIC COMMENT:** The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

**ANNOUNCEMENT OF CLOSED SESSION AGENDA:**

1. Existing litigation pursuant to Government Code section 54956.9(d)(1):
  - a. *Hoynes, Thomas, et al. v. Faybishenko, Boris, et al.*  
Alameda County Superior Court, Case No. RG13662274
2. Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2):  
three matters, including one threat of litigation from Willow Park Public Golf Course.

*(The Board will hold Closed Session in Conference Room 8A/B)*

**REGULAR BUSINESS MEETING  
1:15 p.m., Board Room**

**ROLL CALL:**

**BOARD OF DIRECTORS:**

- Pledge of Allegiance

**ANNOUNCEMENTS FROM CLOSED SESSION:**

**PUBLIC COMMENT:** The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

**CONSENT CALENDAR:** (Single motion and vote approving 14 recommendations, including 2 resolutions.)

1. Approve the Special and Regular Meeting Minutes of July 22, 2014.
2. File correspondence with the Board.
3. Rescind the District's agreement with Kone, Inc. made under Board Motion 052-14 dated March 25, 2014 and authorize an agreement with ThyssenKrupp Elevator in an estimated amount of \$264,920 for elevator maintenance services at various District locations during the period August 13, 2014 to August 12, 2017, with two options to renew for an additional one-year period for a total cost not to exceed \$446,498 under Request for Proposal No. FAC 14-1.
4. Award a contract to the lowest responsive/responsible bidder, Steve P. Rados, Inc., in the amount of \$15,995,260 for construction of Summit Reservoir and Shasta/Woods Pumping Plant Replacement, and consent to the withdrawal of the fourth low bid of USS Cal Builders, Inc., under Specification 2070.
5. Authorize the purchase of gasoline and diesel fuel on the open market in the estimated annual amount of \$2.64 million, after the addition of taxes, for a period not to exceed three years commencing August 12, 2014, for a total amount of \$7.92 million.
6. Authorize an agreement beginning on or after August 12, 2014 with Cypress Security, LLC, in an amount not to exceed \$2,557,000 annually for general personnel and infrastructure protection security guard services at District facilities for three years, with the option of two one-year contract extensions of \$2,620,710 and \$2,706,632, respectively for a total cost of \$12,998,342.
7. Authorize an agreement beginning on or after August 12, 2014 with Security Management Group International in an amount not to exceed \$50,000 annually for specialized security guard services at District facilities for three years for a total cost of \$150,000.
8. Authorize amendments to the agreements for the South Interceptor Wood Street Rehabilitation Phase 2 Project:
  - 8a. Authorize an amendment to the agreement with Brown and Caldwell, Inc. in an amount not to exceed \$205,976 for additional design services during construction for the South Interceptor Wood Street Rehabilitation Phase 2 Project.
  - 8b. Authorize an amendment to the agreement with EPC Consultants, Inc. in an amount not to exceed \$305,491 for construction inspection services on the South Interceptor Wood Street Rehabilitation Phase 2 Project.
9. Authorize the General Manager to enter into an agreement with San Joaquin County Flood Control and Water Conservation District to share the cost of consulting services to perform the initial planning and permitting of a groundwater banking demonstration project.

**CONSENT CALENDAR:** (Continued)

10. Authorize the Office of General Counsel to continue employment of the law firm of Barg, Coffin, Lewis & Trapp, LLP, for specialized legal services related to environmental regulatory matters and environmental litigation.
11. Authorize the Office of General Counsel to continue the employment of the law firm of Downey Brand, LLP, for specialized legal services related to natural resources and environmental regulatory and litigation matters.
12. Authorize the Office of General Counsel to continue the employment of the law firm of Meyers Nave for specialized legal services related to labor and employment matters.
13. Approve revisions to the following District policies: Policy 2.05 – Employee Discipline; Policy 2.06 – Alcohol and Drug Abuse; Policy 2.07 – Civil Service System; Policy 2.13 – Outside Employment; Policy 2.15 – Reduction In Force; Policy 2.19 – Tuition Refund for Employee Education; Policy 2.20 – Work Force Communications; Policy 2.21 – Employee Appeal and Grievance; Policy 2.22 – Communication with Unions; Policy 3.07 – Responsibility to Serve Water Customers; Policy 4.20 – Use of District Technology Resources; and Policy 8.02 – Biosolids Management. (Resolution)
14. Fix the ad valorem tax rate for Special District No.1 (SD-1) to cover debt service, delinquencies, and county administrative fees in the amounts of \$3,947,927.22, \$78,960, and \$19,740 respectively on Wastewater System General Obligation Bond Series G for FY15 at a rate of \$0.0047 per \$100 of assessed value for properties located within the service area of SD-1. This represents a decrease of 29% over last year. (Resolution)

**PUBLIC HEARING:**

15. Conduct a public hearing on the proposed water shortage emergency declaration.

**DETERMINATION AND DISCUSSION:**

16. Consider actions regarding the water shortage emergency within the District's service area and adopt Section 28:
  - 16.1 Declare a water shortage emergency within the District's service area.
  - 16.2 Adopt Section 28, "Water Use During Water Shortage Emergency Condition," of the EBMUD Regulations Governing Water Service to Customers to define and impose temporary water use prohibitions and restrictions and enforcement provisions that will be effective August 12, 2014 and remain in effect for up to 270 days or until Section 28 is either revised based on changing circumstances or rescinded when the emergency is declared to be over. (Resolution)
17. Approve a Water Shortage Emergency Action Plan in accordance with District Policy 9.03 to guide public outreach in support of District Regulation 28 (Water Use During Water Shortage Emergency Condition) and to support public education on statewide mandatory restrictions on outdoor water use pursuant to California Water Code, Section 1058.5 and State Water Board Resolution 2014-0038.

**DETERMINATION AND DISCUSSION:** (Continued)

18. Legislative Update:
  - Receive Legislative Report No. 10-14 and consider positions on the following bills: AB 1739 (Dickinson) Groundwater Management; SB 1168 (Pavley) Groundwater Management; SB 1199 (Hancock) Wild and Scenic Rivers: Mokelumne River; S. 2771 (Boxer) Water in the 21st Century Act; and H.R. 5363 (Napolitano) Water in the 21<sup>st</sup> Century Act
  - Update on Legislative Issues of Interest to EBMUD
19. Take action pursuant to AB 408, codified as Public Utilities Code Section 11852.5, to either appoint the sole candidate running for election in Wards 2, 3, 4, or 7; or proceed with the election in one or more of those wards; or continue the item for decision at a special meeting to be held prior to August 20. (Resolution)
20. Adopt the Mitigated Negative Declaration for the Lower Mokelumne River Spawning and Rearing Habitat Improvement Project, adopt findings in accordance with the California Environmental Quality Act, approve the Mitigation Monitoring and Reporting Program and approve implementation of the project. (Resolution)
21. General Manager's Report:
  - Chabot Dam Seismic Improvement Project – Pilot Project Labor Agreement Update
  - Monthly Report – July 2014

**REPORTS AND DIRECTOR COMMENTS:**

22. Committee Reports:
  - Finance/Administration
  - Legislative/Human Resources
23. Director Comments.

**ADJOURNMENT:**

***The next Regular Meeting of the Board of Directors will be held at 1:15 p.m. on Wednesday, September 10, 2014 in the Administration Center Board Room, 375 Eleventh Street, Oakland, California.***

**Disability Notice**

*If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.*

**Document Availability**

*Materials related to an item on this Agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11<sup>th</sup> Street, Oakland, California, during normal business hours.*

## BOARD CALENDAR

Date	Meeting	Time/Location	Topics
<b>Tuesday, August 12</b>	<b>Planning Committee</b> Foulkes (Chair), Linney, McIntosh		<i>Cancelled</i>
	<b>Legislative/Human Resources Committee</b> McIntosh (Chair), Coleman, Mellon		<i>Cancelled</i>
	<b>Finance/Administration Committee</b> Coleman (Chair), Linney, Patterson	8:30 a.m. Training Resource Center	<ul style="list-style-type: none"> <li>• Review of Revisions to District Policies</li> <li>• Annual Internal Audit Report</li> <li>• Financial Quarterly Reports-June 30, 2014</li> </ul>
	<b>Long-Term Financial Stability Workshop #3</b>	9:00 a.m. Training Resource Center	<ul style="list-style-type: none"> <li>• Long-Term Financial Stability-- Workshop #3 (Drought Financial Management/Drought Rates)</li> </ul>
	<b>Board of Directors</b>	11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> <li>• Closed Session</li> <li>• Regular Meeting</li> </ul>
<b>Tuesday, August 26</b>	<b>Board of Directors</b>	11:00 a.m. 1:15 p.m.	<i>Cancelled</i>
<b>Monday, September 1</b>	<b>Labor Day</b>		<i>District Offices Closed</i>
<b>Tuesday, September 9</b>	<b>Admission Day</b>		<i>District Offices Closed</i>
<b>Wednesday, September 10</b>	<b>Planning Committee</b> Foulkes (Chair), Linney, McIntosh	9:15 a.m. Training Resource Center	
	<b>Legislative/Human Resources Committee</b> McIntosh (Chair), Coleman, Mellon	10:15 a.m. Training Resource Center	
	<b>Sustainability/Energy Committee</b> Linney (Chair), Foulkes, Katz	TBD Training Resource Center	
	<b>Board of Directors</b>	11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> <li>• Closed Session</li> <li>• Regular Meeting</li> </ul>

## MINUTES

Tuesday, July 22, 2014

**East Bay Municipal Utility District  
Board of Directors  
375 Eleventh Street  
Oakland, California**

### Special Meeting

Vice-President Katy Foulkes called to order the Special Meeting of the Board of Directors at 9:07 a.m. in the Training Resource Center. The Board met in workshop session to receive a presentation on long-term financial stability for reserves and drought financial management.

### ROLL CALL

Directors John A. Coleman, Doug Linney, Lesa R. McIntosh, Frank Mellon, and Vice-President Katy Foulkes were present at roll call. Director William B. Patterson arrived at 9:09 a.m. and President Andy Katz arrived at 9:11 a.m.

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Director of Finance Eric L. Sandler, Treasury Manager Sophia D. Skoda, and Acting Secretary of the District Rischa S. Cole.

### DISCUSSION

- Filed with the Board was a slide presentation entitled "Long-Term Financial Stability Workshop #2, Board of Directors" dated July 22, 2014.

General Manager Alexander Coate opened the workshop and noted that this is the second in a series of five workshops. This workshop was added to the series to provide an update on the current drought situation, its impact on revenue, and how reserve policies can be adjusted to mitigate impacts associated with events that may reduce revenue.

Director of Finance Eric L. Sandler reviewed topics from the March 25, 2014 workshop. He said that the presentations will concentrate on reserves with a focus on the mechanics of the District's rate stabilization fund, drought financial management, tools used to mitigate the financial impacts of a drought, along with long-term projections for the rate stabilization fund. He also previewed the topics for the upcoming workshops scheduled for August (drought rates and charges), September (capital planning) and November (long-range rate forecasting and cost of service study findings). It was noted that the entire workshop series will support the planning and development of the upcoming FY16-FY17 biennial budget.

### Rate Stabilization Fund

Mr. Sandler reviewed District Policy 4.02 – Cash Reserves and Debt Management. He said that reserves can be used in the event of a budget shortfall but using reserves reflects reduced unrestricted cash on our financial statements and negatively impacts our debt service coverage ratio (DSCR).

Next, he reviewed the current contingency and rate stabilization fund. Staff is proposing to implement a formal Rate Stabilization Fund (RSF) established in the District's bond indenture documents to assist with meeting DSCR requirements in years when net revenues are lower than desired to meet the District's policy goal of net revenues of 1.6 times debt service. To do this, staff proposes establishing a separate RSF, formally track deposits and withdrawals and report the fund as a separate line item in our financial statements. This approach will place constraints on how the funds are used in the future. However, segregating the funds into a separate account also will allow EBMUD to supplement net revenues in a bad year or deposit them in a good year for future use.

There was Board discussion regarding how the current contingency and RSF is administered. General Manager Coate advised that the fund has been informally administered according to the Board's original direction; however, today's discussion is to notify the Board of staff's plans to formalize the RSF process. The Board thanked staff for the updated information.

#### Drought Management Tools

Mr. Sandler reviewed current drought management tools which include voluntary conservation, supplemental supplies and mandatory conservation which are codified in the interim drought management guidelines. The financial tools used to mitigate the impacts from these actions include the rate stabilization fund, a supplemental supply charge and drought rates (although not currently in place).

Mr. Sandler reviewed the strengths and weaknesses of the current financial management tools. He said staff proposes to develop drought rates during the development of the regular FY16-17 rates and charges and incorporate them into the budget for the following year in the event the drought continues beyond FY15. Staff also proposes a larger RSF which could help manage a multi-year drought event without significant impact to rates and charges.

There was Board discussion regarding the decision to not implement the supplemental supply surcharge for the recent supplies taken from the Sacramento River and how not doing so sends mixed signals to our customers. General Manager Coate said that because there were surplus funds in FY14, we weren't required to implement the surcharge. However, if the drought continues through the end of the year, the Board will be asked to consider implementing the surcharge. There was additional discussion regarding the District's current business model and Mr. Sandler said that Workshop #5 will cover the business model and alternatives.

#### Rate Stabilization Fund Levels

Mr. Sandler reviewed the RSF and the major risks it is intended to mitigate such as climate, economic conditions, financial risks, and spikes in energy and chemical costs. The District's current policy of funding the RSF with 20 percent of the volumetric revenues is sufficient to address intermittent, un-correlated events such as a spike in energy or chemical costs but is not effective in managing a multi-year event such as a drought or extreme wet weather. Staff proposed reviewing hydrologic variability and drought risks as the main drivers in determining how to size the RSF.

Next, he reviewed the revenue structure from rates and charges and the cost structure for operations and maintenance. He noted that the three tier rate structure for the water system is intended to encourage conservation, therefore a large share of the revenues are derived from the volume charge. The wastewater rate structure is different in that the revenues from the volume charge are less than the fixed charge. In reviewing the operations and maintenance cost structure, he said that it reflected only operating expenditures and does not include debt service or PAYGO capital. The mismatch in the two structures (revenue and cost) is what leads to reduction in the sales volume and the financial impact of the reduction.

In looking at ways to size the RSF, staff proposed to: 1) model a drought and a post-drought recovery scenario that would include water sales reductions, purchasing supplemental supplies, and factoring other drought costs; 2) estimate the financial impacts from the scenario; and 3) determine how to meet those financial obligations by either using the RSF, drought rate revenue or a supplemental supply charge.

Next, Mr. Sandler presented “just in time” versus “progressive rate adjustments” scenarios. “Just in time” rate increases would match revenues and expenses. This alternative was not recommended as there would be no use of the RSF and there could be significant rate volatility. With “progressive rate adjustments”, there would be a mixed use of the RSF and progressive rate increases over a 3-year drought period. There would be two rate adjustments to fund costs and fund the RSF back to near policy level. He said increasing the size of the RSF would avoid extreme rate shock, send progressive price signals during drought, mitigate overall rate volatility and provide customers with a consistent message.

### **PUBLIC COMMENT**

Addressing the Board were the following persons: 1) Mark Foley, President, AFSCME Local 2019 asked if the \$272 million in normal expenses presented on slide #35 (costs during drought and drought recovery) reflect changes in cost of living increases and staffing levels. Mr. Sandler replied that amount reflects a stylized assumption that operating costs would remain flat. Director Coleman suggested that when presenting this information in the future, that the normal expenses include CPI. Mr. Foley also commented that since we are currently at our 2020 goal for water usage, we shouldn't begin using reserves until the second or third year of a drought event so that we keep cash on hand to deal with financial impacts. Finally, he suggested that staff provide information showing years with a surplus versus and years when we did not; and 2) John Briceno, President, AFSCME Local 444 asked how much of the reserve fund was used for the drought in 2008 and whether the Board had prior knowledge of how the reserve fund was being used before today's workshop. Staff responded to his questions.

There was Board discussion regarding the scenarios presented. In concluding, the Board asked staff to provide the following information for consideration prior to making decisions regarding sizing the RSF that:

- Estimates the financial impact if greater reductions were called for rather than pursuing the use of supplemental supplies;
- Looks at the scenario shown in the figure on slide #35 (costs during drought and drought recovery) and depicting a nominal cost basis or including allowance for inflation;



- Analyzes the financial impact of the drought under a rate structure with a greater percent of fixed revenues than the current structure;
- Show refinements to rate adjustments for the “progressive rate adjustments” and the “just in time” for the model design drought;
- Show a refinement to the “just in time” rate scenario such that rates are not increased during the first year of the drought and that the RSF be used to meet the budget needs for the first year; and
- Analyze a scenario where there is a second 3-year drought beginning in year 7.

**ADJOURNMENT**

President Katz adjourned the Special Meeting at 10:47 a.m.

SUBMITTED BY:

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Rischa S. Cole, Acting Secretary of the District

APPROVED: August 12, 2014

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Andy Katz, President of the Board

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**MINUTES**

**Tuesday, July 22, 2014**

**East Bay Municipal Utility District  
Board of Directors  
375 Eleventh Street  
Oakland, California**

**Regular Closed Session Meeting**

President Andy Katz called to order the Regular Closed Session Meeting of the Board of Directors at 11:00 a.m. in the Administration Center Board Room.

**ROLL CALL**

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Andy Katz were present at roll call.

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Attorney Xanthe M. Berry (Item 1a), Management Analyst Michael J. Pattenaude (Item 1a), Assistant General Counsel Craig S. Spencer (Item 1b), Attorney Saji Pierce (Item 2), Director of Finance Eric L. Sandler (Item 2), Treasury Manager Sophia D. Skoda (Item 2), and Principal Management Analyst Richard C. Lou (Item 2).

**PUBLIC COMMENT**

There was no public comment.

**ANNOUNCEMENT OF CLOSED SESSION AGENDA**

President Katz announced the Closed Session agenda. The Board convened to Conference Room 8A/B for discussion.

**Regular Business Meeting**

President Andy Katz called to order the Regular Business Meeting of the Board of Directors at 1:21 p.m. in the Administration Center Board Room.

**ROLL CALL**

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Andy Katz were present at roll call.

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, and Acting Secretary of the District Rischa S. Cole.

## **BOARD OF DIRECTORS**

President Katz led the Pledge of Allegiance.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

## **PUBLIC COMMENT**

There was no public comment.

## **CONSENT CALENDAR**

- Motion by Director Foulkes, seconded by Director Coleman; to approve Items 1-8 on the Consent Calendar, carried (7-0) by the following voice vote: AYES (Coleman, Foulkes, Linney, McIntosh, Mellon, Patterson, and Katz); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 132-14** – Approved the Regular Meeting Minutes of July 8, 2014.
  2. The following correspondence was filed with the Board: 1) Slide presentation entitled “Transfer of Unpaid Delinquent Charges to the 2014-2015 Property Tax Rolls,” dated July 22, 2014; 2) Slide presentation entitled “Water Shortage Action Plan,” dated July 22, 2014; 3) Memorandum dated July 22, 2014 to the Board of Directors from Cheryl A. Farr, Special Assistant to the General Manager, regarding the August 7, 2014 Contra Costa County Mayors’ Conference; and 4) Memorandum dated July 22, 2014 to the Board of Directors from Cheryl A. Farr, Special Assistant to the General Manager, regarding the Board Committee Agenda Items Update.
  3. **Motion No. 133-14** – Awarded a contract to the lowest responsive/responsible bidder, Groeniger and Company, in the estimated total amount, after the addition of taxes, of \$882,900 for supplying wet barrel fire hydrants for the period beginning August 1, 2014 and ending July 31, 2016, or upon delivery of 1,000 hydrants, whichever occurs later, under Request For Quotation No. 1424.
  4. **Motion No. 134-14** – Awarded a contract to the lowest responsive/responsible bidder, Proven Management, Inc., in the amount of \$1,949,777 for construction of South Reservoir Demolition under Specification 2049A.
  5. **Motion No. 135-14** – Authorized an agreement beginning on or after July 22, 2014 with Keller Canyon Landfill Company, Inc., a subsidiary of Republic Services, Inc., in an amount not to exceed \$300,000 annually for trench spoils disposal for three years with three options to renew for an additional one-year period for a total cost of \$1.8 million.
  6. **Motion No. 136-14** – Authorized an agreement beginning on or after July 28, 2014 with Hazen and Sawyer, P.C. in an amount not to exceed \$207,627 for professional services to investigate and recommend strategies to control struvite formation at the District’s Main Wastewater Treatment Plant.

7. **Motion No. 137-14** – Cancelled the August 26, 2014 Closed Session and Regular Meetings of the Board of Directors.

### **PUBLIC HEARING**

8. **Conduct A Public Hearing To Consider Objections And Protests To The General Manager's Report To Transfer Delinquent EBMUD Charges To The 2014-2015 Property Tax Rolls.**

President Katz opened the Public Hearing at 1:30 p.m. There were no comments. President Katz closed the Public Hearing at 1:31 p.m.

### **DETERMINATION AND DISCUSSION**

9. **Adopt The General Manager's Report And Authorize The General Manager To Transfer Delinquent EBMUD Charges To The 2014-2015 Property Tax Rolls.**

Manager of Customer and Community Services Sherri A. Hong provided an overview on the District's lien program to transfer delinquent charges to the counties' property tax rolls. Under the authority of MUD Act Section 12811.1, the District is authorized to collect multi-family residential (MFR) delinquent charges incurred on or after January 1, 2011 through monthly lien filings and annual transfers to the property tax rolls. The District has used this authority as an alternative to terminating water service when the MFR property owner or customer of record fails to pay delinquent charges of \$100 or more. The authority requires the District to provide a report to the California legislature detailing program results, number of transfers and property tax liens filed, and the effectiveness of the program. The report will be submitted prior to the legislature's January 1, 2015 deadline. Ms. Hong also noted that this authority is scheduled to sunset effective January 1, 2016. In October 2014, staff will seek Board approval to continue legislative efforts to remove the sunset date to allow the District to continue with the lien program.

Staff recommended that the Board adopt the General Manager's Report and authorize the General Manager to exclude from the report any affected parcels or amounts as appropriate, including those that the District receives payment for on or before the reports are sent to Alameda and Contra Costa Counties in electronic form on August 6, 2014.

- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action, carried (7-0) by the following voice vote: AYES (Coleman, Foulkes, Linney, McIntosh, Mellon, Patterson, and Katz); NOES (None); ABSTAIN (None); and ABSENT (None).

**Resolution No. 33991-14** – Approving Transfer Of Unpaid Delinquent Charges To Alameda And Contra Costa Counties' 2014-2015 Property Tax Rolls.

10. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine reported that the State Legislature is on summer break and will resume on August 4. She said that policy committees are looking forward to reviewing the District's lien program authority report to ensure the program is

operating as stated and that the District is properly noticing customers prior to filing liens. She also reported that discussions are ongoing regarding SB 1199 – Wild and Scenic Rivers – Mokelumne River. Next, she reported on groundwater legislation that addresses groundwater sustainability, groundwater management plans and responsible parties. Staff will provide updates to the Board as appropriate. In concluding, Ms. Dumaine reported that the state water bond issue is still outstanding and will be addressed when the legislature resumes in August.

**11. General Manager's Report.**

Special Assistant to the General Manager Cheryl A. Farr provided an update on the District's Water Shortage Action Plan which was established by the Board of Directors on February 11, 2014 and affirmed on May 13, 2014. She reported that in support of the State Water Resource Control Board's (SWRCB) decision to establish statewide mandatory outdoor water use restrictions, staff is recommending that the Board conduct a public hearing on August 12<sup>th</sup> to take the steps necessary for EBMUD to mandate temporary water use prohibitions and restrictions that will be consistent with the new statewide requirements. At that time staff will be recommending related updates to public outreach activities described in the Water Shortage Action Plan.

**REPORTS AND DIRECTOR COMMENTS**

**12. Committee Reports.**

- Filed with the Board were the Planning and Legislative/Human Resources Committee Minutes of July 8, 2014.

**13. Director Comments.**

- Director Coleman reported attending/participating in the following events: ACWA Executive Committee teleconference on July 8 in Oakland; Memorial for John French on July 9 in Orinda; ACWA Region 1 meetings on July 10-11 in Eureka; speaking engagement for Sons In Retirement on July 14 in Concord; speaking engagement at East Bay Leadership Council – Water meeting in Walnut Creek on July 15; ACWA Executive Committee teleconference meeting on July 15 in Oakland; Contra Costa Grand Jury meeting on July 16 in Martinez; National Association of Property Owners meeting to provide a water supply update on July 17 in Pleasant Hill; Cal Shakes event on July 17 in Orinda; USO Show on July 19 at the Lafayette Reservoir; and an ACWA Executive Committee teleconference on July 22. He reported on plans to attend/participate in the following upcoming events: ACWA Board Workshop on July 24 in Sacramento; ACWA Executive Board meeting on July 25 in Sacramento; ACWA Board meeting on July 25 in Sacramento; ACWA Executive Committee teleconference on July 29; ACWA Water Policy and Forum dinner on July 30 in Costa Mesa; and a Contra Costa Mayors' conference on August 7 in Lafayette.
- Director Foulkes reported attending/participating in the following events: El Sobrante MAC meeting on July 9; Contra Costa Mayors' conference on July 10 in Oakley; East Bay Leadership Council Water Task Force on July 15; and Cal Shakes event on July 17 in Orinda.
- Director Linney had no report.

- Director McIntosh had no report.
- Director Mellon reported attending/participating in the following events: Alameda County Special Districts Association meeting on July 9 in Dublin; Contra Costa Mayors' conference meeting on July 10 in Oakley; Hayward Area Recreation District fundraiser on July 16; EBMUD Retirement Board meeting on July 17; and Contra Costa Special Districts Association meeting on July 21 in Martinez.
- Director Patterson had no report.
- President Katz had no report.

### **ADJOURNMENT**

President Katz announced that the meeting would be closed in memory of Primo Facchini, a long-time Walnut Creek resident who passed away on July 12. Mr. Facchini served on the Alamo-Lafayette Cemetery District since 1977 and was an active member of the Contra Costa County Special District Association. He played an active role in encouraging effective governance in east bay communities, was greatly respected and will be dearly missed by all those who had the pleasure of knowing him.

President Katz adjourned the meeting at 1:51 p.m.

SUBMITTED BY:

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Rischa S. Cole, Acting Secretary of the District

APPROVED: August 12, 2014

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Andy Katz, President of the Board





AGENDA NO.  
MEETING DATE

3.

August 12, 2014

TITLE ELEVATOR MAINTENANCE SERVICES

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTION**

Rescind the District's agreement with Kone, Inc. made under Board Motion 052-14 dated March 25, 2014 and authorize an agreement with ThyssenKrupp Elevator in an estimated amount of \$264,920 for elevator maintenance services at various District locations during the period August 13, 2014 to August 12, 2017, with two options to renew for an additional one-year period for a total cost not to exceed \$446,498 under Request for Proposal No. FAC 14-1.

**SUMMARY**

The District requires contractual services from a licensed elevator maintenance company to provide preventive and corrective maintenance, and emergency response on 18 District-owned elevators at 10 locations.

**SERVICE PROVIDER SELECTION**

Requests for proposals were sent to four licensed elevator maintenance companies. The District received four proposals of which one was non-responsive. Kone, Inc. was selected based on a combination of price and thorough preventive maintenance plan and schedule. To date, Kone Inc. has not been able to meet the requirements of the contract and both parties have mutually agreed to rescind the contract. ThyssenKrupp Elevator was rated second in the proposal evaluations and has confirmed they will adhere to the terms contained in their original proposal.

**CONTRACT EQUITY PROGRAM EFFORTS**

The completed P-035 and P-061 forms are attached.

**FISCAL IMPACT**

Funds are available for this work in the FY15 budget.

Funds Available: FY:15		Budget Code: 736/8545/5312
DEPARTMENT SUBMITTING <u>Operations and Maintenance</u>	DEPARTMENT DIRECTOR  Michael J. Wallis	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.



## **ALTERNATIVES**

**Issue a new RFP.** This is not recommended as improved pricing from another licensed elevator maintenance company is not likely.

**Use District forces.** This is not recommended because elevator maintenance is specialized work that District forces do not perform.

### Attachments

P-035 Contract Equity Program Summary  
P-061 Affirmative Action Summary



## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <b>General Services Agreement</b> Elevator Maintenance Services -Three-Year contract with 2 One-Year Renewal Options	<b>DATE:</b> July 14, 2014
--	-------------------------------

CONTRACTOR:		PERCENTAGE OF CONTRACT DOLLARS			
Thyssen Krupp Elevator San Leandro, CA		Local Business	Availability Group	Contracting Objectives	Participation
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men	25%	0.0%
\$446,498	Ethnicity	Gender	White Women	6%	0.0%
	Foreign		Ethnic Minorities	25%	0.0%

CONTRACT EQUITY PARTICIPATION											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
<b>PRIME:</b> Thyssen Krupp Elevator	\$446,498	Foreign			--	--	--	--	--	--	100.0%
<b>SUBS:</b> None					--	--	--	--	--	--	--
<b>TOTAL</b>	\$446,498				0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%

CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)				
	White Men	White Women	Ethnic Minorities	Total Employees
<b>No. of Employees:</b>	5,946	827	1,301	8,074
<b>Percent of Total Employees:</b>	73.6%	10.2%	16.1%	
<b>MSA Labor Market %:</b>	39.0%	33.7%	27.2%	
<b>MSA Labor Market Location:</b>	United States			

**COMMENTS**

**Contract Equity Participation** - Foreign-owned corporation and no subcontract opportunities exist.

\*Rescinded original award to Kone, Inc.

Workforce Profile & Statement of Nondiscrimination Submitted	Good Faith Outreach Efforts Requirement Satisfied	Award Approval Recommended
NA	NA	



## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title:		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
<b>Elevator Maintenance Services -Three-Year contract with 2 One-Year Renewal Options</b>		National	10.5	10.7	3.7	0.7	27.3		
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9		
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2		
<b>General Services Agreement</b>	DATE:	<b>Number of Ethnic Minority Employees</b>							
R=Recmmd P=Prime S=Sub	Composition of Ownership								
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
RP	Foreign	<b>Company Wide</b>	463	564	166	37	1,230	15.2%	27.2%
Thyssen Krupp Elevator Rosalind Stewart 14400 Catalina Street San Leandro, CA 94577  510-476-1900		Manager/Prof	56	62	65	5	188	14.0%	
		Technical/Sales	30	34	11	1	76	13.5%	
		Clerical/Skilled	216	327	89	26	658	13.6%	
		Semi/Unskilled	161	141	1	5	308	23.4%	
		<b>Bay Area</b>	-	-	-	-	-	NA	39.9%
		AA Plan on File:	NA		Date of last contract with District:		4/7/2006		
		Co. Wide MSA:	United States		# Employees-Co. Wide:		8,074	Bay Area: 0	
		<b>Company Wide</b>							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		<b>Bay Area</b>							39.9%
		Co. Wide MSA:							
P	WM	<b>Company Wide</b>	2	-	-	-	2	12.5%	39.9%
Dream Ride Elevator Paul Werblow 4780 East Second Street Benecia, CA 94510  707-745-1380		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	2	-	-	-	2	15.4%	
		Semi/Unskilled	-	-	-	-	-	NA	
		<b>Bay Area</b>	2	-	-	-	2	12.5%	39.9%
		Co. Wide MSA:	Bay Area		# Employees-Co. Wide:		16	Bay Area: 16	
P	Foreign	<b>Company Wide</b>	7	26	17	1	51	24.9%	47.8%
Kone, Inc. Greg Rowe 15021 Wicks Blvd San Leandro, CA 94577  510-774-8182		Manager/Prof	-	1	4	-	5	20.8%	
		Technical/Sales	-	2	-	-	2	18.2%	
		Clerical/Skilled	7	21	13	1	42	25.1%	
		Semi/Unskilled	-	2	-	-	2	66.7%	
		<b>Bay Area</b>	7	27	17	1	52	100.0%	39.9%
		Co. Wide MSA:	Oakland, CA		# Employees-Co. Wide:		205	Bay Area: 52	
		<b>Company Wide</b>							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		<b>Bay Area</b>							39.9%
		Co. Wide MSA:							
		<b>Company Wide</b>							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		<b>Bay Area</b>							39.9%
		Co. Wide MSA:							

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.  
MEETING DATE

4.  
August 12, 2014

**TITLE** SUMMIT RESERVOIR AND SHASTA/WOODS PUMPING PLANT REPLACEMENT

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTION**

Award a contract to the lowest responsive/responsible bidder, Steve P. Rados, Inc., in the amount of \$15,995,260 for construction of Summit Reservoir and Shasta/Woods Pumping Plant Replacement, and consent to the withdrawal of the fourth low bid of USS Cal Builders, Inc. (USS Cal), under Specification 2070.

**SUMMARY**

Work includes demolition of the existing 37 million gallon (MG) reservoir and pumping plant; site grading; access roads; drainage facilities; construction of a new 3.5 MG concrete tank; construction of a new pumping plant; pipeline replacements; landscaping; and other related required work.

**DISCUSSION**

Summit Reservoir and its earthen embankment dam, built in 1891, and Shasta/Woods Pumping Plant, built in 1937, have exceeded their expected service lives and are experiencing increasing high and excessive maintenance costs. Summit Reservoir is too large, resulting in poor water quality due to inadequate water turnover. Replacement of the reservoir, pumping plant, and on-site pipelines will improve water quality and distribution system reliability. Additionally, the District must comply with an Alameda County District Attorney's (DA) agreement to remove the base liner caulking materials from the reservoir by calendar year 2015. The site grading of the earthen embankment dam and resulting storage volume reduction will remove the reservoir from the jurisdiction of the California Division of Safety of Dams. See attached map for location details.

**BID RESULTS**

Bid documents were issued to 31 resource organizations and 58 prospective bidders. The District received 9 bids ranging from \$15,995,260 to \$18,699,225. The bid summary is attached. The engineer's estimate for this work is \$14,301,400. The range of bids was above the engineer's estimate predominantly due to higher actual costs for mechanical and electrical subcontract quotes.

Funds Available: FY14-15; CIP #2001457; Page 46		Budget Code: WSC\570\7999\5561\2007820:25
DEPARTMENT SUBMITTING <u>Engineering and Construction</u>	DEPARTMENT MANAGER or DIRECTOR  Xavier J. Irias	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

The lowest responsive/responsible bidder, Steve P. Rados, Inc., is licensed to perform work in California, and is not on the Department of Industrial Relations debarment list. In the past five years, Steve P. Rados, Inc. has not filed a Government Code Claim against the District and has not initiated any litigation against the District.

The fourth low bid of \$17,212,000 was submitted by USS Cal on July 16, 2014. The bid was incorrectly calculated due to a clerical error and the corrected amount was \$13,612,600, calculated based on the extension of each bid item. Per Instructions to Bidders, in the event of a discrepancy between the unit price extension and the total amount bid, the unit price extension total shall prevail. Therefore, the corrected bid amount was \$13,612,600 – the total of each bid item. USS Cal requested permission to withdraw its bid due to the clerical error. The formal request, received on July 17, 2014, explained the error.

#### **CONTRACT EQUITY PROGRAM EFFORTS**

The completed P-035 and P-061 forms are attached.

#### **FISCAL IMPACT**

This item is included in the FY14-15 Capital Improvement Program for the Summit Pressure Zone Improvements Project under the Pressure Zone Improvements Program.

#### **PREVAILING WAGE**

Work under this contract is subject to the payment of current prevailing wages according to determinations for each craft as established by the Director of Industrial Relations of the State of California.

#### **UNION NOTIFICATION**

Local 444 was notified of the contract on July 19, 2013. Local 444 did not raise any specific issues related to this contract.

#### **CEQA/ENVIRONMENTAL COMPLIANCE**

An Environmental Impact Report was certified by the Board of Directors on November 8, 2011.

#### **ALTERNATIVES**

**No project.** This alternative is not recommended because the Summit Reservoir is too large which compromises water quality in its pressure zone. Additionally, the District must comply with the Alameda County DA agreement to remove caulking materials from the reservoir by calendar year 2015.

Summit Reservoir and Shasta/Woods Pumping Plant Replacement  
August 12, 2014  
Page 3

**Perform a portion of the work with District forces.** This alternative is not recommended because this project is beyond the scope of work typically performed by District forces.

Attachments: Location Map  
Bid Summary  
Contract Equity Program Summary (P-035)  
Affirmative Action Summary (P-061)

I:\Sec\2014 Board Related Items\08-12-14 Board Agenda Items\E&C Summit Res and Shasta/Woods PP Replacement.doc



**EAST BAY MUNICIPAL UTILITY DISTRICT**

**SPECIFICATION 2070**

**Summit Reservoir and Shasta/Woods Pumping Plant Replacement**

**Bids Opened July 16, 2014**

	<b>BIDDER</b>	<b>TOTAL AMOUNT BID</b>
1.	Steve P. Rados, Inc. 2002 E. McFadden Ave., Ste. 200 Santa Ana, CA 92705 (714) 835-4612	\$15,995,260
2.	Disney Construction, Inc. 859 Cowan Rd. Ste. 3 Burlingame, CA 94010 (650) 259-9545	\$16,293,000
3.	Pacific States Environmental Contractors, Inc. 11555 Dublin Blvd. Dublin, CA 94568 (925) 803-4333	\$16,345,000
4.	USS Cal Builders, Inc.(Bid Withdrew) 8051 Main St. Stanton, CA 90680 (714) 828-4882	\$13,612,600
5.	Myers and Sons Construction, LP 4600 Northgate Blvd., Ste. 100 Sacramento, CA 95834 (916) 283-9950	\$17,350,600
6.	Mountain Cascade, Inc. 555 Exchange Ct. Livermore, CA 94597 (925) 373-8370	\$17,849,000
7.	Manito Construction, Inc.(SBE) 1043 Serpentine Ln., Ste. I Pleasanton, CA 94566 (925) 600-0220	\$17,859,000/17,609,000*
8.	Ghilotti Construction Company, Inc. 246 Ghilotti Ave. Santa Rosa, CA 95407 (707) 585-1221	\$18,301,500
9.	Western Water Constructors, Inc. 707 Aviation Blvd. Santa Rosa CA 95403 (707) 540-9640	\$18,699,225

SBE – Small Business Enterprise

\*Effective Bid Amount due to SBE discount (5%, not to exceed \$250,000)

**Engineer's Estimate:**

**\$14,301,400**







## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE SPECIFICATION NO.: 2070 Summit Reservoir and Shasta/Wood Pumping Plant Replacement				DATE: July 23, 2014							
CONTRACTOR: Steve P. Rados, Inc. Santa Ana, CA			PERCENTAGE OF CONTRACT DOLLARS								
			Availability Group		Contracting Objectives		Participation				
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men		25%		58.6%				
	Ethnicity	Gender	White Women		9%		24.5%				
\$15,995,260	White	Men	Ethnic Minorities		25%		10.8%				
CONTRACT EQUITY PARTICIPATION											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
<b>PRIME:</b>											
Steve P. Rados, Inc.	\$6,453,760	White	X		40.3%	--	--	--	--	--	--
<b>SUBS:</b>											
Tri-Star Metals	\$68,000	White	x		0.4%	--	--	--	--	--	--
Matt Chlor, Inc.	\$15,000	White	x		0.1%	--	--	--	--	--	--
Bilco Hatches	\$10,000	PHC			--	--	--	--	0.1%	--	--
Cell Crete Corporation	\$25,000	White	x		0.2%	--	--	--	--	--	--
Argent Materials	\$20,000	White	x		0.1%	--	--	--	--	--	--
Hanson Aggregates	\$65,000	PHC			--	--	--	--	0.4%	--	--
Granite Construction	\$15,000	PHC			--	--	--	--	0.1%	--	--
Blocka Construction Inc.	\$40,000	White		x	--	0.3%	--	--	--	--	--
Harris Rebar	\$82,000	PHC	X		--	--	--	--	0.5%	--	--
Oliveira Fence Inc.	\$209,000	White		X	--	1.3%	--	--	--	--	--
Crane Works	\$110,000	Asian	X		--	--	0.7%	--	--	--	--
Enterprise Roofing	\$78,000	White	X		0.5%	--	--	--	--	--	--
Wester Acoustics	\$95,000	White	X		0.6%	--	--	--	--	--	--
CST Industries	\$307,500	PHC			--	--	--	--	1.9%	--	--
Nitta Erosion Control	\$155,000	Asian		X	--	--	1.0%	--	--	--	--
Takehara Landscape Inc.	\$270,000	Asian	X		--	--	1.7%	--	--	--	--
All Bay Electric	\$1,050,000	Hispanic	X		--	--	6.6%	--	--	--	--
Gierlich-Mitchell, Inc.	\$342,000	White	X		2.1%	--	--	--	--	--	--
Jeffco Painting	\$140,000	White	X		0.9%	--	--	--	--	--	--
DN Tanks	\$3,669,000	White		X	--	22.9%	--	--	--	--	--
Jifco, Inc.	\$950,000	White	X		5.9%	--	--	--	--	--	--
Ferna Corporation	\$1,044,000	White	X		6.5%	--	--	--	--	--	--
T.A. Rose Transportation	\$140,000	Hispanic	X		--	--	0.9%	--	--	--	--
Ferguson Enterprise	\$492,000	Foreign	X		--	--	--	--	--	--	3.1%
Cemex Construction	\$150,000	White	X		0.9%	--	--	--	--	--	--
<b>TOTAL</b>	<b>\$15,995,260</b>				<b>58.6%</b>	<b>24.5%</b>	<b>10.8%</b>	<b>0.0%</b>	<b>3.0%</b>	<b>0.0%</b>	<b>3.1%</b>
CONTRACTOR'S WORKFORCES PROFILE (From P-026 Form)											
		White Men		White Women		Ethnic Minorities		Total Employees			
<b>No. of Employees:</b>		71		10		69		150			
<b>Percent of Total Employees:</b>		47.3%		6.7%		46.0%					
<b>MSA Labor Market %:</b>		30.9%		24.7%		45.3%					
<b>MSA Labor Market Location:</b>		Orange County									
COMMENTS											
<i>Contract Equity Participation - 58.6% White Men, 24.5% White Women, and 10.8% Ethnic Minority participation.</i>											
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>				<b>Good Faith Outreach Efforts Requirement Satisfied</b>				<b>Award Approval Recommended</b>			
NA				YES							





## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: <b>Summit Reservoir and Shasta/Wood Pumping Plant Replacement</b>		Ethnic Minority Percentages From U.S. Census Data							
				B	H	A/PI	A/IAN	TOTAL	
		National		10.5	10.7	3.7	0.7	27.3	
<b>Spec. No.:</b> 2070	<b>DATE:</b> 7/23/2014	<b>9 Bay Area Counties</b>		5.5	16.2	14.2	0.4	39.9	
		<b>Alameda/CC Counties</b>		10.7	15.6	15.4	0.5	46.2	
<b>R=Recommd P=Prime S=Sub</b>	<b>Composition of Ownership</b>	<b>Number of Ethnic Minority Employees</b>							
<b>Company Name, Owner/Contact Person, Address, and Phone Number</b>			<b>B</b>	<b>H</b>	<b>A/PI</b>	<b>A/IAN</b>	<b>TOTAL</b>	<b>PERCENT</b>	<b>MSA %</b>
<b>RP</b>	<b>WM</b>	<b>Company Wide</b>	6	52	10	1	69	46.0%	45.3%
Steve P. Rados, Inc. Steve P. Rados 2002 E. McFadden Ave., Ste 200 Santa Ana, CA 92705  714-835-4612		Manager/Prof	-	3	5	-	8	25.8%	
		Technical/Sales	1	-	-	-	1	14.3%	
		Clerical/Skilled	5	48	5	1	59	53.6%	
		Semi/Unskilled	-	1	-	-	1	50.0%	
		<b>Bay Area</b>	-	-	-	-	0	NA	
		AA Plan on File:	NA		Date of last contract with District:		7/29/2011		
		Co. Wide MSA:	Orange County		# Employees-Co. Wide:		150	Bay Area:	NA
<b>S</b>	<b>PHC - LBE</b>	<b>Company Wide</b>	5	109	5	2	121	65.1%	39.9%
Harris Rebar 355 South Vasco Rd. Livermore, CA 94550  925-373-0733		Manager/Prof	-	2	-	-	2	18.2%	
		Technical/Sales	-	3	-	-	3	27.3%	
		Clerical/Skilled	5	88	5	1	99	70.2%	
		Semi/Unskilled	-	16	-	1	17	73.9%	
		<b>Bay Area</b>	5	109	5	2	121	65.1%	
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		186	Bay Area:	186
<b>S</b>	<b>WW - SBE</b>	<b>Company Wide</b>	-	12	-	-	12	66.7%	52.1%
Oliveira Fence Inc. Debbie Garcia 293 Brokaw Rd. Santa Clara, CA 95050  408-727-3811		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	2	-	-	2	100.0%	
		Semi/Unskilled	-	10	-	-	10	83.3%	
		<b>Bay Area</b>	-	-	-	-	0	0.0%	
		Co. Wide MSA:	Santa Clara County		# Employees-Co. Wide:		18	Bay Area:	18
<b>S</b>	<b>EMM:A/PI - L/SBE</b>	<b>Company Wide</b>	-	-	1	-	1	12.5%	53.9%
Crane Works 2585 Nicholson St. San Leandro, CA  510-357-4000		Manager/Prof	-	-	1	-	1	50.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	-	-	-	-	NA	
		<b>Bay Area</b>	-	-	1	-	1	12.5%	
		Co. Wide MSA:	Alameda County		# Employees-Co. Wide:		8	Bay Area:	8
<b>S</b>	<b>WM - LBE</b>	<b>Company Wide</b>	2	46	4	1	53	76.8%	39.9%
Enterprise Roofing Lawrence T. Reardon 2400 Bates Ave. Concord, CA 94520-1217  925-889-8100		Manager/Prof	-	1	1	-	2	25.0%	
		Technical/Sales	-	-	1	1	2	66.7%	
		Clerical/Skilled	2	40	2	-	44	83.0%	
		Semi/Unskilled	-	5	-	-	5	100.0%	
		<b>Bay Area</b>	2	46	4	1	53	76.8%	
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		69	Bay Area:	69
<b>S</b>	<b>WM</b>	<b>Company Wide</b>	-	-	-	-	0	0.0%	39.9%
Wester Acoustics Scott B. Wester 1555 Burke Avenue, Unit 1 San Francisco, CA 94124  415-641-1811		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	-	-	-	-	NA	
		Semi/Unskilled	-	-	-	-	-	NA	
		<b>Bay Area</b>	-	-	-	-	0	0.0%	
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		7	Bay Area:	7

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and A/IAN=American Indian/Alaskan Native)



## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: <b>Summit Reservoir and Shasta/Wood Pumping Plant Replacement</b>		Ethnic Minority Percentages From U.S. Census Data					TOTAL			
		B	H	A/PI	AI/AN					
National		10.5	10.7	3.7	0.7	27.3				
Spec. No.: 2070		DATE: 7/23/2014		9 Bay Area Counties		5.5	16.2	14.2	0.4	39.9
R=Recmnd P=Prime S=Sub		Composition of Ownership		Alameda/CC Counties		10.7	15.6	15.4	0.5	46.2
Company Name, Owner/Contact Person, Address, and Phone Number		<b>Number of Ethnic Minority Employees</b>								
		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %		
<b>S</b>	<b>PHC</b>	<b>Company Wide</b>		36	54	11	9	110	16.0%	14.3%
CST Industries, Inc. 9701 Renner Blvd., Ste 150 Lenexa, KS, 66219 913-621-3700		Manager/Prof		2	14	7	-	23	16.7%	
		Technical/Sales		2	6	1	2	11	12.9%	
		Clerical/Skilled		6	7	2	1	16	9.5%	
		Semi/Unskilled		26	27	1	6	60	20.3%	
		<b>Bay Area</b>		-	-	-	-	0	NA	
Co. Wide MSA: <b>Kansas</b>		# Employees-Co. Wide: <b>688</b>				Bay Area: <b>NA</b>				
<b>S</b>	<b>EMM:A/PI - SBE</b>	<b>Company Wide</b>		-	2	5	-	7	77.8%	31.6%
Nitta Erosion Control Laura J. Bills & Scott Nitta 3778 Delmar Ave. Loomis, CA 95650 916-652-7459		Manager/Prof		-	-	2	-	2	100.0%	
		Technical/Sales		-	-	-	-	-	NA	
		Clerical/Skilled		-	-	-	-	0	0.0%	
		Semi/Unskilled		-	2	3	-	5	83.3%	
		<b>Bay Area</b>		-	-	-	-	0	NA	
Co. Wide MSA: <b>Sacramento</b>		# Employees-Co. Wide: <b>9</b>				Bay Area: <b>NA</b>				
<b>S</b>	<b>EMM:A/PI - SBE</b>	<b>Company Wide</b>		-	25	3	-	28	90.3%	31.6%
Takehara Landscape Walton Takehara 9343 Elder Creek Rd. Sacramento, CA 95829 916-386-9487		Manager/Prof		-	-	3	-	3	60.0%	
		Technical/Sales		-	-	-	-	-	NA	
		Clerical/Skilled		-	25	-	-	25	96.2%	
		Semi/Unskilled		-	-	-	-	-	NA	
		<b>Bay Area</b>		-	-	-	-	0	NA	
Co. Wide MSA: <b>Sacramento</b>		# Employees-Co. Wide: <b>31</b>				Bay Area: <b>NA</b>				
<b>S</b>	<b>EMM:H - L/SBE</b>	<b>Company Wide</b>		-	5	-	-	5	100.0%	38.5%
All Bay Electric John M. Valdez 2420 San Creek Rd. C1268 Brentwood, CA 94513 510-733-9573		Manager/Prof		-	1	-	-	1	100.0%	
		Technical/Sales		-	3	-	-	3	100.0%	
		Clerical/Skilled		-	1	-	-	1	100.0%	
		Semi/Unskilled		-	-	-	-	-	NA	
		<b>Bay Area</b>		-	5	-	-	5	100.0%	
Co. Wide MSA: <b>Contra Costa</b>		# Employees-Co. Wide: <b>5</b>				Bay Area: <b>5</b>				
<b>S</b>	<b>WM</b>	<b>Company Wide</b>		-	1	-	-	1	10.0%	43.6%
Gierlich-Mitchell, Inc. 10533 Progress Way, Suite A Cypress, CA 90630 714-236-6070		Manager/Prof		-	-	-	-	0	0.0%	
		Technical/Sales		-	-	-	-	0	0.0%	
		Clerical/Skilled		-	1	-	-	1	50.0%	
		Semi/Unskilled		-	-	-	-	0	0.0%	
		<b>Bay Area</b>		-	-	-	-	0	NA	
Co. Wide MSA: <b>Orange</b>		# Employees-Co. Wide: <b>10</b>				Bay Area: <b>NA</b>				
<b>S</b>	<b>WM</b>	<b>Company Wide</b>		7	19	1	1	28	35.4%	39.9%
Jeffco Painting & Coating, Inc. Matthew Eggle 1260 Railroad Ave. Vallejo, CA 94525 707-562-1900		Manager/Prof		-	-	-	-	0	0.0%	
		Technical/Sales		-	-	-	-	-	NA	
		Clerical/Skilled		4	17	-	1	22	36.1%	
		Semi/Unskilled		3	2	1	-	6	50.0%	
		<b>Bay Area</b>		7	19	1	1	28	35.4%	
Co. Wide MSA: <b>9 Bay Area Counties</b>		# Employees-Co. Wide: <b>79</b>				Bay Area: <b>79</b>				

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: <b>Summit Reservoir and Shasta/Wood Pumping Plant Replacement</b>		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	A/IAN	TOTAL		
Spec. No.: 2070		DATE: 7/23/2014	National	10.5	10.7	3.7	0.7	27.3	
			9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9	
			Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2	
R=Recomm P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	A/IAN	TOTAL	PERCENT	MSA %
S	WM	Company Wide	5	71	22	2	100	56.2%	48.4%
DN Tanks, Inc. 351 Cypress Lane El Cajon, CA 92020  619-440-8181		Manager/Prof	1	7	1	-	9	28.1%	
		Technical/Sales	-	3	1	-	4	50.0%	
		Clerical/Skilled	2	57	14	2	75	60.5%	
		Semi/Unskilled	2	4	6	-	12	85.7%	
		Bay Area	-	-	-	-	0	NA	39.9%
Co. Wide MSA: California		# Employees-Co. Wide:	178		Bay Area:	NA			
S	WM	Company Wide	-	49	11	-	60	85.7%	53.9%
Jifco, Inc. 571 Exchange Court Livermore, CA 94551  925-449-4665		Manager/Prof	-	7	1	-	8	66.7%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	25	8	-	33	89.2%	
		Semi/Unskilled	-	17	2	-	19	100.0%	
		Bay Area	-	49	11	-	60	85.7%	39.9%
Co. Wide MSA: Alameda County		# Employees-Co. Wide:	70		Bay Area:	70			
S	WM	Company Wide	4	85	4	-	93	75.6%	39.9%
Ferma Corporation 1265 Montecito Avenue #200 Mountain View, CA 94043  650-961-2742		Manager/Prof	-	4	1	-	5	50.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	1	27	3	-	31	63.3%	
		Semi/Unskilled	3	54	-	-	57	90.5%	
		Bay Area	4	85	4	-	93	75.6%	39.9%
Co. Wide MSA: 9 Bay Area Counties		# Employees-Co. Wide:	123		Bay Area:	123			
S	EMM:H - LBE	Company Wide	-	1	-	-	1	100.0%	39.9%
T.A. Rose Transportation Terrence A. Rose 710 Palmira Ct. San Ramon, CA 94583  925-705-8093		Manager/Prof	-	1	-	-	1	100.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	-	NA	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	-	-	-	-	0	0.0%	39.9%
Co. Wide MSA: 9 Bay Area Counties		# Employees-Co. Wide:	1		Bay Area:	1			
S	Foreign	Company Wide	1,459	1,933	380	84	3,856	22.4%	NA
Ferguson Enterprise dba Groeniger & Co. 27750 Industrial Blvd. Hayward, CA 94545  510-786-8000		Manager/Prof	176	221	85	11	493	12.3%	
		Technical/Sales	213	485	105	34	837	14.8%	
		Clerical/Skilled	293	250	66	10	619	26.9%	
		Semi/Unskilled	777	977	124	29	1,907	36.5%	
		Bay Area	-	-	-	-	0	NA	39.9%
Co. Wide MSA: Foreign		# Employees-Co. Wide:	17,177		Bay Area:	NA			
S	WM - LBE	Company Wide	1,230	2,309	97	61	3,697	38.0%	27.2%
Cemex Construction Materials Pacific, LLC 333 23rd Ave. Oakland, CA 94606		Manager/Prof	64	278	38	7	387	21.5%	
		Technical/Sales	32	73	6	5	116	19.3%	
		Clerical/Skilled	141	583	19	18	741	35.7%	
		Semi/Unskilled	993	1,395	34	31	2,453	46.7%	
		Bay Area	-	-	-	-	0	NA	39.9%
Co. Wide MSA: USA		# Employees-Co. Wide:	9,727		Bay Area:	NA			

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and A/IAN=American Indian/Alaskan Native)



## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: <b>Summit Reservoir and Shasta/Wood Pumping Plant Replacement</b>		Ethnic Minority Percentages From U.S. Census Data							
				B	H	A/PI	AI/AN	TOTAL	
		National		10.5	10.7	3.7	0.7	27.3	
Spec. No.: 2070	DATE: 7/23/2014	9 Bay Area Counties		5.5	16.2	14.2	0.4	39.9	
		Alameda/CC Counties		10.7	15.6	15.4	0.5	46.2	
R=Recomm P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
P	WM	Company Wide	-	19	6	-	25	49.0%	39.9%
Disney Construction, Inc. Richard Disney 859 Cowan Road, Suite 3 Burlingame, CA 94010  650-259-9545		Manager/Prof	-	1	2	-	3	18.8%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	18	-	-	18	51.4%	
		Semi/Unskilled	-	-	4	-	-	NA	
		Bay Area	-	19	6	-	25	49.0%	39.9%
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		51	Bay Area:	51
P	WM - LBE	Company Wide	9	35	1	-	45	44.1%	44.0%
Pacific States Environmental Contractors 11555 Dublin Blvd. Dublin, CA 94568  925-803-4333		Manager/Prof	2	-	-	-	2	13.3%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	7	35	1	-	43	50.6%	
		Bay Area	9	35	1	-	45	44.1%	39.9%
		Co. Wide MSA:	San Francisco		# Employees-Co. Wide:		102	Bay Area:	102
P	WM	Company Wide	1	46	2	1	50	40.7%	48.4%
Myers & Sons Construction LP 4600 Northgate Blvd., Ste 100 Sacramento, CA 95834  916-283-9950		Manager/Prof	-	2	-	1	3	15.8%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	24	2	-	26	38.8%	
		Semi/Unskilled	1	20	-	-	21	56.8%	
		Bay Area	-	-	-	-	0	NA	39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide:		123	Bay Area:	NA
P	WM - LBE	Company Wide	5	99	-	1	105	42.3%	48.4%
Mountain Cascade, Inc. 555 Exchange Ct. Livermore, CA 94550  922-373-8370		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	5	99	-	1	105	51.5%	
		Bay Area	5	99	-	-	104	41.9%	39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide:		248	Bay Area:	248
P	WW - L/SBE	Company Wide	-	6	-	-	6	40.0%	48.4%
Manito Construction Inc. 1043 Serpentine Lane, Suite 1 Pleasanton, CA 94566  925-600-0220		Manager/Prof	-	2	-	-	2	28.6%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	2	-	-	2	40.0%	
		Semi/Unskilled	-	2	-	-	2	66.7%	
		Bay Area	-	6	-	-	6	40.0%	39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide:		15	Bay Area:	15
P	WM	Company Wide	5	92	4	6	107	30.5%	39.9%
Ghilotti Construction Company Inc. Richard Ghilotti 246 Ghilotti Avenue Santa Rosa, CA 95407 707-585-1221		Manager/Prof	-	4	3	-	7	18.9%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	3	26	-	4	33	17.9%	
		Semi/Unskilled	2	62	1	2	67	52.8%	
		Bay Area	-	-	-	-	-	-	39.9%
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		351	Bay Area:	NA
P	WM	Company Wide	-	10	-	-	10	23.8%	23.4%
Western Water Constructors, Inc. John McGarva 707 Aviation Blvd. Santa Rosa, CA 95403  707-540-9640		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	5	-	-	5	27.8%	
		Semi/Unskilled	-	5	-	-	5	33.3%	
		Bay Area	-	10	-	-	10	71.4%	39.9%
		Co. Wide MSA:	Sonoma County		# Employees-Co. Wide:		42	Bay Area:	14



AGENDA NO.  
MEETING DATE

5.  
August 12, 2014

**TITLE OPEN MARKET PURCHASE OF GASOLINE AND DIESEL FUEL**

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTION**

Authorize the purchase of gasoline and diesel fuel on the open market in the estimated annual amount of \$2.64 million, after the addition of taxes, for a period not to exceed three years commencing August 12, 2014, for a total amount of \$7.92 million.

**SUMMARY**

Vehicle fuel remains a price-volatile commodity. An open market purchase strategy routinely obtains the lowest available price by engaging gasoline and diesel fuel distributors in biweekly competition. This strategy has served the District well for over two decades. Purchases are made to meet actual District vehicle fuel demands. Awards are made to the lowest responsible bidder each week.

**CONTRACT EQUITY PROGRAM EFFORTS**

Due to the nature of this proposal, CEP forms are not included; however, staff works closely with CEP to ensure the fuel replenishment program complies with all related District objectives. Appropriate CEP documentation is collected at the time of competition if such documentation is not already available in District files.

**FISCAL IMPACT**

This expenditure is included in the FY15 budget.

**ALTERNATIVES**

**Establish long-term contracts that utilize a routine price adjustment clause.** This is not recommended as price adjustment clauses work most effectively in 6 to 12 month increments of time. Open market pricing remains the most accurate pricing tool where prices must adjust weekly to remain consistent with the market.

**Conduct formal competitive bids each week.** This is not recommended as it would not be feasible or cost-effective given the requirements of the MUD Act, the volatility of fuel prices in today's market, and the semi-monthly board meeting schedule.

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Funds Available: FY 15		Budget Code: VAR/VAR
DEPARTMENT SUBMITTING  Finance	DEPARTMENT MANAGER or DIRECTOR   Eric L. Sandler	APPROVED   General Manager







AGENDA NO. \_\_\_\_\_  
MEETING DATE August 12, 2014

TITLE GENERAL SECURITY GUARD SERVICE AGREEMENT

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTIONS**

Authorize an agreement beginning on or after August 12, 2014 with Cypress Security, LLC, in an amount not to exceed \$2,557,000 annually for general personnel and infrastructure protection security guard services at District facilities for three years, with the option of two one-year contract extensions of \$2,620,710 and \$2,706,632, respectively for a total cost of \$12,998,342.

**SUMMARY**

The District has invested in physical security systems to protect District personnel, infrastructure, and operations. Services provided under this agreement work with the physical security systems to provide a secure work place; maintain safe and reliable water supply and wastewater services; and prevent or mitigate damage or loss of assets from manmade threats. These services include providing security guards at District facilities for access control, monitoring security alarms, dispatching security response to alarms and other security incidents, and investigation and documentation of these incidents. The General Security Guard Service Agreement was discussed at the July 8, 2014 Planning Committee meeting.

**DISCUSSION**

As part of the District's Security Plan and in accordance with the Security Vulnerability Assessment, the District requires security guard services to work with the automated security systems to provide a reasonable level of protection for District employees and the District's critical infrastructure including facilities, property, and equipment. The proposed agreement will continue the current practice of using guard services to manage the Security Operations Control Center to monitor and dispatch security response to alarms and reports of crimes and other security incidents affecting the District, and to provide access control services and mobile security patrols of key District facilities.

**SELECTION PROCESS**

More than 60 contract security services firms registered with the District were notified about this contract opportunity via e-mail and/or by advertisement in The Equalizer newsletter. Twenty-eight security services companies attended the mandatory pre-proposal meeting and received the Request for Proposals

Funds Available: FY15		Budget Code: OMG/OSD/782/8731/5235	
DEPARTMENT SUBMITTING <u>Operations and Maintenance</u>	DEPARTMENT MANAGER or DIRECTOR  Michael J. Wallis	APPROVED  General Manager	

Contact the Office of the District Secretary with questions about completing or submitting this form.

describing the security services packages. Seven responsive proposals were received and reviewed. Of the seven proposals, the four highest-rated companies were invited to participate in oral interviews.

The recommended firm provided the best responses in the following categories:

1. Experience providing security services for critical infrastructure similar to the District's.
2. Approach to project management and supervision services.
3. Hiring practices and standards for selection of employees.
4. The company's Master Training Plan to ensure a well-trained security force.
5. The company's Field Training Orientation Plan to ensure staff can adequately perform the duties of their specific assignment.
6. The company's ability to provide additional staffing as needed.
7. Compliance with the District's Contract Equity Program.
8. Cost.

## **CONTRACT EQUITY**

The completed P-035 and P-061 forms are attached for the recommended firm.

## **FISCAL IMPACT**

Funds for the proposed services are provided in the FY15 operating budget.

## **ALTERNATIVES**

**Award the contract to another firm(s).** This is not recommended because the recommended firm demonstrated the best qualifications for this work and received the highest scores from the selection panel for their written proposal, oral interview, and summary presentation to the panel of evaluators.

**Create a District security force.** This is not recommended because security is not a District core business function. The State of California requires particular expertise, licensing, and training for security guards. Contracting for these security services allows the District flexibility to increase or decrease the security force as needed in response to capital improvements, an emergency, potential security threats or civil disorder.

## **Attachments**

P-035 – Contract Equity Program Summary  
P-061 – Affirmative Action Summary



## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <b>General Services Agreement</b> General Security Guard Service Agreement Three - Year Contract with 2 One - Year Renewal Options						<b>DATE:</b> <div style="text-align: right; font-size: 1.2em;">July 29, 2014</div>						
<b>CONTRACTOR:</b>				<b>PERCENTAGE OF CONTRACT DOLLARS</b>								
Cypress Security, LLC Oakland, CA		Local Business		Availability Group		Contracting Objectives		Participation				
<b>BID/PROPOSER'S PRICE:</b>		<b>FIRM'S OWNERSHIP</b>		White Men		25%		100.0%				
		Ethnicity	Gender	White Women		6%		0.0%				
\$12,998,342		White	Men	Ethnic Minorities		25%		0.0%				
<b>CONTRACT EQUITY PARTICIPATION</b>												
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
<b>PRIME:</b> Cypress Security, LLC		\$12,998,342	White			100.0%	---	---	---	---	---	---
<b>SUBS:</b> None						---	---	---	---	---	---	---
<b>TOTAL</b>		\$12,998,342				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)</b>												
		White Men		White Women		Ethnic Minorities		Total Employees				
<b>No. of Employees:</b>		148		97		713		958				
<b>Percent of Total Employees:</b>		15.4%		10.1%		74.4%						
<b>MSA Labor Market %:</b>		28.0%		23.6%		48.4%						
<b>MSA Labor Market Location:</b>		California										
<b>COMMENTS</b>												
<i>Contract Equity Participation - 100% White Men participation.</i>												
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>				<b>Good Faith Outreach Efforts Requirement Satisfied</b>				<b>Award Approval Recommended</b>				
NA				NA								





## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: <b>Security Operations Ratings</b>		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN			
<b>General Services Agreement</b>		DATE:	National		9 Bay Area Counties		Alameda/CC Counties		
		7/29/2014	10.5	10.7	3.7	0.7	27.3		
			5.5	16.2	14.2	0.4	39.9		
			10.7	15.6	15.4	0.5	46.2		
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
RP	<b>WM-LBE</b>	<b>Company Wide</b>	382	218	133	-	733	76.5%	48.4%
	Cypress Security, LLC Kes Narbutas 8105 Edgewater Dr., Suite 115 Oakland, CA 94621  886-345-1277	Manager/Prof	12	4	6	-	22	73.3%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	-	-	-	-	NA	
		Semi/Unskilled	370	214	127	-	711	76.6%	
		<b>Bay Area</b>	268	113	70	0	451	71.4%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		9/27/2009		
		Co. Wide MSA:	Oakland, CA		# Employees-Co. Wide:		958	Bay Area:	632
P	<b>EMM:H - L/SBE</b>	<b>Company Wide</b>	151	12	52	1	216	90.0%	47.8%
	ABC Security Ana Chretien 1840 Embarcadero St Oakland, CA 94606  510-436-0666	Manager/Prof	3	2	-	-	5	71.4%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	2	2	3	-	0	0.0%	
		Semi/Unskilled	146	8	49	1	204	90.7%	
		<b>Bay Area</b>	151	12	52	1	216	90.4%	39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide:		240	Bay Area:	239
P	<b>PHC</b>	<b>Company Wide</b>	112	42	90	9	253	71.3%	39.9%
	G4S Secure Solutions (USA) Inc. 200 Pine Street, 7th Floor San Francisco, CA 94104  415-840-6902	Manager/Prof	11	1	4	1	17	53.1%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	1	1	1	-	3	75.0%	
		Semi/Unskilled	100	40	85	8	233	73.0%	
		<b>Bay Area</b>	112	42	90	9	253	71.3%	39.9%
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		355	Bay Area:	355
P	<b>EMM:H</b>	<b>Company Wide</b>	101	54	49	-	204	70.8%	48.3%
	Professional Technical Security Services, Inc. Sergio Reyes 180 Montgomery Street, Suite 750 San Francisco, CA 94104  415-243-2100	Manager/Prof	9	7	2	-	18	72.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	1	-	-	1	100.0%	
		Semi/Unskilled	92	46	47	-	185	70.6%	
		<b>Bay Area</b>	101	54	49	9	213	74.0%	39.9%
		Co. Wide MSA:	San Francisco, CA		# Employees-Co. Wide:		288	Bay Area:	288
P	<b>PHC - LBE</b>	<b>Company Wide</b>	690	150	470	2	1,312	88.1%	39.9%
	Securitas Security Services USA, Inc. 7677 Oakport Street, Suite 725 Oakland, CA 94621  510-847-1680	Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	7	4	3	1	15	65.2%	
		Semi/Unskilled	683	146	467	1	1,297	88.4%	
		<b>Bay Area</b>	690	150	470	-	1,310	87.9%	39.9%
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		1,490	Bay Area:	1,490
P	<b>WM - L/SBE</b>	<b>Company Wide</b>	24	5	2	-	31	29.5%	46.2%
	Security Management Group, Inc. Scott Jenkins 11501 Dublin Blvd., Suite 200 Dublin, CA 94568  925-521-1500	Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	24	5	2	-	31	32.0%	
		<b>Bay Area</b>	24	5	2	-	31	29.5%	39.9%
		Co. Wide MSA:	Alameda/CC Counties		# Employees-Co. Wide:		105	Bay Area:	105

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: <b>General Security Guard Service Agreement Three - Year Contract with 2 One - Year Renewal Options</b>		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
<b>General Services Agreement</b>		DATE:	National						
		7/29/2014	9 Bay Area Counties				27.3		
			Alameda/CC Counties				39.9		
R=Recomm P=Prime S=Sub		Composition of Ownership		Number of Ethnic Minority Employees					
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
<b>P</b>	<b>WM</b>	<b>Company Wide</b>	<b>8,354</b>	<b>5,325</b>	<b>987</b>	<b>140</b>	<b>14,806</b>	<b>62.9%</b>	<b>27.2%</b>
Universal Protection Service, LLP Brian Cescolini & Steve Jones 545 Sansome St, 6th Floor San Francisco, CA 94111  415-940-2464		Manager/Prof	36	52	16	-	104	31.4%	
		Technical/Sales	2	3	-	1	6	20.0%	
		Clerical/Skilled	386	431	64	6	887	59.5%	
		Semi/Unskilled	7,930	4,839	907	133	13,809	58.7%	
		<b>Bay Area</b>	<b>738</b>	<b>321</b>	<b>309</b>	<b>12</b>	<b>1,380</b>	<b>71.9%</b>	<b>39.9%</b>
		Co. Wide MSA: <b>United States</b>			# Employees-Co. Wide: <b>23,534</b>	Bay Area: <b>1,919</b>			

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO. 7.  
 MEETING DATE August 12, 2014

TITLE SPECIALIZED SECURITY GUARD SERVICE AGREEMENT

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTIONS**

Authorize an agreement beginning on or after August 12, 2014 with Security Management Group International in an amount not to exceed \$50,000 annually for specialized security guard services at District facilities for three years for a total cost of \$150,000.

**SUMMARY**

The services under this contract support escalation of security operations in response to a relevant local threat to protect staff, District assets, critical infrastructure, and operations. These services include specialized security guard services details for staff protection, investigations, response to civil disorder or other events, and consultation. The Specialized Security Guard Service Agreement was discussed at the July 8, 2014 Planning Committee meeting.

**DISCUSSION**

As part of the District's Security Plan and in accordance with the Security Vulnerability Assessment, the District requires specialized support in response to relevant threats. The security services provided under the General Security Guard Service Agreement are primarily to observe and report security incidents and threats to District employees, assets, and operations on a regular basis. The Specialized Security Services are used as needed in response to specific threats. Security officers provided under this agreement may use reasonable force to effectively control an incident and protect the safety of all persons in accordance with the contractor's use of force policy, California law and the California Bureau of Security and Investigative Services regulations and guidelines.

**SELECTION PROCESS**

More than 60 contract security services firms registered with the District were notified about this contract opportunity via e-mail and/or by advertisement in The Equalizer newsletter. Twenty-eight security services companies attended the mandatory pre-proposal meeting and received the Request for Proposal describing the security services packages. Two proposals were received and reviewed. Of the two

Funds Available: FY15		Budget Code: OMG/OSD/782/8731/5235	
DEPARTMENT SUBMITTING  Operations and Maintenance	DEPARTMENT MANAGER or DIRECTOR  <i>Michael J. Wallis</i> Michael J. Wallis	APPROVED  <i>Morgan R. Lee</i> General Manager	

Contact the Office of the District Secretary with questions about completing or submitting this form.



proposals, both companies were invited to participate in oral interviews. One company declined to interview for this contract.

The recommended firm provided excellent responses in the following categories:

1. Experience with providing specialized security services.
2. Approach to project management and supervision services.
3. Hiring practices and standards for selection of employees.
4. The company's Master Training Plan to ensure a well-trained security force.
5. The company's Field Training Orientation Plan to ensure staff can adequately perform the duties of their specific assignment.
6. The company's ability to provide additional staffing as needed.
7. Compliance with the District's Contract Equity Program.
8. Cost.

## **CONTRACT EQUITY**

The completed P-035 and P-061 forms are attached for the recommended firm.

## **FISCAL IMPACT**

Funds for the proposed services are provided in the FY15 operating budget.

## **ALTERNATIVES**

**Award the contract to another firm(s).** This is not recommended because the recommended firm demonstrated excellent qualifications for this work and only one other firm provided a proposal.

**Create a District security force.** This is not recommended because security is not a District core business function and these services are only required on an as-needed basis.

## **Attachments**

- P-035 – Contract Equity Program Summary
- P-061 – Affirmative Action Summary



## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <b>General Services Agreement</b> Specialized Security Guard Service Agreement Three - Year Contract							<b>DATE:</b> July 29, 2014						
<b>CONTRACTOR:</b>				<b>PERCENTAGE OF CONTRACT DOLLARS</b>									
SMGI, Inc. Dublin, CA				Sole Proposer/Local Business				<b>Availability Group</b>		<b>Contracting Objectives</b>		<b>Participation</b>	
<b>BID/PROPOSER'S PRICE:</b>		<b>FIRM'S OWNERSHIP</b>			<b>White Men</b>		<b>25%</b>		<b>100.0%</b>				
		<b>Ethnicity</b>	<b>Gender</b>		<b>White Women</b>		<b>6%</b>		<b>0.0%</b>				
\$150,000		White	Men		<b>Ethnic Minorities</b>		<b>25%</b>		<b>0.0%</b>				
<b>CONTRACT EQUITY PARTICIPATION</b>													
<b>COMPANY NAME</b>		<b>ESTIMATED AMOUNT</b>	<b>ETHNICITY</b>	<b>GENDER</b>		<b>CONTRACTING PARTICIPATION</b>							
				<b>M</b>	<b>W</b>	<b>White-Men</b>	<b>White-Women</b>	<b>Ethnic Minorities</b>	<b>Unclassified</b>	<b>Publicly Held Corp.</b>	<b>Gov't/Non Profit</b>	<b>Foreign</b>	
<b>PRIME:</b> SMGI, Inc.		\$150,000	White			100.0%	---	---	---	---	---	---	
<b>SUBS:</b> None						---	---	---	---	---	---	---	
<b>TOTAL</b>		\$150,000				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
<b>CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)</b>													
		<b>White Men</b>		<b>White Women</b>		<b>Ethnic Minorities</b>		<b>Total Employees</b>					
<b>No. of Employees:</b>		70		4		31		105					
<b>Percent of Total Employees:</b>		66.7%		3.8%		29.5%							
<b>MSA Labor Market %:</b>		28.0%		23.6%		48.4%							
<b>MSA Labor Market Location:</b>		California											
<b>COMMENTS</b>													
<i>Contract Equity Participation - 100% White Men participation.</i>													
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>				<b>Good Faith Outreach Efforts Requirement Satisfied</b>				<b>Award Approval Recommended</b>					
NA				NA									



## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: <b>Specialized Security Guard Service Agreement Three - Year Contract</b>		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
<b>General Services Agreement</b>		DATE: 7/29/2014	National	10.5	10.7	3.7	0.7	27.3	
			9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9	
			Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2	
R=Recmmd P=Prime S=Sub	Composition of Ownership	<b>Number of Ethnic Minority Employees</b>							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
RP	WM - LBE	Company Wide	5	24	2	-	31	29.5%	48.4%
SMGI, Inc. 11501 Dublin Blvd, Ste 200 Dublin Blvd, CA 94568  925-521-1500		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	5	24	2	-	31	32.0%	
		Bay Area	5	24	2	-	31	29.5%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		NA		
		Co. Wide MSA:	California		# Employees-Co. Wide:		105	Bay Area:	105
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:			# Employees-Co. Wide:			Bay Area:	
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:			# Employees-Co. Wide:			Bay Area:	
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:			# Employees-Co. Wide:			Bay Area:	
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:			# Employees-Co. Wide:			Bay Area:	

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.  
MEETING DATE

8a.  
August 12, 2014

**TITLE      CONSULTANT AGREEMENT AMENDMENT FOR DESIGN SERVICES DURING  
CONSTRUCTION FOR THE SOUTH INTERCEPTOR WOOD STREET  
REHABILITATION PHASE 2 PROJECT**

MOTION       RESOLUTION       ORDINANCE

**RECOMMENDED ACTION**

Authorize an amendment to the agreement with Brown and Caldwell, Inc. (BC) in an amount not to exceed \$205,976 for additional design services during construction (DSDC) for the South Interceptor Wood Street Rehabilitation Phase 2 Project. In awarding this contract, the Board of Directors finds that this work cannot be satisfactorily performed under civil service.

**SUMMARY**

The District is currently rehabilitating 8,500 feet of a 105-inch diameter sewer interceptor in the City of Oakland that is approximately 60 years old. Construction of interceptor rehabilitation improvements in the first two segments, which are located in a largely industrial area, is nearly complete. As presented to the Planning Committee on June 10, 2014, the District has changed the project approach for the third segment, which is located in a residential area, by restricting manhole access locations and shifting work hours to minimize potential noise and traffic impacts to the local community. This change requires the construction contract duration to be extended an additional two years through October 2016. This agreement amendment provides for additional engineering support from the Engineer-of-Record during construction.

**DISCUSSION**

On July 10, 2012, the Board of Directors authorized an agreement with BC for \$250,000 for DSDC for the South Interceptor Wood Street Rehabilitation Phase 2 Project. An additional \$205,976 is required to extend these services through October 2016, which will increase the total agreement ceiling to \$455,976. BC will continue to support the District by responding to requests for information and change orders, developing cost estimates, and providing field support through project completion.

Funds Available: FY15		Budget Code: WWC/927/7999/2007458/5231	
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR	APPROVED	
Wastewater			
	Bennett K. Horenstein	General Manager	

Contact the Office of the District Secretary with questions about completing or submitting this form.

## **CONSULTANT SELECTION**

BC is the Engineer-of-Record for the design of the project and, as such, is thoroughly familiar with the project. It is District and industry practice to retain the Engineer-of-Record to provide DSDC to ensure design continuity. Based on its project familiarity, BC would be the most cost-effective and efficient consulting firm to provide these additional services.

## **CONTRACT EQUITY PROGRAM EFFORTS**

The completed P-035 and P-061 forms are attached.

## **FISCAL IMPACT**

The accumulated FY15 capital budget appropriation includes sufficient funds for this project, including this DSDC agreement amendment.

## **PREVAILING WAGE**

Work under this contract is subject to the payment of current prevailing wages according to determinations for each craft as established by the Director of Industrial Relations of the State of California.

## **UNION NOTIFICATION**

Locals 21 and 2019 were notified of this agreement on July 8, 2014. Locals 21 and 2019 did not raise any specific issues related to this agreement.

## **CEQA/ENVIRONMENTAL COMPLIANCE**

A Notice of Exemption was filed with the Alameda County Clerk on October 17, 2011.

## **ALTERNATIVES**

**Select a different consultant to perform the work.** This alternative is not recommended because BC designed the project as the Engineer-of-Record and has the best qualified team to perform the work.

**Perform the work with District forces.** This alternative is not recommended because it is District and industry practice to retain the Engineer-of-Record to ensure design continuity. Completion of work with District forces could result in conflicting interpretations of design intent and would increase the District's liability for design errors and omissions.

#### Attachments

- P-035 – Contract Equity Program Summary
- P-061 – Affirmative Action Summary





## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE:</b> <i>Amendment to Professional Services Agreement</i> Consultant Agreement Amendment for Design Services During Construction for the South Interceptor Wood Street Rehabilitation - Phase 2			<b>DATE:</b> July 16, 2014										
<b>CONTRACTOR:</b> Brown and Caldwell, Inc. Walnut Creek, CA		Direct Award Local Business		<b>PERCENTAGE OF CONTRACT DOLLARS</b>									
<b>BID/PROPOSER'S PRICE:</b> \$455,976 *	<b>FIRM'S OWNERSHIP</b>		<b>White Men</b>	25%	<b>100.0%</b>								
	<b>Ethnicity</b>	<b>Gender</b>	<b>White Women</b>	6%	<b>0.0%</b>								
	White	Men	<b>Ethnic Minorities</b>	25%	<b>0.0%</b>								
<b>CONTRACT EQUITY PARTICIPATION</b>													
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION								
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign		
<b>PRIME:</b> Brown and Caldwell, Inc.	\$455,976	White	X		100.0%	---	---	---	---	---	---		
<b>SUBS:</b> None			---	---	---	---	---	---	---	---	---	---	
			---	---	---	---	---	---	---	---	---	---	---
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			---	---	---	---	---	---	---	---	---	---	---
			---	---	---	---	---	---	---	---	---	---	---
<b>TOTAL</b>		\$455,976			100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%		
<b>CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)</b>													
		<b>White Men</b>	<b>White Women</b>	<b>Ethnic Minorities</b>	<b>Total Employees</b>								
<b>No. of Employees:</b>	778	414	302	1,494									
<b>Percent of Total Employees:</b>	52.1%	27.7%	20.2%										
<b>MSA Labor Market %:</b>	39.0%	33.7%	27.2%										
<b>MSA Labor Market Location:</b>	USA												
<b>COMMENTS</b>													
<i>Contract Equity Participation - 100% White Men participation</i>													
<i>*Includes original contract amount of \$250,000</i>													
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>		<b>Good Faith Outreach Efforts Requirement Satisfied</b>		<b>Award Approval Recommended</b>									
NA		NA											





## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: <b>Consultant Agreement Amendment for Design Services During Construction for the South Interceptor Wood Street Rehabilitation - Phase 2</b>		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
<b>Professional Services Agreement</b> DATE: 7/16/2014		National	10.5	10.7	3.7	0.7	27.3		
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9		
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2		
R=Recomm P=Prime S=Sub	Composition of Ownership	<b>Number of Ethnic Minority Employees</b>							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
RP	WM - LBE	Company Wide	3	3	2	2	10	0.7%	27.2%
Brown and Caldwell, Inc. 201 N. Civic Drive Walnut Creek, CA 94596  925-937-9010		Manager/Prof	1	1	1	1	4	0.3%	
		Technical/Sales	1	1	1	1	4	3.4%	
		Clerical/Skilled	1	1	-	-	2	1.3%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	5	16	25	2	48	32.4%	
		AA Plan on File:	NA		Date of last contract with District:		8/1/2012		
		Co. Wide MSA:	USA		# Employees-Co. Wide:		1,494	Bay Area:	148
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:							
		# Employees-Co. Wide:							
		Bay Area:							
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:							
		# Employees-Co. Wide:							
		Bay Area:							
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:							
		# Employees-Co. Wide:							
		Bay Area:							
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:							
		# Employees-Co. Wide:							
		Bay Area:							

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.  
MEETING DATE

8b.

August 12, 2014

**TITLE      CONSULTANT AGREEMENT AMENDMENT FOR CONSTRUCTION INSPECTION SERVICES FOR THE SOUTH INTERCEPTOR WOOD STREET REHABILITATION PHASE 2 PROJECT**

MOTION       RESOLUTION       ORDINANCE

**RECOMMENDED ACTION**

Authorize an amendment to the agreement with EPC Consultants, Inc. (EPC) in an amount not to exceed \$305,491 for construction inspection services on the South Interceptor Wood Street Rehabilitation Phase 2 Project. In awarding this contract, the Board of Directors finds that this work cannot be satisfactorily performed under civil service.

**SUMMARY**

The District is currently rehabilitating 8,500 feet of a 105-inch diameter sewer interceptor in the City of Oakland that is approximately 60 years old. Construction of interceptor rehabilitation improvements in the first two segments, which are located in a largely industrial area, is nearly complete. As presented to the Planning Committee on June 10, 2014, the District has changed the project approach for the third segment, which is located in a residential area, by restricting manhole access locations and shifting work hours to minimize potential noise and traffic impacts to the local community. This change requires the construction contract duration to be extended an additional two years through October 2016. This agreement amendment provides for additional construction inspection services to ensure quality control during installation of the specialized pipe rehabilitation liner system through project completion.

**DISCUSSION**

On July 10, 2012, the Board authorized an agreement with EPC for \$343,475 for construction inspection services for this project. An additional \$305,491 is required to extend these services through October 2016, which will increase the total agreement ceiling to \$648,966. EPC will continue to observe and document construction activities, communicate and coordinate with the contractor's field superintendent and District operations, and ensure quality control and compliance with the construction contract. Staff is conducting project management, construction management, and office administration activities.

Funds Available: FY15		Budget Code: WWC/927/7999/2007458/5231	
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR	APPROVED	
Wastewater			
	Bennett K. Horenstein	General Manager	

Contact the Office of the District Secretary with questions about completing or submitting this form.

## **CONSULTANT SELECTION**

EPC was originally selected from the District-wide engineering consultant roster at the beginning of this project. Because EPC has extensive project experience and expertise regarding the rehabilitation technology (i.e., Linabond protective liner system), amending the existing agreement is the most efficient approach to providing the required inspection services. EPC's qualifications and performance have met the District's needs on this important project to date.

## **CONTRACT EQUITY PROGRAM EFFORTS**

The completed P-035 and P-061 forms are attached.

## **FISCAL IMPACT**

The FY15 capital budget appropriation includes sufficient funds for this project, including this construction inspection agreement amendment.

## **PREVAILING WAGE**

Work under this contract is subject to the payment of current prevailing wages according to determinations for each craft as established by the Director of Industrial Relations of the State of California.

## **UNION NOTIFICATION**

Locals 21 and 2019 were notified of this contract on July 8, 2014. Locals 21 and 2019 did not raise any specific issues related to this contract.

## **CEQA/ENVIRONMENTAL COMPLIANCE**

A Notice of Exemption was filed with Alameda County Clerk on October 17, 2011.

## **ALTERNATIVES**

**Select a different consultant to perform the work.** This alternative is not recommended because EPC has extensive project experience and the qualifications to inspect the specialized rehabilitation technology.

Consultant Agreement Amendment for Construction Inspection Services for the South Interceptor Wood Street Rehabilitation Phase 2 Project  
August 12, 2014  
Page 3

**Perform the work with District forces.** This alternative is not recommended because staff does not have the expertise required to inspect installation of the specialized rehabilitation technology. The construction work occurs in the early morning hours (i.e., 12:00 am to 6:00 am) and staff resources are allocated to high-priority capital projects that occur during normal working hours.

#### Attachments

P-035 – Contract Equity Program Summary  
P-061 – Affirmative Action Summary

I:\SEC\2014 Board Related Items\08-12-14 Board Items\WW - Amendment for CI Services for So Int Wood St Rehab Ph 2.doc





## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <i>Amendment to Professional Services Agreement from Engineering Consultant Roster</i> Consultant Amendment for Construction Inspection Services for the South Interceptor Wood Street Rehabilitation - Phase 2	<b>DATE:</b> July 16, 2014
---	-------------------------------

CONTRACTOR:		PERCENTAGE OF CONTRACT DOLLARS			
EPC Consultants, Inc. San Francisco, CA		Small Business	Availability Group	Contracting Objectives	Participation
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men	25%	0.0%
	Ethnicity	Gender	White Women	6%	0.0%
\$648,966 *	Asian	Men	Ethnic Minorities	25%	100.0%

CONTRACT EQUITY PARTICIPATION											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
<b>PRIME:</b> EPC Consultants, Inc.	\$648,966	Asian	X		---	---	100.0%	---	---	---	---
<b>SUBS:</b>					---	---	---	---	---	---	---
<b>TOTAL</b>	\$648,966				0.0%	0.0%	100.0%	0.0%	0.0%	0.0%	0.0%

CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)				
	White Men	White Women	Ethnic Minorities	Total Employees
<b>No. of Employees:</b>	23	8	26	57
<b>Percent of Total Employees:</b>	40.4%	14.0%	45.6%	
<b>MSA Labor Market %:</b>	32.3%	27.8%	39.9%	
<b>MSA Labor Market Location:</b>	9 Bay Area Counties			

**COMMENTS**

*Contract Equity Participation - 100% Ethnic Minority participation.*

*\*Includes original contract amount of \$343,375*

<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>	<b>Good Faith Outreach Efforts Requirement Satisfied</b>	<b>Award Approval Recommended</b>
NA	NA	



## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title:		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
<b>Consultant Amendment for Construction Inspection Services for the South Interceptor Wood Street Rehabilitation - Phase 2</b>		National	10.5	10.7	3.7	0.7	27.3		
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9		
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2		
Professional Services Agreement from Engineering Consultant Roster	DATE:	7/16/2014							
R=Recmmnd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
RP	EMM:A/PI - SBE	Company Wide	3	1	21	-	25	43.9%	39.9%
EPC Consultants, Inc. Pundalik Kini 655 Davis St. San Francisco, CA 94111 415-675-7580		Manager/Prof	1	1	2	-	4	8.9%	
		Technical/Sales	-	-	13	-	-	NA	
		Clerical/Skilled	2	-	6	-	8	66.7%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	3	1	21	-	25	166.7%	
		AA Plan on File:	NA		Date of last contract with District:		8/1/2012		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		57 Bay Area: 57		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		
P	EMM:A/PI - LBE	Company Wide	29	8	22	-	59	19.0%	27.3%
E2 Consulting Engineers, Inc. Hersh Saluja 1900 Powell Street, Suite 250 Emeryville, CA 94608 510-428-4721		Manager/Prof	11	5	12	-	28	16.7%	
		Technical/Sales	4	-	5	-	9	56.3%	
		Clerical/Skilled	14	3	5	-	22	17.3%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	3	1	9	-	13	56.5%	
		Co. Wide MSA:	USA		# Employees-Co. Wide:		311 Bay Area: 23		
P	EMM:H - L/SBE	Company Wide	1	3	4	1	9	25.0%	27.3%
V&A Consulting Engineers, Inc. Jose Villalobos 155 Grand Avenue, Suite 700 Oakland, CA 94612 510-903-6600		Manager/Prof	-	2	-	-	2	20.0%	
		Technical/Sales	-	1	4	1	6	26.1%	
		Clerical/Skilled	1	-	-	-	1	33.3%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	1	3	3	-	7	30.4%	
		Co. Wide MSA:	USA		# Employees-Co. Wide:		36 Bay Area: 23		
P	WM - LBE	Company Wide	6	22	55	2	85	26.5%	39.9%
URS Corporation Americas Lelio Mejia 1333 Broadway, Suite 800 Oakland, CA 94612 510-893-3600		Manager/Prof	2	14	46	1	63	22.9%	
		Technical/Sales	4	4	6	1	15	46.9%	
		Clerical/Skilled	-	4	3	-	7	50.0%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	6	22	55	2	85	26.5%	
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		321 Bay Area: 321		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:		

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO. 9  
 MEETING DATE August 12, 2014

TITLE COST SHARE AGREEMENT WITH SAN JOAQUIN COUNTY FOR A GROUNDWATER BANKING DEMONSTRATION PROJECT

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTION**

Authorize the General Manager to enter into an agreement with San Joaquin County Flood Control and Water Conservation District (County) to share the cost of consulting services to perform the initial planning and permitting of a groundwater banking demonstration project.

**DISCUSSION**

Since the spring of 2012, EBMUD staff has been discussing with County staff the development of a groundwater banking demonstration project. As envisioned, surface water would be made available by EBMUD or others for storage in the aquifer underlying the eastern portion of San Joaquin County. The County would serve as the primary agency responsible for demonstration project development and EBMUD would be a partner agency during the demonstration.

On September 24, 2013, EBMUD's Board of Directors authorized the General Manager to enter into a Memorandum of Agreement (MOA) with the County for the demonstration project. The MOA included the proposed phasing of the work, with Phase 1 of the demonstration project covering project planning efforts, site selection, operating criteria development, and the securing of a groundwater export permit. Following that initial work, the parties would, under a future separate agreement, design, construct, and operate the project.

On December 26, 2013, the County issued a request for proposal (RFP) seeking an engineering consultant to perform the Phase 1 work. Following the selection process, the County negotiated an agreement with GEI Consultants, Inc. (GEI) with a not to exceed cost of \$680,664 to perform this work. The San Joaquin County Board of Supervisors approved the consultant agreement on March 11, 2014, along with the cost share agreement with EBMUD. That agreement stipulates that EBMUD agrees to cover fifty percent of the total GEI contract amount (\$340,332). EBMUD has yet to sign the cost share agreement.

EBMUD has been negotiating with the County regarding the resolution of water rights protests filed against EBMUD's Camanche Permit Extension. Those settlement negotiations continue and EBMUD staff believes it is appropriate to approve the attached cost share agreement at this time. Should protest resolution negotiations not reach a successful conclusion, the cost share agreement includes provisions

Funds Available: FY15		Budget Code: WSC/455/7999/2005404
DEPARTMENT SUBMITTING Water and Natural Resources	DEPARTMENT MANAGER or DIRECTOR  Richard G. Sykes	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.



Cost Share Agreement with San Joaquin County

August 12, 2014

Page 2

under which EBMUD could terminate the agreement, paying only for the costs accrued to termination. The cost share agreement also includes a reciprocal indemnity provision under which each party would indemnify the other for liability arising from negligent acts, errors or omission.

**FISCAL IMPACT**

EBMUD will be responsible for fifty percent of the cost consulting services, or \$340,332. Funds are currently available in the District's FY15 budget for this effort.

**ALTERNATIVE**

**Do not authorize this agreement.** This alternative is not recommended. The results of the demonstration project will enable both EBMUD and the County to evaluate the feasibility of groundwater banking in Eastern San Joaquin County.



AGENDA NO. 10.  
 MEETING DATE August 12, 2014

**TITLE** AUTHORIZE CONTINUED EMPLOYMENT OF BARG, COFFIN, LEWIS & TRAPP, LLP, FOR SPECIALIZED LEGAL SERVICES

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTION**

Authorize the Office of General Counsel to continue employment of the law firm of Barg, Coffin, Lewis & Trapp, LLP, for specialized legal services related to environmental regulatory matters and environmental litigation in an additional amount not to exceed \$150,000.

**DISCUSSION**

The firm of Barg, Coffin, Lewis & Trapp has been retained to assist the Office of General Counsel in environmental regulatory and environmental litigation matters. The Office of General Counsel is now requesting authorization for additional funds for services described in a separate attorney-client confidential memorandum to the Board of Directors.

**CONTRACT EQUITY PROGRAM EFFORTS**

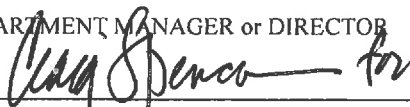

The completed P-035 and P-061 forms are attached.

**FISCAL IMPACT**

Sufficient monies have been budgeted in the Office of General Counsel's budget for the fiscal year 2015 for this request for specialized legal assistance.

**Attachments**

- P-035 – Contract Equity Program Summary
- P-061 – Affirmative Action Summary

Funds Available: FY 2015		Budget Code: WSO 130 8511 5231
DEPARTMENT SUBMITTING <u>Office of General Counsel</u>	DEPARTMENT MANAGER or DIRECTOR  Jylana Collins, General Counsel	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.





## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <b>Professional Services Agreement</b> Authorize Continued Employment of Barg, Coffin, Lewis & Trapp, LLP for Specialized Legal Services						<b>DATE:</b> July 24, 2014					
<b>CONTRACTOR:</b> Barg, Coffin, Lewis & Trapp, LLP San Francisco, CA				Direct Award		<b>PERCENTAGE OF CONTRACT DOLLARS</b>					
<b>BID/PROPOSER'S PRICE:</b> \$150,000		<b>FIRM'S OWNERSHIP</b> Ethnicity: White      Gender: Men		<b>White Men</b> 25%		<b>White Women</b> 6%		<b>Ethnic Minorities</b> 25%		<b>Contracting Objectives</b> 100.0% 0.0% 0.0%	
<b>CONTRACT EQUITY PARTICIPATION</b>											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
<b>PRIME:</b> Barg, Coffin, Lewis & Trapp, LLP	\$150,000	White	X		100.0%	---	---	---	---	---	---
<b>SUBS:</b> None					---	---	---	---	---	---	---
<b>TOTAL</b>			\$150,000		100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)</b>											
		<b>White Men</b>			<b>White Women</b>			<b>Ethnic Minorities</b>	<b>Total Employees</b>		
<b>No. of Employees:</b>		14			12			8	34		
<b>Percent of Total Employees:</b>		41.2%			35.3%			23.5%			
<b>MSA Labor Market %:</b>		30.8%			25.1%			44.0%			
<b>MSA Labor Market Location:</b>		San Francisco									
<b>COMMENTS</b>											
<i>Contract Equity Participation - 100% White Men participation.</i>											
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>				<b>Good Faith Outreach Efforts Requirement Satisfied</b>				<b>Award Approval Recommended</b>			
NA				NA							



## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s) P-025 Form regarding their workforce.

Title: <b>Authorize Continued Employment of Barg, Coffin, Lewis &amp; Trapp, LLP for Specialized Legal Services</b>		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
<b>Professional Services Agreement</b>		DATE: <b>7/24/2014</b>	<b>National</b>	10.5	10.7	3.7	0.7	27.3	
			<b>9 Bay Area Counties</b>	5.5	16.2	14.2	0.4	39.9	
			<b>Alameda/CC Counties</b>	10.7	15.6	15.4	0.5	46.2	
R=Recomm P=Prime S=Sub	Composition of Ownership	<b>Number of Ethnic Minority Employees</b>							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
RP	WM	<b>Company Wide</b>	2	-	2	-	4	11.8%	44.0%
Barg, Coffin, Lewis & Trapp, LLP 350 California Street, 22nd Floor San Francisco, CA 94104  415-228-5400		Manager/Prof	1	-	-	-	1	5.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	1	-	2	-	3	21.4%	
		Semi/Unskilled	-	-	-	-	-	NA	
		<b>Bay Area</b>	-	-	-	-	0	0.0%	39.9%
		AA Plan on File: <b>NA</b>	Date of last contract with District: <b>3/1/2002</b>						
		Co. Wide MSA: <b>San Francisco</b>	# Employees-Co. Wide: <b>34</b>		Bay Area: <b>34</b>				
		<b>Company Wide</b>							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		<b>Bay Area</b>							39.9%
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		<b>Company Wide</b>							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		<b>Bay Area</b>							39.9%
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		<b>Company Wide</b>							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		<b>Bay Area</b>							39.9%
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		<b>Company Wide</b>							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		<b>Bay Area</b>							39.9%
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		<b>Company Wide</b>							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		<b>Bay Area</b>							39.9%
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.  
MEETING DATE

11.

August 12, 2014

**TITLE     AUTHORIZE CONTINUED EMPLOYMENT OF DOWNEY BRAND, LLP, FOR  
SPECIALIZED LEGAL SERVICES**

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTION**

Authorize the Office of General Counsel to continue the employment of the law firm of Downey Brand, LLP, for specialized legal services related to natural resources and environmental regulatory and litigation matters in an additional amount not to exceed \$25,000.

**DISCUSSION**

The firm of Downey Brand has been retained to assist the Office of General Counsel in environmental regulatory and permitting matters, including CEQA matters. The Office of General Counsel is now requesting authorization for additional funds for services described in a separate attorney-client confidential memorandum to the Board of Directors.

**CONTRACT EQUITY PROGRAM EFFORTS**

The completed P-035 and P-061 forms are attached.

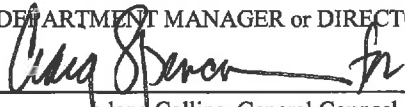

**FISCAL IMPACT**

Sufficient monies have been budgeted in the Office of General Counsel's budget for fiscal year 2015 for this request for specialized legal assistance.

**Attachments**

- P-035 – Contract Equity Program Summary
- P-061 – Affirmative Action Summary

W:\400\410\BD-1s\Downey Brand 08-12-14.doc

Funds Available: FY 2015		Budget Code: WSO 130 8511 5231
DEPARTMENT SUBMITTING <u>Office of General Counsel</u>	DEPARTMENT MANAGER or DIRECTOR  Juliana Collins, General Counsel	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.





## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <i>Professional Services Agreement</i> Authorize Continued Employment of Downey Brand, LLP for Specialized Legal Services						<b>DATE:</b> July 29, 2014						
<b>CONTRACTOR:</b> Downey Brand, LLP Sacramento, CA				Direct Award		<b>PERCENTAGE OF CONTRACT DOLLARS</b>						
<b>BID/PROPOSER'S PRICE:</b> \$25,000		<b>FIRM'S OWNERSHIP</b>		<b>White Men</b>		<b>25%</b>		<b>100.0%</b>				
		<b>Ethnicity</b>	<b>Gender</b>	<b>White Women</b>		<b>6%</b>		<b>0.0%</b>				
		White	Men	<b>Ethnic Minorities</b>		<b>25%</b>		<b>0.0%</b>				
<b>CONTRACT EQUITY PARTICIPATION</b>												
<b>COMPANY NAME</b>		<b>ESTIMATED AMOUNT</b>	<b>ETHNICITY</b>	<b>GENDER</b>		<b>CONTRACTING PARTICIPATION</b>						
				<b>M</b>	<b>W</b>	<b>White-Men</b>	<b>White-Women</b>	<b>Ethnic Minorities</b>	<b>Unclassified</b>	<b>Publicly Held Corp.</b>	<b>Gov't/Non Profit</b>	<b>Foreign</b>
<b>PRIME:</b> Downey Brand, LLP		\$25,000	White	X		100.0%	--	--	--	--	--	--
<b>SUBS:</b> None						--	--	--	--	--	--	--
<b>TOTAL</b>		\$25,000				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)</b>												
		<b>White Men</b>		<b>White Women</b>		<b>Ethnic Minorities</b>		<b>Total Employees</b>				
<b>No. of Employees:</b>		25		66		28		119				
<b>Percent of Total Employees:</b>		21.0%		55.5%		23.5%						
<b>MSA Labor Market %:</b>		39.0%		33.7%		27.2%						
<b>MSA Labor Market Location:</b>		Total USA										
<b>COMMENTS</b>												
<i>Contract Equity Participation - 100% White Men participation.</i>												
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>				<b>Good Faith Outreach Efforts Requirement Satisfied</b>				<b>Award Approval Recommended</b>				
NA				NA								





## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: <b>Authorize Continued Employment of Downey Brand, LLP for Specialized Legal Services</b>		Ethnic Minority Percentages From U.S. Census Data							
		B	H	A/PI	AI/AN	TOTAL			
<b>Professional Services Agreement</b>		DATE: 7/29/2014	National		10.5	10.7	3.7	0.7	27.3
			9 Bay Area Counties		5.5	16.2	14.2	0.4	39.9
			Alameda/CC Counties		10.7	15.6	15.4	0.5	46.2
R=Recomm P=Prime S=Sub	Composition of Ownership	<b>Number of Ethnic Minority Employees</b>							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
RP	WM	Company Wide	2	9	13	-	24	20.2%	27.2%
Downey Brand, LLP 621 Capitol Mall, 18th Floor Sacramento, CA 95814  415-848-4830		Manager/Prof	-	2	3	-	5	9.8%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	2	7	10	-	19	27.9%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	-	-	-	-	0	NA	39.9%
		AA Plan on File:	NA		Date of last contract with District:		6/12/2014		
		Co. Wide MSA:	Total USA		# Employees-Co. Wide:		119 Bay Area: NA		
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:	# Employees-Co. Wide:		Bay Area:				

WM=White Male, VW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.  
MEETING DATE

12.

August 12, 2014

**TITLE      AUTHORIZE CONTINUED EMPLOYMENT OF MEYERS NAVE FOR  
SPECIALIZED LEGAL SERVICES**

MOTION       RESOLUTION       ORDINANCE

**RECOMMENDED ACTION**

Authorize the Office of General Counsel to continue the employment of the law firm of Meyers Nave for specialized legal services related to labor and employment matters in an additional amount not to exceed \$80,000.

**DISCUSSION**

The Office of General Counsel has employed the law firm of Meyers Nave for specialized legal services related to labor and employment matters. The Office of General Counsel is now requesting authorization for additional funds for services described in a separate attorney-client confidential memorandum to the Board of Directors.

**CONTRACT EQUITY PROGRAM EFFORTS**

The completed P-035 and P-061 forms are attached.



**FISCAL IMPACT**

Sufficient monies have been budgeted in the Office of General Counsel's budget for fiscal year 2015 for this request for specialized legal services.

**Attachments**

- P-035 – Contract Equity Program Summary
- P-061 – Affirmative Action Summary

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Funds Available: FY 2015		Budget Code: WSO 130 8511 5231
DEPARTMENT SUBMITTING Office of General Counsel	DEPARTMENT MANAGER or DIRECTOR  Jylana Collins, General Counsel	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.





## CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

<b>TITLE</b> <b>Professional Services Agreement</b> Authorize Continued Employment of Meyers Nave for Specialized Legal Services						<b>DATE:</b> July 29, 2014					
<b>CONTRACTOR:</b>				<b>PERCENTAGE OF CONTRACT DOLLARS</b>							
Meyers Nave Oakland, CA		Direct Award/Local Business		Availability Group			Contracting Objectives		Participation		
<b>BID/PROPOSER'S PRICE:</b>		<b>FIRM'S OWNERSHIP</b>		White Men			25%		100.0%		
		Ethnicity	Gender	White Women			6%		0.0%		
\$80,000		White	Men	Ethnic Minorities			25%		0.0%		
<b>CONTRACT EQUITY PARTICIPATION</b>											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
<b>PRIME:</b> Meyers Nave	\$80,000	White	X		100.0%	---	---	---	---	---	---
<b>SUBS:</b> none					---	---	---	---	---	---	---
<b>TOTAL</b>		\$80,000			100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)</b>											
		<b>White Men</b>		<b>White Women</b>		<b>Ethnic Minorities</b>		<b>Total Employees</b>			
<b>No. of Employees:</b>		38		59		47		144			
<b>Percent of Total Employees:</b>		26.4%		41.0%		32.6%					
<b>MSA Labor Market %:</b>		28.0%		23.6%		48.4%					
<b>MSA Labor Market Location:</b>		California									
<b>COMMENTS</b>											
Contract Equity Participation - 100% White Men participation.											
<b>Workforce Profile &amp; Statement of Nondiscrimination Submitted</b>				<b>Good Faith Outreach Efforts Requirement Satisfied</b>				<b>Award Approval Recommended</b>			
NA				NA							



## AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title:		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
<b>Authorize Continued Employment of Meyers Nave for Specialized Legal Services</b>		National	10.5	10.7	3.7	0.7	27.3		
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9		
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2		
<b>Professional Services Agreement</b>	DATE:								
	7/29/2014								
R=Recmmd P=Prime S=Sub	Composition of Ownership	<b>Number of Ethnic Minority Employees</b>							
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
RP	WM - LBE	Company Wide	9	10	24	1	44	30.6%	48.4%
Meyers Nave 555 12th Street, Suite 1500 Oakland, CA 94607  510-808-2000		Manager/Prof	3	2	9	-	14	16.9%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	6	8	15	1	30	49.2%	
		Semi/Unskilled	-	-	-	-	-	NA	
		Bay Area	7	9	22	1	39	39.0%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		11/21/2012		
		Co. Wide MSA:	California		# Employees-Co. Wide:		144	Bay Area: 100	
		Company Wide	4	4	4	4	16	48.5%	Insert %
		Manager/Prof	1	1	1	1	4	80.0%	
		Technical/Sales	1	1	1	1	-	NA	
		Clerical/Skilled	1	1	1	1	4	23.5%	
		Semi/Unskilled	1	1	1	1	4	36.4%	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		Co. Wide MSA:	Insert MSA		# Employees-Co. Wide:		33	Bay Area: 33	
		Company Wide	4	4	4	4	16	48.5%	Insert %
		Manager/Prof	1	1	1	1	4	80.0%	
		Technical/Sales	1	1	1	1	-	NA	
		Clerical/Skilled	1	1	1	1	4	23.5%	
		Semi/Unskilled	1	1	1	1	4	36.4%	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		Co. Wide MSA:	Insert MSA		# Employees-Co. Wide:		33	Bay Area: 33	
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area							39.9%
		Co. Wide MSA:			# Employees-Co. Wide:			Bay Area:	
		Company Wide	4	4	4	4	16	48.5%	Insert %
		Manager/Prof	1	1	1	1	4	80.0%	
		Technical/Sales	1	1	1	1	-	NA	
		Clerical/Skilled	1	1	1	1	4	23.5%	
		Semi/Unskilled	1	1	1	1	4	36.4%	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		Co. Wide MSA:	Insert MSA		# Employees-Co. Wide:		33	Bay Area: 33	
		Company Wide	4	4	4	4	16	48.5%	Insert %
		Manager/Prof	1	1	1	1	4	80.0%	
		Technical/Sales	1	1	1	1	-	NA	
		Clerical/Skilled	1	1	1	1	4	23.5%	
		Semi/Unskilled	1	1	1	1	4	36.4%	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		Co. Wide MSA:	Insert MSA		# Employees-Co. Wide:		33	Bay Area: 33	

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO. 13.  
 MEETING DATE August 12, 2014

TITLE REVISIONS TO SEVERAL DISTRICT POLICIES

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

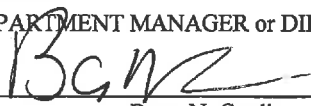

**RECOMMENDED ACTION**

Approve revisions to the following District policies:

- Policy 2.05 – Employee Discipline
- Policy 2.06 – Alcohol and Drug Abuse
- Policy 2.07 – Civil Service System
- Policy 2.13 – Outside Employment
- Policy 2.15 – Reduction In Force
- Policy 2.19 – Tuition Refund for Employee Education
- Policy 2.20 – Workforce Communications
- Policy 2.21 – Employee Appeal and Grievance
- Policy 2.22 – Communication with Unions
- Policy 3.07 – Responsibility to Serve Water Customers
- Policy 4.20 – Use of District Technology Resources
- Policy 8.02 – Biosolids Management

**DISCUSSION**

Staff conducts bi-annual reviews of District policies to consider whether any organizational, regulatory, or other changes have occurred which necessitate their modification. Policies that require modification are forwarded to the Board for consideration and approval. Attached are 12 policy modifications for Board consideration and approval. These policy changes were reviewed with the Finance/Administration Committee on August 12, 2014.

Funds Available FY:		Budget Code:
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR	APPROVED
Finance Department	 Barry N. Gardin	 General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

## **POLICIES RECOMMENDED FOR REVISION**

### **1. Policy 2.05 – Employee Discipline**

This policy was previously titled Discipline Policy. It was modified to clarify the description of disciplinary action that can be taken by the District. Specifically to note that disciplinary action can include action “up to and including discharge.”

### **2. Policy 2.06 –Alcohol and Drug Abuse**

This policy was previously titled East Bay Municipal Utility District Drug and Alcohol Misuse Policy. It was modified to emphasize the District’s goal of maintaining an alcohol, as well as drug free work place. Also the policy has been changed from stating the District will not take disciplinary action against employees who self-identify as having a drug or alcohol problem to say action will not be taken against employees solely because they self-identify as having a drug or alcohol problem.

### **3. Policy 2.07 – Civil Service System**

This policy was modified to eliminate listing the protected classes noted in the civil service policy and to replace it with a reference to comply with Policy 2.25 – Equal Employment Opportunity.

### **4. Policy 2.13 – Outside Employment**

This policy was edited to improve clarity and specifically note that represented employees can appeal outside employment decisions through their grievance procedures.

### **5. Policy 2.15 – Reduction In Force**

This policy was modified to specifically note that any reduction in force will follow Civil Service Rules and District Procedure 211 – Reduction in Force, in addition to the applicable Memoranda of Understanding.

### **6. Policy 2.19 – Tuition Refund for Employee Education**

This policy was modified to add “software” to the list of reimbursable expenses and eliminate accreditation from the eligibility requirement of the institutions.

**7. Policy 2.20 – Workforce Communications**

This policy was edited to specifically include employee responsibility for exercising appropriate communication with co-workers and to improve clarity.

**8. Policy 2.21 – Employee Appeal and Grievance**

This policy was previously titled Employee Appeal and Grievance Policy. It was modified to provide a more precise description of the circumstances subject to grievance and/or appeal, for which the District is responsible to ensure timely and orderly resolution, for non-represented employees.

**9. Policy 2.22 – Communication with Unions**

This policy was modified to clarify that communication with unions is through Employee Relations and handled in a professional manner.

**10. Policy 3.07 – Responsibility to Serve Water Customers**

This policy was updated to include the District's 15 percent customer rationing goal during water shortages and specify the conditions for new water service during restricted periods.

**11. Policy 4.20 – Use of District Technology Resources**

This policy was modified to expand the definition of the equipment, devices, and applications that are covered and change authorization for providing permission, to take certain technology upon departure, from Department Manager to Department Head.

**12. Policy 8.02 – Biosolids Management**

This policy was streamlined and reformatted for consistency with related policies, while maintaining the connection with the National Biosolids Partnership's Code of Good Practices.

**UNION NOTIFICATION**

Employee Relations has reviewed all of the policy changes to determine the necessity for union review and has reviewed all of the changes that affect wages, hours and working conditions with the unions. This includes all of the policies with the exception of Policy 3.07 and Policy 8.02.



## **FISCAL IMPACT**

These policy changes have no fiscal impact.

## **ALTERNATIVE**

**Do not update these policies.** This alternative is not recommended because it would leave policies in place that do not reflect current operating practices, are not consistent with Board directives, and/or are not in compliance with California law.

## **Attachments**

I:\SEC\08-12-14 Agenda Items\FIN - BD1 Revisions to Several District Policies 081214.doc



# Policy 2.05R

EFFECTIVE ~~11-OCT-05~~  
12 AUG 14

SUPERSEDES ~~08-SEP-61~~  
11 OCT 05

## EMPLOYEE DISCIPLINE **POLICY**

IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Expect all employees to maintain high standards ~~of~~ for job performance, cooperation, efficiency, safety, honesty and integrity in the performance of their work with the District and to take disciplinary action ~~of~~ up to and including discharge when justified by an employee's job performance or conduct ~~justifies it~~.

### **Civil Service Employees**

All civil service employees ~~are~~ may be subject to disciplinary ~~action~~ action ~~or and up to termination and including discharge from employment~~ for cause and ~~after~~ with due process. Each disciplinary case will be considered on an individual basis, taking into account relevant factors including the nature and severity of the offense, the employee's work performance ~~previous work~~ and conduct ~~record~~, ~~the employee's~~ length of service with the District and ~~the manner in which~~ their employee's response ~~s~~ to ~~the~~ charges.

### **Civil Service Exempt Employees**

Probationary civil service and employees who are exempt from the District's civil service pursuant to the Municipal Utility District Act are "at will" employees, and may be discharged for any reason, without prior notice and without the right of appeal. Nothing in this policy is intended to alter the "at will" employment status of the District's probationary and civil service-exempt employees.

### **Authority**

Resolution 20,573, September 8, 1961  
As amended by Resolution No. 33498-05, dated October 11, 2005  
As amended by Resolution No. XXXXX-14, dated August 12, 2014  
Municipal Utility District Act § 12161



# Policy 2.05

EFFECTIVE 12 AUG 14

SUPERSEDES 11 OCT 05

## EMPLOYEE DISCIPLINE

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### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Expect all employees to maintain high standards for job performance, cooperation, efficiency, safety, honesty and integrity in the performance of their work with the District and to take disciplinary action up to and including discharge when justified by an employee's job performance or conduct.

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#### **Civil Service Employees**

All civil service employees may be subject to disciplinary action up to and including discharge from employment for cause and after due process. Each disciplinary case will be considered on an individual basis, taking into account relevant factors including the nature and severity of the offense, the employee's work performance and conduct, length of service with the District and the employee's response to charges.

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#### **Civil Service Exempt Employees**

Probationary civil service and employees who are exempt from the District's civil service pursuant to the Municipal Utility District Act are "at will" employees, and may be discharged for any reason, without prior notice and without the right of appeal. Nothing in this policy is intended to alter the "at will" employment status of the District's probationary and civil service-exempt employees.

---

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Resolution 20,573, September 8, 1961  
As amended by Resolution No. 33498-05, dated October 11, 2005  
As amended by Resolution No. XXXXX-14, dated August 12, 2014  
Municipal Utility District Act § 12161

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# Policy 2.06R

EFFECTIVE [28-MAR-06](#)  
[12 AUG 14](#)

SUPERSEDES [25-JAN-05](#)  
[28-MAR-06](#)

## ~~EAST BAY MUNICIPAL UTILITY DISTRICT~~ ~~DRUG AND ALCOHOL~~ AND DRUG ABUSE MISUSE POLICY

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Provide and maintain an alcohol and drug ~~and alcohol~~-free workplace in order to protect the public and employees from accidents, injuries and risks to public health and safety from misuse of alcohol or drugs in the workplace. The District is committed to complying with the California Drug Free Workplace Act (Cal. Government Code Section 8350 et seq.), the Federal Drug Free Workplace Act (41 USC Section 701), the Department of Transportation (DOT) testing regulations (49 CFR Part 40), and all applicable legally valid rules and regulations adopted hereunder.

The District will assist employees with alcohol or drug ~~or alcohol misab~~use problems ~~to deal effectively with them~~, provided such ~~the~~ employees seek or accept therapeutic assistance. Accordingly, the District will not take punitive disciplinary action against employees solely because they ~~who~~ identify themselves as unfit to perform their work ~~having because of~~ alcohol or drug misabuse problem(s), provided such employees and who demonstrate a willingness to treat their problems s effectively.

The District has a public responsibility to maintain a safe, healthful and efficient working environment and to protect the District, its employees, its property and operations, and the public. Therefore, the District retains the authority to address deal with employee alcohol or drug misabuse problems, ~~which that~~ are not resolved through the above therapeutic approach, through appropriate personnel actions in accordance with the District's disciplinary policies.

---

### Authority

Motion No. 224-94 and 225-94, December 21, 1994.  
Amended by Resolution No. 33458-05, January 25, 2005  
Amended by Resolution No. 33523-06, March 28, 2006  
Amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.06

EFFECTIVE 12 AUG 14

SUPERSEDES 28 MAR 06

## ALCOHOL AND DRUG ABUSE

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Provide and maintain an alcohol and drug-free workplace in order to protect the public and employees from accidents, injuries and risks to public health and safety from misuse of alcohol or drugs in the workplace. The District is committed to complying with the California Drug Free Workplace Act (Cal. Government Code Section 8350 et seq.), the Federal Drug Free Workplace Act (41 USC Section 701), the Department of Transportation (DOT) testing regulations (49 CFR Part 40), and all applicable legally valid rules and regulations adopted hereunder.

The District will assist employees with alcohol or drug abuse problems, provided such employees seek or accept therapeutic assistance. Accordingly, the District will not take disciplinary action against employees solely because they identify themselves as having alcohol or drug abuse problem(s), provided such employees demonstrate a willingness to treat their problems effectively.

The District has a public responsibility to maintain a safe, healthful and efficient working environment and to protect the District, its employees, its property and operations, and the public. Therefore, the District retains the authority to address employee alcohol or drug abuse problems that are not resolved through the above therapeutic approach, through appropriate personnel actions in accordance with the District's disciplinary policies.

---

### Authority

Motion No. 224-94 and 225-94, December 21, 1994.  
Amended by Resolution No. 33458-05, January 25, 2005  
Amended by Resolution No. 33523-06, March 28, 2006  
Amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.07R

EFFECTIVE [11 OCT 05](#)  
[12 AUG 14](#)

SUPERSEDES [09 AUG 94](#)  
[11 OCT 05](#)

## CIVIL SERVICE SYSTEM

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Maintain a civil service system for the selection, examination, employment, classification, advancement, suspension, and discharge of employees included within the District Civil Service. In accordance with provisions set forth in Chapter 4 of the Municipal Utility District (MUD) Act, the goal of the District Civil Service Rules is to recruit, select and employ skilled individuals to efficiently perform the various functions of the District.

---

- Responsibilities**
- The General Manager shall establish and maintain a civil service system through the District Civil Service Rules.
  - As needed, the General Manager may amend existing rules and regulations to ensure that District Civil Service Rules are accurate, current, and serve in the best interests of both employees and the District. Such revisions will be accomplished in accordance with applicable provisions of the MUD Act and consistent with applicable MOUs.
- 

- Employment Standards**
- Civil Service Rules shall ensure that:
- Employment and promotion are based solely on job-related criteria as assessed by appropriate competitive exam processes;
  - Job appointments are made without regard for ~~race, religion, color, ancestry, creed, age, marital status, national origin, sex, sexual orientation, physical or mental disability~~, union activity or affiliation or political affiliation [and in compliance with Policy 2.25 Equal Employment Opportunity \(EEO\).](#);
  - Continuation of employment is free from arbitrary action;
  - The opportunity to be heard is available through established procedures and practices.
- 

- Coverage**
- The Civil Service System shall include all District employees except the following as further defined in the District Civil Service Rules:
- Officers elected by the people.
  - Appointments made directly by the Board of Directors
  - Temporary Construction and Limited Term employees
  - Part-time employees
- 

**Authority**

Resolution No. 32874-94, dated August 9, 1994  
 As amended by Resolution No. 33498-05, dated October 11, 2005.  
[As amended by Resolution No. XXXXX-14, dated August 12, 2014](#)

Municipal Utility District Act, State of California, Chapter 4, 1921

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# Policy 2.07

EFFECTIVE 12 AUG 14

SUPERSEDES 11 OCT 05

## CIVIL SERVICE SYSTEM

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Maintain a civil service system for the selection, examination, employment, classification, advancement, suspension, and discharge of employees included within the District Civil Service. In accordance with provisions set forth in Chapter 4 of the Municipal Utility District (MUD) Act, the goal of the District Civil Service Rules is to recruit, select and employ skilled individuals to efficiently perform the various functions of the District.

---

- Responsibilities**
- The General Manager shall establish and maintain a civil service system through the District Civil Service Rules.
  - As needed, the General Manager may amend existing rules and regulations to ensure that District Civil Service Rules are accurate, current, and serve in the best interests of both employees and the District. Such revisions will be accomplished in accordance with applicable provisions of the MUD Act and consistent with applicable MOUs.
- 

- Employment Standards**
- Civil Service Rules shall ensure that:
- Employment and promotion are based solely on job-related criteria as assessed by appropriate competitive exam processes;
  - Job appointments are made without regard for union activity or affiliation or political affiliation and in compliance with Policy 2.25 Equal Employment Opportunity (EEO).
  - Continuation of employment is free from arbitrary action;
  - The opportunity to be heard is available through established procedures and practices.
- 

- Coverage**
- The Civil Service System shall include all District employees except the following as further defined in the District Civil Service Rules:
- Officers elected by the people.
  - Appointments made directly by the Board of Directors
  - Temporary Construction and Limited Term employees
  - Part-time employees
- 

- Authority**
- Resolution No. 32874-94, dated August 9, 1994  
As amended by Resolution No. 33498-05, dated October 11, 2005.  
As amended by Resolution No. XXXXX-14, dated August 12, 2014
- Municipal Utility District Act, State of California, Chapter 4, 1921
-



# Policy 2.13R

EFFECTIVE [25-OCT-05](#)  
[12-AUG-14](#)

SUPERSEDES [23-JAN-96](#)  
[25-OCT-05](#)

## OUTSIDE EMPLOYMENT

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IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT THAT:

~~Employment with the~~ District employment is the primary employment of ~~any employee of the~~ District employees. Further, ~~employees are~~ it is the responsibility of the employee to for ensuring that any secondary employment does not adversely impact job performance with the District. ~~Accordingly, Each~~ District employees will devote, during hours of duty as a District employee, devote their full time, attention, and efforts to District employment during working hours.

---

**Acceptable Conditions** ~~Any e~~Employee may engage in outside employment ~~outside of the District~~ as long as it is ~~not inconsistent, incompatible, in~~ does not conflict with, and is not ~~or~~ harmful to the performance of duties as a District employee or with the duties, functions, and of responsibilities of the District.

---

**Conflict of Interest** The following categories of outside employment are ~~determined to be~~ inconsistent with, incompatible ~~to~~, or in conflict with the duties of District employment. The examples in this section are provided for illustrative purposes only and do not constitute an ~~exclusive~~ exhaustive listing of prohibited outside employment conduct. ~~An employee's~~ Outside employment, activity, or enterprise is prohibited if it:

- involves the use of District time, facilities, equipment, supplies, or the employee's prestige, influence, or position ~~occupied in the employee's as a~~ District employee employment; or
- involves an employee's receipt or acceptance ~~by the employee~~ of any money or gratuities from anyone other than the District, for the performance of work that the employee is required or expected to perform in the regular course of District employment, such as:
  - a supervisor responsible for grant applications who is hired by other agencies to prepare and lobby for grants,
  - an employee who does computer training for the District is hired by a contractor to provide computer training to District employees; or
- Involves the performance of work outside of the District which may be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement of any other employee of the District, such as:
  - An employee who reviews landscape designs for compliance with conservation guidelines could not also work for ~~the a~~ developer subject to such review,
  - An employee could not assist in the preparation of a bid for a contractor who is bidding on a District contract,
  - An employee could not receive payment from a neighborhood association to prepare a petition to upgrade the level of water service in their area; or
- Involves time demands which adversely affect performance of duties as a District employee; or



- Involves the performance of work related to the interest of another entity or organization which is harmful to or in competition with District interests, operations, influences, business transactions, or contracts, such as:
    - Acting as a technical consultant for an agency competing for the same water rights as the District.
  - Involves being an owner and/or directly managing the activities of an outside business that contracts with the District.
- 

**Disclosure - Employee Responsibilities**

~~It is the e~~Employee's are responsibility ~~t~~for notifying ing the District before engaging in any outside employment activities. The employee shall provide information to his/her immediate supervisor concerning his/her outside employment activity, including but not limited to the identity of the person and type of activities for which outside services are performed, duration of such activities, and times and hours when such activities are performed. The employee must be able to demonstrate that outside employment is not in conflict with the duties, functions, or responsibilities of employment with the District. Additionally, the District has the right as primary employer to request information of an employee if it is believed that the employee has ~~a conflict with~~ outside employment that conflict with District employment.

Failure of an employee to disclose information about outside employment as set forth above will result in disciplinary action that may include termination of District employment.

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**Notice of Approval/Disapproval**

The employee will be given written notice if it is determined that the outside employment, activity, or enterprise is inconsistent, incompatible, in conflict with, or otherwise harmful to duties as a District employee or with the duties, functions, or responsibilities of the District. The notice will advise the employee that failure to terminate outside employment within 30 days will result in disciplinary action that may include termination of District employment.

---

**Appeal**

District disapproval of outside employment ~~is~~ may be appealable ~~ed~~ in accordance with Procedure 216, District Appeal and Grievance Procedure. Represented employees may appeal through ~~or~~ the grievance procedures set forth in the applicable Memorandum of Understanding ~~for represented employees~~.

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**Authority**

State Government Code Sections 1126, 1128, and 1129

Resolution No. 32961-96, January 23, 1996  
As amended by Resolution No. 33500-05, October 25, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.13

EFFECTIVE 12 AUG 14

SUPERSEDES 25 OCT 05

## OUTSIDE EMPLOYMENT

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT THAT:

District employment is the primary employment of District employees. Further, employees are responsible for ensuring that any secondary employment does not adversely impact job performance with the District. Accordingly, District employees will devote their full time, attention, and efforts to District employment during working hours.

---

**Acceptable Conditions** Employee may engage in outside employment as long as it is consistent, compatible, does not conflict with, and is not harmful to the performance of duties as a District employee or with the duties, functions, and responsibilities of the District.

---

**Conflict of Interest** The following categories of outside employment are inconsistent, incompatible, or in conflict with the duties of District employment. The examples in this section are provided for illustrative purposes only and do not constitute an exhaustive listing of prohibited outside employment. Outside employment, activity, or enterprise is prohibited if it:

- involves the use of District time, facilities, equipment, supplies, or the employee's prestige, influence, or position as a District employee; or
- involves an employee's receipt or acceptance of any money or gratuities from anyone other than the District, for the performance of work that the employee is required or expected to perform in the regular course of District employment, such as:
  - a supervisor responsible for grant applications who is hired by other agencies to prepare and lobby for grants,
  - an employee who does computer training for the District is hired by a contractor to provide computer training to District employees; or
- Involves the performance of work outside of the District which may be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement of any other employee of the District, such as:
  - An employee who reviews landscape designs for compliance with conservation guidelines could not also work for a developer subject to such review,
  - An employee could not assist in the preparation of a bid for a contractor who is bidding on a District contract,
  - An employee could not receive payment from a neighborhood association to prepare a petition to upgrade the level of water service in their area; or
- Involves time demands which adversely affect performance of duties as a District employee; or

- Involves the performance of work related to the interest of another entity or organization which is harmful to or in competition with District interests, operations, influences, business transactions, or contracts, such as:
    - Acting as a technical consultant for an agency competing for the same water rights as the District.
  - Involves being an owner and/or directly managing the activities of an outside business that contracts with the District.
- 

**Disclosure - Employee Responsibilities**

Employees are responsible for notifying the District before engaging in any outside employment activities. The employee shall provide information to his/her immediate supervisor concerning his/her outside employment activity, including but not limited to the identity of the person and type of activities for which outside services are performed, duration of such activities, and times and hours when such activities are performed. The employee must be able to demonstrate that outside employment is not in conflict with the duties, functions, or responsibilities of employment with the District. Additionally, the District has the right as primary employer to request information of an employee if it is believed that the employee has outside employment that conflict with District employment.

Failure of an employee to disclose information about outside employment as set forth above will result in disciplinary action that may include termination of District employment.

---

**Notice of Approval/Disapproval**

The employee will be given written notice if it is determined that the outside employment, activity, or enterprise is inconsistent, incompatible, in conflict with, or otherwise harmful to duties as a District employee or with the duties, functions, or responsibilities of the District. The notice will advise the employee that failure to terminate outside employment within 30 days will result in disciplinary action that may include termination of District employment.

---

**Appeal**

District disapproval of outside employment may be appealed in accordance with Procedure 216, District Appeal and Grievance Procedure. Represented employees may appeal through the grievance procedures set forth in the applicable Memorandum of Understanding.

---

**Authority**

State Government Code Sections 1126, 1128, and 1129

Resolution No. 32961-96, January 23, 1996  
As amended by Resolution No. 33500-05, October 25, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.15R

EFFECTIVE [25 JAN 05](#)  
[12 AUG 14](#)

SUPERSEDES [NEW](#)  
[25 JAN 15](#)

(Replaces PPS&P 3)

## REDUCTION IN FORCE

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Maintain ~~employee a~~ workforce ~~of in sufficient~~ numbers sufficient to accomplish all necessary work of the District safely, ~~and which will thereby, and to the extent possible,~~ avoid the necessity of a reduction in force. Should a reduction in force be necessary~~required~~, it shall be accomplished in accordance with procedures set forth in applicable as defined in the Memoranda of Understanding and/or Civil Service Rules, and Procedure 211~~with each bargaining group or those set forth for non-represented employees shall be administered by the General Manager or designee.~~

### Authority

Resolution No. 26452, April 24, 1973  
As amended by Resolution No. 27932, November 23, 1976  
As amended by Resolution No. 33458-05, January 25, 2005  
[As amended by Resolution No. XXXXX-14, August 12, 2014](#)

### References

[Memoranda of Understanding](#)  
[Civil Service Rules](#)  
[Procedure 211 – Reduction in Force](#)



# Policy 2.15

EFFECTIVE 12 AUG 14

SUPERSEDES 25 JAN 15  
(Replaces PPS&P 3)

## REDUCTION IN FORCE

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Maintain a workforce in numbers sufficient to accomplish all necessary work of the District safely and avoid the necessity of a reduction in force. Should a reduction in force be necessary, it shall be accomplished in accordance with procedures set forth in applicable Memoranda of Understanding and/or Civil Service Rules, and Procedure 211.

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**Authority** Resolution No. 26452, April 24, 1973  
As amended by Resolution No. 27932, November 23, 1976  
As amended by Resolution No. 33458-05, January 25, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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**References** Memoranda of Understanding  
Civil Service Rules  
Procedure 211 – Reduction in Force

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# Policy 2.19R

EFFECTIVE ~~9-AUG-05~~  
[12 AUG 14](#)

## TUITION REFUND FOR EMPLOYEE EDUCATION

SUPERSEDES ~~13-AUG-96~~  
[9 AUG 05](#)

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Reimburse eligible employees for tuition, [software](#) and textbook costs for approved courses at ~~accredited~~ colleges, universities, schools, vocational institutions, and correspondence schools, consistent with the District's objective to improve employee safety, productivity, and career opportunities.

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#### Authority

Resolution No. 33004-96, dated August 13, 1996  
As amended by Resolution No. 33487-05, dated August 9, 2005  
[As amended by Resolution No. XXXXX-14, dated August 12, 2014](#)

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#### References

Policy 2.18 - Training  
Procedure 206 - Tuition Refund for Employee Education

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# Policy 2.19

EFFECTIVE 12 AUG 14

## TUITION REFUND FOR EMPLOYEE EDUCATION

SUPERSEDES 9 AUG 05

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Reimburse eligible employees for tuition, software and textbook costs for approved courses at colleges, universities, schools, vocational institutions, and correspondence schools, consistent with the District's objective to improve employee safety, productivity, and career opportunities.

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#### Authority

Resolution No. 33004-96, dated August 13, 1996  
As amended by Resolution No. 33487-05, dated August 9, 2005  
As amended by Resolution No. XXXXX-14, dated August 12, 2014

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#### References

Policy 2.18 - Training  
Procedure 206 - Tuition Refund for Employee Education

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# Policy 2.20R

EFFECTIVE ~~26 FEB 91~~  
[12 AUG 14](#)

SUPERSEDES ~~NEW~~  
[26 FEB 91](#)

## WORKFORCE COMMUNICATIONS

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### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Develop and maintain effective ~~two-way~~ [workforce](#) communications throughout the District. To this end, the District will:

- Encourage and maintain open dialogue at all levels of [employment](#) ~~the District~~;
- Foster an environment of mutual understanding and respect that will ~~create~~ ~~allow an~~ [opportunities](#) for [all employees to share](#) ~~ing~~ ideas, sentiments, and concerns ~~by all employees~~; and
- ~~Alert~~ ~~ssure that the~~ District's management ~~is aware of the~~ [when](#) barriers to communications ~~occur~~ and utilize the [District's](#) human resources ~~of the District~~ to [remove those barriers](#) ~~resolve these issues~~.

---

<b>District Responsibility</b>	<a href="#">The District's responsibility is to acknowledge that</a> <del>The</del> employees <del>of the District</del> are <del>the</del> <a href="#">our</a> most important resource; and <a href="#">that</a> effective communication between all levels <del>of employees</del> is essential for the productive use of this resource.
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<b>Employee Responsibility</b>	Each District employee has the responsibility to <a href="#">exercise appropriate behavior in their communication with co-workers</a> ; <a href="#">to</a> take the initiative to understand <a href="#">others</a> and be understood; to share information with others in a timely manner as needed; and to encourage clarification and appropriate communication <del>s</del> based on facts, not rumors.
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<b>Authority</b>	Motion No. 91-021, February 26, 1991 <a href="#">As amended by Resolution No. XXXXX-14, August 12, 2014</a>
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# Policy 2.20

EFFECTIVE 12 AUG 14

SUPERSEDES 26 FEB 91

## WORKFORCE COMMUNICATIONS

---

### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Develop and maintain effective workforce communications throughout the District. To this end, the District will:

- Encourage and maintain open dialogue at all levels of employment ;
- Foster an environment of mutual understanding and respect that will create opportunities for all employees to share ideas, sentiments, and concerns ; and
- Alert District management when barriers to communication occur and utilize the District's human resources to remove those barriers.

---

#### **District Responsibility**

The District's responsibility is to acknowledge that employees are the most important resource and that effective communication between all levels is essential for the productive use of this resource.

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#### **Employee Responsibility**

Each District employee has the responsibility to exercise appropriate behavior in their communication with co-workers; to take the initiative to understand others and be understood; to share information with others in a timely manner as needed; and to encourage clarification and appropriate communication based on facts, not rumors.

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#### **Authority**

Motion No. 91-021, February 26, 1991  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.21R

EFFECTIVE ~~14 JUN 05~~  
[12 AUG 14](#)

SUPERSEDES ~~NEW~~  
[14 JUN 05](#)

(Replaces PPS&P 6)

## EMPLOYEE APPEAL AND GRIEVANCE ~~POLICY~~

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Provide a procedure for the timely and orderly resolution of: (1) employee appeals of disciplinary actions ~~their or~~ terminations, ~~suspensions and demotions~~ through a Civil Service Appeals Committee; ~~and~~ (2) employee complaints and grievances concerning the interpretation or application of rules and regulations governing personnel practices or working conditions; ~~(3) of~~ the application of the reduction in force procedure; ~~and (4) of~~ the practical effect consequences on terms and conditions of employment of a ~~District's right~~ decision ~~on wages, hours or terms and conditions of employment~~ made pursuant to District rights.

<b>Civil Service Employees</b>	This policy applies only to civil service employees. Employees who are probationary and exempt from the civil service pursuant to the Municipal Utility District Act are "at will" employees, and may be discharged for any reason, without prior notice and without the right of appeal. Nothing in this policy is intended to alter the "at will" employment status of the District's probationary and civil service-exempt employees.
<b>Exclusions</b>	Complaints concerning performance appraisals, established wages and salaries, or the terms of rules or regulations governing personnel practices or working conditions or of a District rights decision on wages, hours and other terms and conditions of employment are not subject to appeal.
<b>References</b>	P.U.C. Sections 12161-12167 of the Municipal Utility <u>District Act</u> and EBMUD <del>District Act</del> Civil Service Rule XIII.
<b>Authority</b>	Resolution No. 33476-05, June 14, 2005 <u><a href="#">As amended by Resolution No. XXXXX-14, August 12, 2014</a></u>



# Policy 2.21

EFFECTIVE 12 AUG 14

SUPERSEDES 14 JUN05  
(Replaces PPS&P 6)

## EMPLOYEE APPEAL AND GRIEVANCE

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Provide a procedure for the timely and orderly resolution of: (1) employee appeals of disciplinary actions or terminations through a Civil Service Appeals Committee; (2) employee complaints and grievances concerning the interpretation or application of rules and regulations governing personnel practices or working conditions; (3) the application of the reduction in force procedure; and (4) the practical effect on terms and conditions of employment of a decision made pursuant to District rights.

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**Civil Service Employees** This policy applies only to civil service employees. Employees who are probationary and exempt from the civil service pursuant to the Municipal Utility District Act are "at will" employees, and may be discharged for any reason, without prior notice and without the right of appeal. Nothing in this policy is intended to alter the "at will" employment status of the District's probationary and civil service-exempt employees.

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**Exclusions** Complaints concerning performance appraisals, established wages and salaries, or the terms of rules or regulations governing personnel practices or working conditions or of a District rights decision on wages, hours and other terms and conditions of employment are not subject to appeal.

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**References** P.U.C. Sections 12161-12167 of the Municipal Utility District Act and EBMUD Civil Service Rule XIII.

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**Authority** Resolution No. 33476-05, June 14, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.22R

EFFECTIVE

~~09 AUG 05~~  
12 AUG 14

SUPERSEDES

~~NEW~~  
09 AUG 05

(Replaces PPS&P 2)

## COMMUNICATION WITH UNIONS

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Promote mutual respect, understanding and cooperation between the District and the unions representing District employees ~~EBMUD-recognized unions~~ by communicating and exchanging views in a professional and cordial manner ~~points~~.

The District communicates ~~directly~~ with the unions primarily through the Employee Relations ~~s~~Staff in coordination with Department managers and various other staffs ~~designees~~ as necessary and appropriate. The General Manager will periodically meet with the unions upon request.

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### Authority

Resolution 33487-05, dated August 9, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.22

EFFECTIVE 12 AUG 14

SUPERSEDES 09 AUG 05  
(Replaces PPS&P 2)

## COMMUNICATION WITH UNIONS

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Promote mutual respect, understanding and cooperation between the District and the unions representing District employees by communicating and exchanging views in a professional and cordial manner.

The District communicates with the unions primarily through the Employee Relations staff in coordination with Department managers and various other staffs as necessary and appropriate. The General Manager will periodically meet with the unions upon request.

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#### Authority

Resolution 33487-05, dated August 9, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 3.07R

EFFECTIVE

[24 APR 12](#)

[12 AUG 14](#)

SUPERSEDES

[27 APR 10](#)

[24 APR 12](#)

## RESPONSIBILITY TO SERVE WATER CUSTOMERS

---

IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Ensure that during times of water shortage, available water supplies are appropriately allocated to water customers.

---

### Discussion

~~Water supplies that were available to EBMUD's customers were limited due to rationing necessitated by past drought conditions.~~

It is expected that ~~the~~ water available for supplying EBMUD's customers will vary over time depending on the following factors: diversions by Mokelumne River users with senior water rights, requirements for instream flows to protect fish and wildlife in the Mokelumne River, the Sacramento-San Joaquin River Delta, and the San Francisco Bay, as well as development of future supplemental supplies.

Water agencies are responsible for planning to meet the needs of their customers through periods of drought with minimal disruption [by minimizing the need for extreme rationing to residential, commercial, and industrial activities](#) within their service area.

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### Water Service Responsibility

EBMUD recognizes that when there is a water shortage or projected water shortage, EBMUD's responsibility to serve its customers and service area is prioritized as follows:

- First, to serve its existing customers within its existing service area [while meeting the goal of limiting customer rationing to 15 percent per Board Policy 9.03](#).
- Second, to serve expected new customers within its existing service area, but only if this does not unacceptably impair EBMUD's ability to serve its existing customers [without exceeding 15 percent rationing](#).
- Third, to consider serving new customers outside of its existing service area, but only if this does not impair EBMUD's ability to serve existing and expected new customers within its service area.

In accordance with California Government Code, Section 65589.7, when new service connections are restricted by EBMUD's Board of Directors, priority shall be given to applicants for water service to proposed developments within EBMUD's existing service area that include housing units affordable to lower income households, [subject to income limits specified in the California Code of Regulations and pursuant to Procedure 109—Water Mains: Water Service Estimates administrative procedures adopted by the General Manager](#). Applicants granted such priority shall comply with ~~all of~~ EBMUD's [Regulations Governing Water Service regulations](#) and pay all requisite fees.

~~Restrictions on provision of new water service connections may be due to EBMUD shall not deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed development that includes housing units affordable to lower income households unless the Board of Directors makes specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of~~ the following:

- ~~EBMUD is operating under a declared~~ ~~A declaration of a~~ water shortage emergency condition under California Water Code, Section 350, et seq.
- ~~A determination by the Board of Directors, based on EBMUD's Urban Water Management Plan, that s~~ufficient water supply is not available to support the granting of all requests for new service, ~~as provided based upon a consideration of all factors provided by in~~ California Government Code, Section 66473.7.
- ~~A determination by the Board of Directors, based on a written engineering report, that~~ EBMUD does not have sufficient water treatment or distribution capacity to serve the needs of proposed development, ~~as demonstrated by a written engineering analysis and report.~~
- ~~EBMUD is subject to~~ ~~The imposition of~~ a compliance order by the Department of Public Health ~~limiting that prohibits~~ new water connections.
- The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking water service from EBMUD, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of applicable fees or charges.

**Authority**

Resolution No. 32867-94, June 28, 1994  
 As amended by Resolution No. 33443-04, September 28, 2004  
 As amended by Resolution No. 33543-06, June 27, 2006  
 As amended by Resolution No. 33687-08, October 14, 2008  
 As amended by Resolution No. 33763-10, April 27, 2010.  
 As amended by Resolution No. 33871-12, April 24, 2012  
As amended by Resolution No. XXXXX-14, August 12, 2014

~~California Government Code, Section 66473.7~~  
~~California Government Code, Section 65589.7~~

**Reference**

California Government Code, Section 66473.7  
California Government Code, Section 65589.7  
California Code of Regulations, Title 25, Section 6932 [income limit for "lower income households"]  
 Procedure 109 – Water Mains: Water Service Estimates  
Policy 7.05 – Sustainability  
Policy 9.03 – Water Supply Availability and Deficiency  
Policy 9.05 – Non-Potable Water



# Policy 3.07

EFFECTIVE

12 AUG 14

## RESPONSIBILITY TO SERVE WATER CUSTOMERS

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SUPERSEDES

24 APR 12

### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Ensure that during times of water shortage, available water supplies are appropriately allocated to water customers.

---

#### Discussion

It is expected that water available for supplying EBMUD's customers will vary over time depending on the following factors: diversions by Mokelumne River users with senior water rights, requirements for instream flows to protect fish and wildlife in the Mokelumne River, the Sacramento-San Joaquin River Delta, and the San Francisco Bay, as well as development of future supplemental supplies.

Water agencies are responsible for planning to meet the needs of their customers through periods of drought with minimal disruption by minimizing the need for extreme rationing within their service area.

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#### Water Service Responsibility

EBMUD recognizes that when there is a water shortage or projected water shortage, EBMUD's responsibility to serve its customers and service area is prioritized as follows:

- First, to serve its existing customers within its existing service area while meeting the goal of limiting customer rationing to 15 percent per Board Policy 9.03.
- Second, to serve expected new customers within its existing service area, but only if this does not unacceptably impair EBMUD's ability to serve its existing customers without exceeding 15 percent rationing.
- Third, to consider serving new customers outside of its existing service area, but only if this does not impair EBMUD's ability to serve existing and expected new customers within its service area.

In accordance with California Government Code, Section 65589.7, when new service connections are restricted by EBMUD's Board of Directors, priority shall be given to applicants for water service to proposed developments within EBMUD's existing service area that include housing units affordable to lower income households, subject to income limits specified in the California Code of Regulations and pursuant to administrative procedures adopted by the General Manager. Applicants granted such priority shall comply with EBMUD's Regulations Governing Water Service and pay all requisite fees.

EBMUD shall not deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed development that includes housing units affordable to lower income households unless the Board of Directors makes specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of the following:

- EBMUD is operating under a declared water shortage emergency condition under California Water Code, Section 350, et seq.



- Sufficient water supply is not available to support the granting of all requests for new service, based upon a consideration of all factors provided by California Government Code, Section 66473.7.
  - EBMUD does not have sufficient water treatment or distribution capacity to serve the needs of proposed development, as demonstrated by a written engineering analysis and report.
  - EBMUD is subject to a compliance order by the Department of Public Health that prohibits new water connections.
  - The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking water service from EBMUD, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of applicable fees or charges.
- 

**Authority**

Resolution No. 32867-94, June 28, 1994  
As amended by Resolution No. 33443-04, September 28, 2004  
As amended by Resolution No. 33543-06, June 27, 2006  
As amended by Resolution No. 33687-08, October 14, 2008  
As amended by Resolution No. 33763-10, April 27, 2010.  
As amended by Resolution No. 33871-12, April 24, 2012  
As amended by Resolution No. XXXXX-14, August 12, 2014

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**Reference**

California Government Code, Section 66473.7  
California Government Code, Section 65589.7  
California Code of Regulations, Title 25, Section 6932 [income limit for “lower income households”]  
Procedure 109 – Water Mains: Water Service Estimates  
Policy 7.05 – Sustainability  
Policy 9.03 – Water Supply Availability and Deficiency  
Policy 9.05 – Non-Potable Water

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# Policy 4.20R

EFFECTIVE [26 JUN 12](#)  
[12 AUG 14](#)

SUPERSEDES [14 DEC 07](#)  
[26 JUN 12](#)

## USE OF DISTRICT TECHNOLOGY RESOURCES

---

### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Use [the District's](#) ~~computer~~ ~~ing hardware~~ ~~equipment~~ (desktops, laptops, handheld computers), software, and electronic mail, access to the Internet, [WiFi access](#), telephones ([desk phones](#), [cell phones](#), [smartphones](#)), voicemail, pagers, copy machines, facsimile machines, [printers](#) and other Technology Resources for District business purposes and allow limited incidental personal use by District employees in strict accordance with all software license agreements.

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#### Ownership and Privacy

All software and data are the property of the District. Software, data, and all electronic files developed by employees, may not be taken with them when they leave the District without the written permission of the employee's Department ~~h~~[Head Manager](#).

Electronic mail, Internet access, telephones, and other Technology Resources ("systems") are provided for District activities and are not intended for the personal use of employees as a substitute for their [personally-owned](#) ~~purchased~~ devices. District procedures, however, may allow incidental and appropriate personal use of these resources. In allowing such incidental use, no expectation of privacy is conveyed. The District may examine its systems and any electronic information, including files and electronic mail, at any time [without prior notification](#). Under no circumstances may District systems be used for an employee's non-District commercial or business activities, whether engaged in for profit or not, or for any illicit purpose.

---

#### Use of Computer Software

All software used by the District must be properly licensed. District employees shall not copy or install unauthorized software onto District computers or improperly copy authorized District software in violation of software license agreements. The Information Systems Department is responsible for determining when software may be copied onto District systems.

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#### Authority

Resolution No. 32886-94, October 25, 1994,  
As amended by Resolution No. 33225-00, October 10, 2000  
As amended by Resolution No. 33646-07, December 11, 2007  
As amended by Resolution No. 33883-12, June 26, 2012  
[As amended by Resolution No. XXXXX-14, August 12, 2014](#)

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#### References

Policy 2.05	Discipline Policy
Policy 6.04	Ethics Policy Of The EBMUD Board Of Directors
Procedure 453	Technology Use And Privacy Procedure
Procedure 461	Information Security

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# Policy 4.20

EFFECTIVE 12 AUG 14

SUPERSEDES 26 JUN 12

## USE OF DISTRICT TECHNOLOGY RESOURCES

---

### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Use the District's computing equipment (desktops, laptops, handheld computers), software, and electronic mail, access to the Internet, WiFi access, telephones (desk phones, cell phones, smartphones), voicemail, pagers, copy machines, facsimile machines, printers and other Technology Resources for District business purposes and allow limited incidental personal use by District employees in strict accordance with all software license agreements.

---

#### **Ownership and Privacy**

All software and data are the property of the District. Software, data, and all electronic files developed by employees, may not be taken with them when they leave the District without the written permission of the employee's Department head.

Electronic mail, Internet access, telephones, and other Technology Resources ("systems") are provided for District activities and are not intended for the personal use of employees as a substitute for their personally-owned devices. District procedures, however, may allow incidental and appropriate personal use of these resources. In allowing such incidental use, no expectation of privacy is conveyed. The District may examine its systems and any electronic information, including files and electronic mail, at any time without prior notification. Under no circumstances may District systems be used for an employee's non-District commercial or business activities, whether engaged in for profit or not, or for any illicit purpose.

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#### **Use of Computer Software**

All software used by the District must be properly licensed. District employees shall not copy or install unauthorized software onto District computers or improperly copy authorized District software in violation of software license agreements. The Information Systems Department is responsible for determining when software may be copied onto District systems.

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#### **Authority**

Resolution No. 32886-94, October 25, 1994,  
As amended by Resolution No. 33225-00, October 10, 2000  
As amended by Resolution No. 33646-07, December 11, 2007  
As amended by Resolution No. 33883-12, June 26, 2012  
As amended by Resolution No. XXXXX-14, August 12, 2014

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#### **References**

Policy 2.05	Discipline Policy
Policy 6.04	Ethics Policy Of The EBMUD Board Of Directors
Procedure 453	Technology Use And Privacy Procedure
Procedure 461	Information Security

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# Policy 8.02R

EFFECTIVE [26 JUN 12](#)  
[12 AUG 14](#)

SUPERSEDES [27 APR 10](#)  
[26 JUN 12](#)

## BIOSOLIDS MANAGEMENT

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Promote the beneficial, sustainable, and cost-effective use of biosolids, in accordance with the District's mission statement, while complying with all applicable federal, state, county, and local laws, rules, and regulations. ~~Seek~~ [Commit to a best practices and](#) continuous improvement ~~and maintain good practices in all aspects of~~ [approach in administering the District's biosolids management program, consistent with the National Biosolids Partnership's Code of Good Practices.](#)

---

#### Definition

Biosolids are nutrient-rich organic materials ~~resulting from the wastewater treatment process~~ [that are stabilized through anaerobic digestion](#) at the District's Main Wastewater Treatment Plant.

---

#### ~~Code of Good Practices for the District's Biosolids Management Program~~ [Objectives](#)

~~To support this policy, the District will:~~

~~The District is committed to continual improvement and the following good practices in managing its biosolids program:~~

- ~~Compliance:~~ [Produce biosolids that](#) ~~C~~ comply with all applicable federal, state, and local requirements [and quality standards](#) regarding biosolids production, management, testing, storage, transportation, and [end](#) use or disposal.
- [Enhance the environment by committing to sustainable, environmentally-acceptable biosolids management practices and operations. Maximize biosolids resource recovery \(carbon, nutrients, water, and energy\) and minimize negative impacts to land and air, including potential for off-site odors.](#)
- [Maintain cost-effective biosolids management practices and end uses, while monitoring emerging technologies and uses for potential future application.](#)

~~Product Quality: Produce biosolids that meet or surpass applicable standards regulating their final end use.~~

MethodTo meet these objectives, the District will:

- ~~Continue to **Environmental Management System**: Develop and~~ implement an environmental management system (EMS) that ensures regulatory compliance and provides a framework to identify and implement program improvements. Ensure that the biosolids EMS is consistent with ~~conforms to the~~ National Biosolids Partnership EMS program requirements, including ~~a method of independent third-party~~ periodic program verification audits.
- ~~**Quality Monitoring**: Monitor~~ solids processing operations (production, processing, transport, storage, and end use), implement preventive maintenance plans, and develop the effectiveness of biosolids production and management practices and ~~implement~~ corrective and preventative action plans to improve management practices, as needed.
- ~~**Quality Practices**: Identify and~~ implement operation and maintenance procedures, including good housekeeping, ~~practices for biosolids production, processing, transport, storage, and during final end use or disposal operations~~ to reduce the potential for off-site odor impacts.
- ~~**Contingency and Emergency Response Plans**: Maintain~~ contingency and emergency response plans to address ~~for~~ unanticipated events such as inclement weather, spills, and equipment malfunctions.
 

~~**Sustainable Management Practices and Operations**: Enhance the environment by committing to sustainable, environmentally acceptable biosolids management practices and operations.~~
- ~~**Preventative Maintenance**: Prepare and implement a plan for preventative maintenance for equipment used to manage biosolids and wastewater solids to ensure reliability and meet regulatory compliance requirements.~~ Develop technology evaluations for a range of biosolids management options to support long-term planning efforts.
- ~~**Cost Effectiveness**: Maintain cost-effective biosolids management practices and use.~~
  - ~~**Communication**: Provide methods of effective c~~ Communicate key elements of the District's biosolids management program, ion including EMS program performance, with regulators, stakeholders, and other interested parties. ~~citizens regarding the key elements of the District's biosolids program, including information relative to EMS performance.~~

**Authority**

Adopted by Resolution 33365-03, July 8, 2003  
 Amended by Resolution 33523-06, March 28, 2006  
 Amended by Resolution 33550-06, July 25, 2006  
 Amended by Resolution No. 33763-10, April 27, 2010.  
 Amended by Resolution No. 33883-12, June 26, 2012  
Amended by Resolution No. XXXXX-14, August 12, 2014

**Reference**

Policy 7.05 – Sustainability  
 Policy 7.07 – Energy



# Policy 8.02

EFFECTIVE 12 AUG 14

SUPERSEDES 26 JUN 12

## BIOSOLIDS MANAGEMENT

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Promote the beneficial, sustainable, and cost-effective use of biosolids, in accordance with the District's mission statement, while complying with all applicable federal, state, county, and local laws, rules, and regulations. Commit to a best practices and continuous improvement approach in administering the District's biosolids management program, consistent with the National Biosolids Partnership's Code of Good Practices.

---

**Definition** Biosolids are nutrient-rich organic materials that are stabilized through anaerobic digestion at the District's Main Wastewater Treatment Plant.

---

**Objectives** To support this policy, the District will:

- Produce biosolids that comply with all applicable federal, state, and local requirements and quality standards regarding biosolids production, management, testing, storage, transportation, and end use or disposal.
- Enhance the environment by committing to sustainable, environmentally-acceptable biosolids management practices and operations. Maximize biosolids resource recovery (carbon, nutrients, water, and energy) and minimize negative impacts to land and air, including potential for off-site odors.
- Maintain cost-effective biosolids management practices and end uses, while monitoring emerging technologies and uses for potential future application.

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**Method** To meet these objectives, the District will:

- Continue to implement an environmental management system (EMS) that ensures regulatory compliance and provides a framework to identify and implement program improvements. Ensure that the biosolids EMS is consistent with National Biosolids Partnership program requirements, including periodic program verification audits.
- Monitor solids processing operations (production, processing, transport, storage, and end use), implement preventive maintenance plans, and develop corrective and preventative action plans to improve management practices, as needed.
- Identify and implement operation and maintenance procedures, including good housekeeping, to reduce the potential for off-site odor impacts.
- Maintain contingency and emergency response plans to address unanticipated events such as inclement weather, spills, and equipment malfunctions.
- Develop technology evaluations for a range of biosolids management options to support long-term planning efforts.
- Communicate key elements of the District's biosolids management program, including EMS program performance, with regulators, stakeholders, and other interested parties.

**Authority**

Adopted by Resolution 33365-03, July 8, 2003  
Amended by Resolution 33523-06, March 28, 2006  
Amended by Resolution 33550-06, July 25, 2006  
Amended by Resolution No. 33763-10, April 27, 2010.  
Amended by Resolution No. 33883-12, June 26, 2012  
Amended by Resolution No. XXXXX-14, August 12, 2014

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**Reference**

Policy 7.05 – Sustainability  
Policy 7.07 – Energy

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*Matthew [unclear]*  
Office of General Counsel

RESOLUTION NO. \_\_\_\_\_

ADOPTING REVISED POLICY 2.05, EMPLOYEE DISCIPLINE; REVISED POLICY 2.06, ALCOHOL AND DRUG ABUSE; REVISED POLICY 2.07, CIVIL SERVICE SYSTEM; REVISED POLICY 2.13, OUTSIDE EMPLOYMENT; REVISED POLICY 2.15, REDUCTION IN FORCE; REVISED POLICY 2.19, TUITION REFUND FOR EMPLOYEE EDUCATION; REVISED POLICY 2.20, WORKFORCE COMMUNICATIONS; REVISED POLICY 2.21, EMPLOYEE APPEAL AND GRIEVANCE; REVISED POLICY 2.22, COMMUNICATIONS WITH UNIONS; REVISED POLICY 3.07, RESPONSIBILITY TO SERVE WATER CUSTOMERS; REVISED POLICY 4.20, USE OF DISTRICT TECHNOLOGY RESOURCES; AND REVISED POLICY 8.02, BIOSOLIDS MANAGEMENT

Introduced by Director

; Seconded by Director

WHEREAS, it is the desire and intention of the Board of Directors to update and revise Policy 2.05, Employee Discipline; Policy 2.06, Alcohol And Drug Abuse; Policy 2.07, Civil Service System; Policy 2.13, Outside Employment; Policy 2.15, Reduction In Force; Policy 2.19, Tuition Refund For Employee Education; Policy 2.20, Workforce Communications; Policy 2.21, Employee Appeal And Grievance; Policy 2.22, Communications With Unions; Policy 3.07, Responsibility To Serve Water Customers; Revised Policy 4.20, Use Of District Technology Resources; and Policy 8.02, Biosolids Management;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Bay Municipal Utility District that Revised Policy 2.05, Revised Policy 2.06, Revised Policy 2.07, Revised Policy 2.13, Revised Policy 2.15, Revised Policy 2.19, Revised Policy 2.20, Revised Policy 2.21, Revised Policy 2.22, Revised Policy 3.07, Revised Policy 4.20, and Revised Policy 8.02, attached hereto as Exhibits A through L, are hereby adopted.

ADOPTED this 12<sup>th</sup> day of August, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM AND PROCEDURE

\_\_\_\_\_  
General Counsel







# Policy 2.05R

EFFECTIVE ~~11-OCT-05~~  
12 AUG 14

SUPERSEDES ~~08-SEP-61~~  
11 OCT 05

## EMPLOYEE DISCIPLINE **POLICY**

IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Expect all employees to maintain high standards ~~of~~ for job performance, cooperation, efficiency, safety, honesty and integrity in the performance of their work with the District and to take disciplinary action ~~of~~ up to and including discharge when justified by an employee's job performance or conduct ~~justifies it~~.

**Civil Service Employees**

All civil service employees ~~are~~ may be subject to disciplinary ~~action~~ action ~~or and up to termination and including discharge from employment~~ for cause and ~~after~~ with due process. Each disciplinary case will be considered on an individual basis, taking into account relevant factors including the nature and severity of the offense, the employee's work performance ~~previous work~~ and conduct ~~record~~, ~~the employee's~~ length of service with the District and ~~the manner in which~~ their employee's response ~~s~~ to ~~the~~ charges.

**Civil Service Exempt Employees**

Probationary civil service and employees who are exempt from the District's civil service pursuant to the Municipal Utility District Act are "at will" employees, and may be discharged for any reason, without prior notice and without the right of appeal. Nothing in this policy is intended to alter the "at will" employment status of the District's probationary and civil service-exempt employees.

**Authority**

Resolution 20,573, September 8, 1961  
As amended by Resolution No. 33498-05, dated October 11, 2005  
As amended by Resolution No. XXXXX-14, dated August 12, 2014  
Municipal Utility District Act § 12161



# Policy 2.05

EFFECTIVE 12 AUG 14

SUPERSEDES 11 OCT 05

## EMPLOYEE DISCIPLINE

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### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Expect all employees to maintain high standards for job performance, cooperation, efficiency, safety, honesty and integrity in the performance of their work with the District and to take disciplinary action up to and including discharge when justified by an employee's job performance or conduct.

---

#### **Civil Service Employees**

All civil service employees may be subject to disciplinary action up to and including discharge from employment for cause and after due process. Each disciplinary case will be considered on an individual basis, taking into account relevant factors including the nature and severity of the offense, the employee's work performance and conduct, length of service with the District and the employee's response to charges.

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#### **Civil Service Exempt Employees**

Probationary civil service and employees who are exempt from the District's civil service pursuant to the Municipal Utility District Act are "at will" employees, and may be discharged for any reason, without prior notice and without the right of appeal. Nothing in this policy is intended to alter the "at will" employment status of the District's probationary and civil service-exempt employees.

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#### **Authority**

Resolution 20,573, September 8, 1961  
As amended by Resolution No. 33498-05, dated October 11, 2005  
As amended by Resolution No. XXXXX-14, dated August 12, 2014  
Municipal Utility District Act § 12161

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# Policy 2.06R

EFFECTIVE [28-MAR-06](#)

[12 AUG 14](#)

SUPERSEDES [25-JAN-05](#)

[28-MAR-06](#)

## ~~EAST BAY MUNICIPAL UTILITY DISTRICT DRUG AND ALCOHOL~~ AND DRUG ABUSE MISUSE POLICY

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Provide and maintain an alcohol and drug ~~and alcohol~~-free workplace in order to protect the public and employees from accidents, injuries and risks to public health and safety from misuse of alcohol or drugs in the workplace. The District is committed to complying with the California Drug Free Workplace Act (Cal. Government Code Section 8350 et seq.), the Federal Drug Free Workplace Act (41 USC Section 701), the Department of Transportation (DOT) testing regulations (49 CFR Part 40), and all applicable legally valid rules and regulations adopted hereunder.

The District will assist employees with alcohol or drug ~~or alcohol misab~~use problems ~~to deal effectively with them~~, provided such ~~the~~ employees seek or accept therapeutic assistance. Accordingly, the District will not take punitive disciplinary action against employees solely because they ~~who~~ identify themselves as unfit to perform their work ~~having because of~~ alcohol or drug misabuse problem(s), provided such employees and who demonstrate a willingness to treat their problems s effectively.

The District has a public responsibility to maintain a safe, healthful and efficient working environment and to protect the District, its employees, its property and operations, and the public. Therefore, the District retains the authority to address ~~deal with~~ employee alcohol or drug misabuse problems, ~~which that~~ are not resolved through the above therapeutic approach, through appropriate personnel actions in accordance with the District's disciplinary policies.

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#### Authority

Motion No. 224-94 and 225-94, December 21, 1994.  
Amended by Resolution No. 33458-05, January 25, 2005  
Amended by Resolution No. 33523-06, March 28, 2006  
Amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.06

EFFECTIVE 12 AUG 14

SUPERSEDES 28 MAR 06

## ALCOHOL AND DRUG ABUSE

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Provide and maintain an alcohol and drug-free workplace in order to protect the public and employees from accidents, injuries and risks to public health and safety from misuse of alcohol or drugs in the workplace. The District is committed to complying with the California Drug Free Workplace Act (Cal. Government Code Section 8350 et seq.), the Federal Drug Free Workplace Act (41 USC Section 701), the Department of Transportation (DOT) testing regulations (49 CFR Part 40), and all applicable legally valid rules and regulations adopted hereunder.

The District will assist employees with alcohol or drug abuse problems, provided such employees seek or accept therapeutic assistance. Accordingly, the District will not take disciplinary action against employees solely because they identify themselves as having alcohol or drug abuse problem(s), provided such employees demonstrate a willingness to treat their problems effectively.

The District has a public responsibility to maintain a safe, healthful and efficient working environment and to protect the District, its employees, its property and operations, and the public. Therefore, the District retains the authority to address employee alcohol or drug abuse problems that are not resolved through the above therapeutic approach, through appropriate personnel actions in accordance with the District's disciplinary policies.

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### Authority

Motion No. 224-94 and 225-94, December 21, 1994.  
Amended by Resolution No. 33458-05, January 25, 2005  
Amended by Resolution No. 33523-06, March 28, 2006  
Amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.07R

EFFECTIVE [11 OCT 05](#)  
[12 AUG 14](#)

SUPERSEDES [09 AUG 94](#)  
[11 OCT 05](#)

## CIVIL SERVICE SYSTEM

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Maintain a civil service system for the selection, examination, employment, classification, advancement, suspension, and discharge of employees included within the District Civil Service. In accordance with provisions set forth in Chapter 4 of the Municipal Utility District (MUD) Act, the goal of the District Civil Service Rules is to recruit, select and employ skilled individuals to efficiently perform the various functions of the District.

---

- Responsibilities**
- The General Manager shall establish and maintain a civil service system through the District Civil Service Rules.
  - As needed, the General Manager may amend existing rules and regulations to ensure that District Civil Service Rules are accurate, current, and serve in the best interests of both employees and the District. Such revisions will be accomplished in accordance with applicable provisions of the MUD Act and consistent with applicable MOUs.
- 

- Employment Standards**
- Civil Service Rules shall ensure that:
- Employment and promotion are based solely on job-related criteria as assessed by appropriate competitive exam processes;
  - Job appointments are made without regard for ~~race, religion, color, ancestry, creed, age, marital status, national origin, sex, sexual orientation, physical or mental disability~~, union activity or affiliation or political affiliation and in compliance with Policy 2.25 Equal Employment Opportunity (EEO).;
  - Continuation of employment is free from arbitrary action;
  - The opportunity to be heard is available through established procedures and practices.
- 

- Coverage**
- The Civil Service System shall include all District employees except the following as further defined in the District Civil Service Rules:
- Officers elected by the people.
  - Appointments made directly by the Board of Directors
  - Temporary Construction and Limited Term employees
  - Part-time employees
- 

**Authority**

Resolution No. 32874-94, dated August 9, 1994  
 As amended by Resolution No. 33498-05, dated October 11, 2005.  
[As amended by Resolution No. XXXXX-14, dated August 12, 2014](#)

Municipal Utility District Act, State of California, Chapter 4, 1921

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# Policy 2.07

EFFECTIVE 12 AUG 14

SUPERSEDES 11 OCT 05

## CIVIL SERVICE SYSTEM

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Maintain a civil service system for the selection, examination, employment, classification, advancement, suspension, and discharge of employees included within the District Civil Service. In accordance with provisions set forth in Chapter 4 of the Municipal Utility District (MUD) Act, the goal of the District Civil Service Rules is to recruit, select and employ skilled individuals to efficiently perform the various functions of the District.

---

- Responsibilities**
- The General Manager shall establish and maintain a civil service system through the District Civil Service Rules.
  - As needed, the General Manager may amend existing rules and regulations to ensure that District Civil Service Rules are accurate, current, and serve in the best interests of both employees and the District. Such revisions will be accomplished in accordance with applicable provisions of the MUD Act and consistent with applicable MOUs.
- 

- Employment Standards**
- Civil Service Rules shall ensure that:
- Employment and promotion are based solely on job-related criteria as assessed by appropriate competitive exam processes;
  - Job appointments are made without regard for union activity or affiliation or political affiliation and in compliance with Policy 2.25 Equal Employment Opportunity (EEO).
  - Continuation of employment is free from arbitrary action;
  - The opportunity to be heard is available through established procedures and practices.
- 

- Coverage**
- The Civil Service System shall include all District employees except the following as further defined in the District Civil Service Rules:
- Officers elected by the people.
  - Appointments made directly by the Board of Directors
  - Temporary Construction and Limited Term employees
  - Part-time employees
- 

**Authority**

Resolution No. 32874-94, dated August 9, 1994  
As amended by Resolution No. 33498-05, dated October 11, 2005.  
As amended by Resolution No. XXXXX-14, dated August 12, 2014

Municipal Utility District Act, State of California, Chapter 4, 1921

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# Policy 2.13R

EFFECTIVE [25 OCT 05](#)  
[12 AUG 14](#)

SUPERSEDES [23 JAN 96](#)  
[25 OCT 05](#)

## OUTSIDE EMPLOYMENT

IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT THAT:

~~Employment with the~~ District employment is the primary employment of ~~any employee of the~~ District employees. Further, ~~employees are~~ it is the responsibility of the employee to for ensuring that any secondary employment does not adversely impact job performance with the District. ~~Accordingly, Each~~ District employees will devote, during hours of duty as a District employee, devote their full time, attention, and efforts to District employment during working hours.

**Acceptable Conditions** ~~Any e~~Employee may engage in outside employment ~~outside of the District~~ as long as it is ~~not inconsistent, incompatible, in~~ does not conflict with, and is not ~~or~~ harmful to the performance of duties as a District employee or with the duties, functions, and or responsibilities of the District.

### Conflict of Interest

The following categories of outside employment are ~~determined to be~~ inconsistent ~~with,~~ incompatible ~~to,~~ or in conflict with the duties of District employment. The examples in this section are provided for illustrative purposes only and do not constitute an ~~exclusive~~ exhaustive listing of prohibited outside employment conduct. ~~An employee's~~ Outside employment, activity, or enterprise is prohibited if it:

- involves the use of District time, facilities, equipment, supplies, or the employee's prestige, influence, or position ~~occupied in the employee's as a~~ District employee employment; or
- involves an employee's receipt or acceptance ~~by the employee~~ of any money or gratuities from anyone other than the District, for the performance of work that the employee is required or expected to perform in the regular course of District employment, such as:
  - a supervisor responsible for grant applications who is hired by other agencies to prepare and lobby for grants,
  - an employee who does computer training for the District is hired by a contractor to provide computer training to District employees; or
- Involves the performance of work outside of the District which may be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement of any other employee of the District, such as:
  - An employee who reviews landscape designs for compliance with conservation guidelines could not also work for ~~the a~~ developer subject to such review,
  - An employee could not assist in the preparation of a bid for a contractor who is bidding on a District contract,
  - An employee could not receive payment from a neighborhood association to prepare a petition to upgrade the level of water service in their area; or
- Involves time demands which adversely affect performance of duties as a District employee; or



- Involves the performance of work related to the interest of another entity or organization which is harmful to or in competition with District interests, operations, influences, business transactions, or contracts, such as:
    - Acting as a technical consultant for an agency competing for the same water rights as the District.
  - Involves being an owner and/or directly managing the activities of an outside business that contracts with the District.
- 

**Disclosure - Employee Responsibilities**

~~It is the e~~Employee's are responsibility ~~t~~for notifying ing the District before engaging in any outside employment activities. The employee shall provide information to his/her immediate supervisor concerning his/her outside employment activity, including but not limited to the identity of the person and type of activities for which outside services are performed, duration of such activities, and times and hours when such activities are performed. The employee must be able to demonstrate that outside employment is not in conflict with the duties, functions, or responsibilities of employment with the District. Additionally, the District has the right as primary employer to request information of an employee if it is believed that the employee has ~~a conflict with~~ outside employment that conflict with District employment.

Failure of an employee to disclose information about outside employment as set forth above will result in disciplinary action that may include termination of District employment.

---

**Notice of Approval/Disapproval**

The employee will be given written notice if it is determined that the outside employment, activity, or enterprise is inconsistent, incompatible, in conflict with, or otherwise harmful to duties as a District employee or with the duties, functions, or responsibilities of the District. The notice will advise the employee that failure to terminate outside employment within 30 days will result in disciplinary action that may include termination of District employment.

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**Appeal**

District disapproval of outside employment ~~is~~ may be appealable ~~ed~~ in accordance with Procedure 216, District Appeal and Grievance Procedure. Represented employees may appeal through ~~or~~ the grievance procedures set forth in the applicable Memorandum of Understanding ~~for represented employees~~.

---

**Authority**

State Government Code Sections 1126, 1128, and 1129

Resolution No. 32961-96, January 23, 1996  
As amended by Resolution No. 33500-05, October 25, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.13

EFFECTIVE 12 AUG 14

SUPERSEDES 25 OCT 05

## OUTSIDE EMPLOYMENT

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT THAT:

District employment is the primary employment of District employees. Further, employees are responsible for ensuring that any secondary employment does not adversely impact job performance with the District. Accordingly, District employees will devote their full time, attention, and efforts to District employment during working hours.

---

**Acceptable Conditions** Employee may engage in outside employment as long as it is consistent, compatible, does not conflict with, and is not harmful to the performance of duties as a District employee or with the duties, functions, and responsibilities of the District.

---

**Conflict of Interest** The following categories of outside employment are inconsistent, incompatible, or in conflict with the duties of District employment. The examples in this section are provided for illustrative purposes only and do not constitute an exhaustive listing of prohibited outside employment. Outside employment, activity, or enterprise is prohibited if it:

- involves the use of District time, facilities, equipment, supplies, or the employee's prestige, influence, or position as a District employee; or
- involves an employee's receipt or acceptance of any money or gratuities from anyone other than the District, for the performance of work that the employee is required or expected to perform in the regular course of District employment, such as:
  - a supervisor responsible for grant applications who is hired by other agencies to prepare and lobby for grants,
  - an employee who does computer training for the District is hired by a contractor to provide computer training to District employees; or
- Involves the performance of work outside of the District which may be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement of any other employee of the District, such as:
  - An employee who reviews landscape designs for compliance with conservation guidelines could not also work for a developer subject to such review,
  - An employee could not assist in the preparation of a bid for a contractor who is bidding on a District contract,
  - An employee could not receive payment from a neighborhood association to prepare a petition to upgrade the level of water service in their area; or
- Involves time demands which adversely affect performance of duties as a District employee; or

- Involves the performance of work related to the interest of another entity or organization which is harmful to or in competition with District interests, operations, influences, business transactions, or contracts, such as:
    - Acting as a technical consultant for an agency competing for the same water rights as the District.
  - Involves being an owner and/or directly managing the activities of an outside business that contracts with the District.
- 

**Disclosure - Employee Responsibilities**

Employees are responsible for notifying the District before engaging in any outside employment activities. The employee shall provide information to his/her immediate supervisor concerning his/her outside employment activity, including but not limited to the identity of the person and type of activities for which outside services are performed, duration of such activities, and times and hours when such activities are performed. The employee must be able to demonstrate that outside employment is not in conflict with the duties, functions, or responsibilities of employment with the District. Additionally, the District has the right as primary employer to request information of an employee if it is believed that the employee has outside employment that conflict with District employment.

Failure of an employee to disclose information about outside employment as set forth above will result in disciplinary action that may include termination of District employment.

---

**Notice of Approval/Disapproval**

The employee will be given written notice if it is determined that the outside employment, activity, or enterprise is inconsistent, incompatible, in conflict with, or otherwise harmful to duties as a District employee or with the duties, functions, or responsibilities of the District. The notice will advise the employee that failure to terminate outside employment within 30 days will result in disciplinary action that may include termination of District employment.

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**Appeal**

District disapproval of outside employment may be appealed in accordance with Procedure 216, District Appeal and Grievance Procedure. Represented employees may appeal through the grievance procedures set forth in the applicable Memorandum of Understanding.

---

**Authority**

State Government Code Sections 1126, 1128, and 1129

Resolution No. 32961-96, January 23, 1996  
As amended by Resolution No. 33500-05, October 25, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.15R

EFFECTIVE 25 JAN 05  
[12 AUG 14](#)

SUPERSEDES NEW  
[25 JAN 15](#)

(Replaces PPS&P 3)

## REDUCTION IN FORCE

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Maintain ~~employee a~~ workforce ~~of in sufficient~~ numbers sufficient to accomplish all necessary work of the District safely, ~~and which will thereby, and to the extent possible,~~ avoid the necessity of a reduction in force. Should a reduction in force be necessary~~required~~, it shall be accomplished in accordance with procedures set forth in applicable as defined in the Memoranda of Understanding and/or Civil Service Rules, and Procedure 211~~with each bargaining group or those set forth for non-represented employees shall be administered by the General Manager or designee.~~

### Authority

Resolution No. 26452, April 24, 1973  
As amended by Resolution No. 27932, November 23, 1976  
As amended by Resolution No. 33458-05, January 25, 2005  
[As amended by Resolution No. XXXXX-14, August 12, 2014](#)

### References

[Memoranda of Understanding](#)  
[Civil Service Rules](#)  
[Procedure 211 – Reduction in Force](#)



# Policy 2.15

EFFECTIVE

12 AUG 14

SUPERSEDES

25 JAN 15

(Replaces PPS&P 3)

## REDUCTION IN FORCE

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Maintain a workforce in numbers sufficient to accomplish all necessary work of the District safely and avoid the necessity of a reduction in force. Should a reduction in force be necessary, it shall be accomplished in accordance with procedures set forth in applicable Memoranda of Understanding and/or Civil Service Rules, and Procedure 211.

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#### Authority

Resolution No. 26452, April 24, 1973  
As amended by Resolution No. 27932, November 23, 1976  
As amended by Resolution No. 33458-05, January 25, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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#### References

Memoranda of Understanding  
Civil Service Rules  
Procedure 211 – Reduction in Force

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# Policy 2.19R

EFFECTIVE ~~9-AUG-05~~  
[12 AUG 14](#)

## TUITION REFUND FOR EMPLOYEE EDUCATION

SUPERSEDES ~~13-AUG-96~~  
[9 AUG 05](#)

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Reimburse eligible employees for tuition, [software](#) and textbook costs for approved courses at ~~accredited~~ colleges, universities, schools, vocational institutions, and correspondence schools, consistent with the District's objective to improve employee safety, productivity, and career opportunities.

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#### Authority

Resolution No. 33004-96, dated August 13, 1996  
As amended by Resolution No. 33487-05, dated August 9, 2005  
[As amended by Resolution No. XXXXX-14, dated August 12, 2014](#)

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#### References

Policy 2.18 - Training  
Procedure 206 - Tuition Refund for Employee Education

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# Policy 2.19

EFFECTIVE 12 AUG 14

## TUITION REFUND FOR EMPLOYEE EDUCATION

SUPERSEDES 9 AUG 05

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Reimburse eligible employees for tuition, software and textbook costs for approved courses at colleges, universities, schools, vocational institutions, and correspondence schools, consistent with the District's objective to improve employee safety, productivity, and career opportunities.

---

#### Authority

Resolution No. 33004-96, dated August 13, 1996  
As amended by Resolution No. 33487-05, dated August 9, 2005  
As amended by Resolution No. XXXXX-14, dated August 12, 2014

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#### References

Policy 2.18 - Training  
Procedure 206 - Tuition Refund for Employee Education

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# Policy 2.20R

EFFECTIVE ~~26 FEB 91~~  
[12 AUG 14](#)

SUPERSEDES ~~NEW~~  
[26 FEB 91](#)

## WORKFORCE COMMUNICATIONS

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### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Develop and maintain effective ~~two-way~~ [workforce](#) communications throughout the District. To this end, the District will:

- Encourage and maintain open dialogue at all levels of [employment](#) ~~the District~~;
- Foster an environment of mutual understanding and respect that will ~~create allow an~~ [opportunities](#) for [all employees to share](#) ~~ing~~ ideas, sentiments, and concerns ~~by all employees~~; and
- ~~Alert ssure that the~~ District's management ~~is aware of the~~ [when](#) barriers to communications ~~s occur~~ and utilize the [District's](#) human resources ~~of the District~~ to [remove those barriers](#) ~~resolve these issues~~.

---

#### District Responsibility

~~The District's responsibility is to acknowledge that~~ The employees ~~of the District~~ are ~~the~~ our most important resource; and [that](#) effective communication between all levels ~~of employees~~ is essential for the productive use of this resource.

---

#### Employee Responsibility

Each District employee has the responsibility to [exercise appropriate behavior in their communication with co-workers](#); to take the initiative to understand [others](#) and be understood; to share information with others in a timely manner as needed; and to encourage clarification and appropriate communication~~s~~ based on facts, not rumors.

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#### Authority

Motion No. 91-021, February 26, 1991  
[As amended by Resolution No. XXXXX-14, August 12, 2014](#)

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# Policy 2.20

EFFECTIVE 12 AUG 14

SUPERSEDES 26 FEB 91

## WORKFORCE COMMUNICATIONS

---

### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Develop and maintain effective workforce communications throughout the District. To this end, the District will:

- Encourage and maintain open dialogue at all levels of employment ;
- Foster an environment of mutual understanding and respect that will create opportunities for all employees to share ideas, sentiments, and concerns ; and
- Alert District management when barriers to communication occur and utilize the District's human resources to remove those barriers.

---

#### **District Responsibility**

The District's responsibility is to acknowledge that employees are the most important resource and that effective communication between all levels is essential for the productive use of this resource.

---

#### **Employee Responsibility**

Each District employee has the responsibility to exercise appropriate behavior in their communication with co-workers; to take the initiative to understand others and be understood; to share information with others in a timely manner as needed; and to encourage clarification and appropriate communication based on facts, not rumors.

---

#### **Authority**

Motion No. 91-021, February 26, 1991  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.21R

EFFECTIVE ~~14 JUN 05~~  
12 AUG 14

SUPERSEDES ~~NEW~~  
14 JUN 05

(Replaces PPS&P 6)

## EMPLOYEE APPEAL AND GRIEVANCE ~~POLICY~~

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Provide a procedure for the timely and orderly resolution of: (1) employee appeals of disciplinary actions their or terminations, ~~suspensions and demotions~~ through a Civil Service Appeals Committee; ~~and~~ (2) employee complaints and grievances concerning the interpretation or application of rules and regulations governing personnel practices or working conditions; ~~;~~ ~~(3) of~~ the application of the reduction in force procedure; ~~and (4); or~~ the practical effect consequences on terms and conditions of employment of a ~~District's right~~ decision ~~on wages, hours or terms and conditions of employment~~ made pursuant to District rights.

<b>Civil Service Employees</b>	This policy applies only to civil service employees. Employees who are probationary and exempt from the civil service pursuant to the Municipal Utility District Act are "at will" employees, and may be discharged for any reason, without prior notice and without the right of appeal. Nothing in this policy is intended to alter the "at will" employment status of the District's probationary and civil service-exempt employees.
<b>Exclusions</b>	Complaints concerning performance appraisals, established wages and salaries, or the terms of rules or regulations governing personnel practices or working conditions or of a District rights decision on wages, hours and other terms and conditions of employment are not subject to appeal.
<b>References</b>	P.U.C. Sections 12161-12167 of the Municipal Utility <u>District Act</u> and EBMUD <del>District Act</del> Civil Service Rule XIII.
<b>Authority</b>	Resolution No. 33476-05, June 14, 2005 <u>As amended by Resolution No. XXXXX-14, August 12, 2014</u>



# Policy 2.21

EFFECTIVE 12 AUG 14

SUPERSEDES 14 JUN05  
(Replaces PPS&P 6)

## EMPLOYEE APPEAL AND GRIEVANCE

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Provide a procedure for the timely and orderly resolution of: (1) employee appeals of disciplinary actions or terminations through a Civil Service Appeals Committee; (2) employee complaints and grievances concerning the interpretation or application of rules and regulations governing personnel practices or working conditions; (3) the application of the reduction in force procedure; and (4) the practical effect on terms and conditions of employment of a decision made pursuant to District rights.

---

**Civil Service Employees** This policy applies only to civil service employees. Employees who are probationary and exempt from the civil service pursuant to the Municipal Utility District Act are "at will" employees, and may be discharged for any reason, without prior notice and without the right of appeal. Nothing in this policy is intended to alter the "at will" employment status of the District's probationary and civil service-exempt employees.

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**Exclusions** Complaints concerning performance appraisals, established wages and salaries, or the terms of rules or regulations governing personnel practices or working conditions or of a District rights decision on wages, hours and other terms and conditions of employment are not subject to appeal.

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**References** P.U.C. Sections 12161-12167 of the Municipal Utility District Act and EBMUD Civil Service Rule XIII.

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**Authority** Resolution No. 33476-05, June 14, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.22R

EFFECTIVE

~~09 AUG 05~~  
12 AUG 14

SUPERSEDES

~~09 AUG 05~~  
NEW  
09 AUG 05

(Replaces PPS&P 2)

## COMMUNICATION WITH UNIONS

---

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Promote mutual respect, understanding and cooperation between the District and the unions representing District employees ~~EBMUD-recognized-unions~~ by communicating and exchanging views in a professional and cordial manner ~~points~~.

The District communicates ~~directly~~ with the unions primarily through the Employee Relations ~~s~~Staff in coordination with Department managers and various other staffs ~~designees~~ as necessary and appropriate. The General Manager will periodically meet with the unions upon request.

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### Authority

Resolution 33487-05, dated August 9, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 2.22

EFFECTIVE 12 AUG 14

SUPERSEDES 09 AUG 05  
(Replaces PPS&P 2)

## COMMUNICATION WITH UNIONS

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Promote mutual respect, understanding and cooperation between the District and the unions representing District employees by communicating and exchanging views in a professional and cordial manner.

The District communicates with the unions primarily through the Employee Relations staff in coordination with Department managers and various other staffs as necessary and appropriate. The General Manager will periodically meet with the unions upon request.

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#### Authority

Resolution 33487-05, dated August 9, 2005  
As amended by Resolution No. XXXXX-14, August 12, 2014

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# Policy 3.07R

EFFECTIVE

[24 APR 12](#)

[12 AUG 14](#)

SUPERSEDES

[27 APR 10](#)

[24 APR 12](#)

## RESPONSIBILITY TO SERVE WATER CUSTOMERS

### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Ensure that during times of water shortage, available water supplies are appropriately allocated to water customers.

#### Discussion

~~Water supplies that were available to EBMUD's customers were limited due to rationing necessitated by past drought conditions.~~

It is expected that ~~the~~ water available for supplying EBMUD's customers will vary over time depending on the following factors: diversions by Mokelumne River users with senior water rights, requirements for instream flows to protect fish and wildlife in the Mokelumne River, the Sacramento-San Joaquin River Delta, and the San Francisco Bay, as well as development of future supplemental supplies.

Water agencies are responsible for planning to meet the needs of their customers through periods of drought with minimal disruption [by minimizing the need for extreme rationing to residential, commercial, and industrial activities](#) within their service area.

#### Water Service Responsibility

EBMUD recognizes that when there is a water shortage or projected water shortage, EBMUD's responsibility to serve its customers and service area is prioritized as follows:

- First, to serve its existing customers within its existing service area [while meeting the goal of limiting customer rationing to 15 percent per Board Policy 9.03](#).
- Second, to serve expected new customers within its existing service area, but only if this does not unacceptably impair EBMUD's ability to serve its existing customers [without exceeding 15 percent rationing](#).
- Third, to consider serving new customers outside of its existing service area, but only if this does not impair EBMUD's ability to serve existing and expected new customers within its service area.

In accordance with California Government Code, Section 65589.7, when new service connections are restricted by EBMUD's Board of Directors, priority shall be given to applicants for water service to proposed developments within EBMUD's existing service area that include housing units affordable to lower income households, [subject to income limits specified in the California Code of Regulations and pursuant to Procedure 109—Water Mains: Water Service Estimates administrative procedures adopted by the General Manager](#). Applicants granted such priority shall comply with ~~all of~~ EBMUD's [Regulations Governing Water Service regulations](#) and pay all requisite fees.

~~Restrictions on provision of new water service connections may be due to EBMUD shall not deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed development that includes housing units affordable to lower income households unless the Board of Directors makes specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of~~ the following:

- ~~EBMUD is operating under a declared~~ ~~A declaration of a~~ water shortage emergency condition under California Water Code, Section 350, et seq.
- ~~A determination by the Board of Directors, based on EBMUD's Urban Water Management Plan, that s~~ufficient water supply is not available to support the granting of all requests for new service, ~~as provided based upon a consideration of all factors provided by in~~ California Government Code, Section 66473.7.
- ~~A determination by the Board of Directors, based on a written engineering report, that~~ EBMUD does not have sufficient water treatment or distribution capacity to serve the needs of proposed development, ~~as demonstrated by a written engineering analysis and report.~~
- ~~EBMUD is subject to~~ ~~The imposition of~~ a compliance order by the Department of Public Health ~~limiting that prohibits~~ new water connections.
- The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking water service from EBMUD, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of applicable fees or charges.

**Authority**

Resolution No. 32867-94, June 28, 1994  
 As amended by Resolution No. 33443-04, September 28, 2004  
 As amended by Resolution No. 33543-06, June 27, 2006  
 As amended by Resolution No. 33687-08, October 14, 2008  
 As amended by Resolution No. 33763-10, April 27, 2010.  
 As amended by Resolution No. 33871-12, April 24, 2012  
As amended by Resolution No. XXXXX-14, August 12, 2014

~~California Government Code, Section 66473.7~~  
~~California Government Code, Section 65589.7~~

**Reference**

California Government Code, Section 66473.7  
California Government Code, Section 65589.7  
California Code of Regulations, Title 25, Section 6932 [income limit for "lower income households"]  
 Procedure 109 – Water Mains: Water Service Estimates  
Policy 7.05 – Sustainability  
Policy 9.03 – Water Supply Availability and Deficiency  
Policy 9.05 – Non-Potable Water



# Policy 3.07

EFFECTIVE

12 AUG 14

## RESPONSIBILITY TO SERVE WATER CUSTOMERS

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SUPERSEDES

24 APR 12

### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Ensure that during times of water shortage, available water supplies are appropriately allocated to water customers.

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#### Discussion

It is expected that water available for supplying EBMUD's customers will vary over time depending on the following factors: diversions by Mokelumne River users with senior water rights, requirements for instream flows to protect fish and wildlife in the Mokelumne River, the Sacramento-San Joaquin River Delta, and the San Francisco Bay, as well as development of future supplemental supplies.

Water agencies are responsible for planning to meet the needs of their customers through periods of drought with minimal disruption by minimizing the need for extreme rationing within their service area.

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#### Water Service Responsibility

EBMUD recognizes that when there is a water shortage or projected water shortage, EBMUD's responsibility to serve its customers and service area is prioritized as follows:

- First, to serve its existing customers within its existing service area while meeting the goal of limiting customer rationing to 15 percent per Board Policy 9.03.
- Second, to serve expected new customers within its existing service area, but only if this does not unacceptably impair EBMUD's ability to serve its existing customers without exceeding 15 percent rationing.
- Third, to consider serving new customers outside of its existing service area, but only if this does not impair EBMUD's ability to serve existing and expected new customers within its service area.

In accordance with California Government Code, Section 65589.7, when new service connections are restricted by EBMUD's Board of Directors, priority shall be given to applicants for water service to proposed developments within EBMUD's existing service area that include housing units affordable to lower income households, subject to income limits specified in the California Code of Regulations and pursuant to administrative procedures adopted by the General Manager. Applicants granted such priority shall comply with EBMUD's Regulations Governing Water Service and pay all requisite fees.

EBMUD shall not deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed development that includes housing units affordable to lower income households unless the Board of Directors makes specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of the following:

- EBMUD is operating under a declared water shortage emergency condition under California Water Code, Section 350, et seq.



- Sufficient water supply is not available to support the granting of all requests for new service, based upon a consideration of all factors provided by California Government Code, Section 66473.7.
  - EBMUD does not have sufficient water treatment or distribution capacity to serve the needs of proposed development, as demonstrated by a written engineering analysis and report.
  - EBMUD is subject to a compliance order by the Department of Public Health that prohibits new water connections.
  - The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking water service from EBMUD, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of applicable fees or charges.
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**Authority**

Resolution No. 32867-94, June 28, 1994  
As amended by Resolution No. 33443-04, September 28, 2004  
As amended by Resolution No. 33543-06, June 27, 2006  
As amended by Resolution No. 33687-08, October 14, 2008  
As amended by Resolution No. 33763-10, April 27, 2010.  
As amended by Resolution No. 33871-12, April 24, 2012  
As amended by Resolution No. XXXXX-14, August 12, 2014

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**Reference**

California Government Code, Section 66473.7  
California Government Code, Section 65589.7  
California Code of Regulations, Title 25, Section 6932 [income limit for “lower income households”]  
Procedure 109 – Water Mains: Water Service Estimates  
Policy 7.05 – Sustainability  
Policy 9.03 – Water Supply Availability and Deficiency  
Policy 9.05 – Non-Potable Water

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# Policy 4.20R

EFFECTIVE [26 JUN 12](#)  
[12 AUG 14](#)

SUPERSEDES [14 DEC 07](#)  
[26 JUN 12](#)

## USE OF DISTRICT TECHNOLOGY RESOURCES

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### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Use [the District's](#) ~~computer~~ ~~ing hardware~~ ~~equipment~~ ([desktops](#), [laptops](#), [handheld computers](#)), software, and electronic mail, access to the Internet, [WiFi access](#), telephones ([desk phones](#), [cell phones](#), [smartphones](#)), voicemail, pagers, copy machines, facsimile machines, [printers](#) and other Technology Resources for District business purposes and allow limited incidental personal use by District employees in strict accordance with all software license agreements.

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#### Ownership and Privacy

All software and data are the property of the District. Software, data, and all electronic files developed by employees, may not be taken with them when they leave the District without the written permission of the employee's Department ~~h~~[Head Manager](#).

Electronic mail, Internet access, telephones, and other Technology Resources ("systems") are provided for District activities and are not intended for the personal use of employees as a substitute for their ~~personally-owned~~ ~~purchased~~ devices. District procedures, however, may allow incidental and appropriate personal use of these resources. In allowing such incidental use, no expectation of privacy is conveyed. The District may examine its systems and any electronic information, including files and electronic mail, at any time [without prior notification](#). Under no circumstances may District systems be used for an employee's non-District commercial or business activities, whether engaged in for profit or not, or for any illicit purpose.

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#### Use of Computer Software

All software used by the District must be properly licensed. District employees shall not copy or install unauthorized software onto District computers or improperly copy authorized District software in violation of software license agreements. The Information Systems Department is responsible for determining when software may be copied onto District systems.

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#### Authority

Resolution No. 32886-94, October 25, 1994,  
As amended by Resolution No. 33225-00, October 10, 2000  
As amended by Resolution No. 33646-07, December 11, 2007  
As amended by Resolution No. 33883-12, June 26, 2012  
[As amended by Resolution No. XXXXX-14, August 12, 2014](#)

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#### References

Policy 2.05	Discipline Policy
Policy 6.04	Ethics Policy Of The EBMUD Board Of Directors
Procedure 453	Technology Use And Privacy Procedure
Procedure 461	Information Security

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# Policy 4.20

EFFECTIVE 12 AUG 14

SUPERSEDES 26 JUN 12

## USE OF DISTRICT TECHNOLOGY RESOURCES

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### IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Use the District's computing equipment (desktops, laptops, handheld computers), software, and electronic mail, access to the Internet, WiFi access, telephones (desk phones, cell phones, smartphones), voicemail, pagers, copy machines, facsimile machines, printers and other Technology Resources for District business purposes and allow limited incidental personal use by District employees in strict accordance with all software license agreements.

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All software and data are the property of the District. Software, data, and all electronic files developed by employees, may not be taken with them when they leave the District without the written permission of the employee's Department head.

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Resolution No. 32886-94, October 25, 1994,  
As amended by Resolution No. 33225-00, October 10, 2000  
As amended by Resolution No. 33646-07, December 11, 2007  
As amended by Resolution No. 33883-12, June 26, 2012  
As amended by Resolution No. XXXXX-14, August 12, 2014

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#### **References**

Policy 2.05	Discipline Policy
Policy 6.04	Ethics Policy Of The EBMUD Board Of Directors
Procedure 453	Technology Use And Privacy Procedure
Procedure 461	Information Security

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# Policy 8.02R

EFFECTIVE [26 JUN 12](#)  
[12 AUG 14](#)

SUPERSEDES [27 APR 10](#)  
[26 JUN 12](#)

## BIOSOLIDS MANAGEMENT

### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Promote the beneficial, sustainable, and cost-effective use of biosolids, in accordance with the District's mission statement, while complying with all applicable federal, state, county, and local laws, rules, and regulations. ~~Seek~~ [Commit to a best practices and](#) continuous improvement ~~and maintain good practices in all aspects of~~ [approach in administering the District's biosolids management program, consistent with the National Biosolids Partnership's Code of Good Practices.](#)

#### Definition

Biosolids are nutrient-rich organic materials ~~resulting from the wastewater treatment process~~ [that are stabilized through anaerobic digestion](#) at the District's Main Wastewater Treatment Plant.

#### ~~Code of Good Practices for the District's Biosolids Management Program~~ [Objectives](#)

~~To support this policy, the District will:~~

~~The District is committed to continual improvement and the following good practices in managing its biosolids program:~~

- ~~Compliance:~~ [Produce biosolids that](#) ~~C~~ comply with all applicable federal, state, and local requirements [and quality standards](#) regarding biosolids production, management, testing, storage, transportation, and [end](#) use or disposal.
- [Enhance the environment by committing to sustainable, environmentally-acceptable biosolids management practices and operations. Maximize biosolids resource recovery \(carbon, nutrients, water, and energy\) and minimize negative impacts to land and air, including potential for off-site odors.](#)
- [Maintain cost-effective biosolids management practices and end uses, while monitoring emerging technologies and uses for potential future application.](#)

~~Product Quality: Produce biosolids that meet or surpass applicable standards regulating their final end use.~~

MethodTo meet these objectives, the District will:

- ~~Continue to **Environmental Management System:** Develop and~~ implement an environmental management system (EMS) that ensures regulatory compliance and provides a framework to identify and implement program improvements. Ensure that the biosolids EMS is consistent with ~~conforms to the~~ National Biosolids Partnership EMS program requirements, including ~~a method of independent third-party~~ periodic program verification audits.
- ~~**Quality Monitoring:** Monitor~~ solids processing operations (production, processing, transport, storage, and end use), implement preventive maintenance plans, and develop the effectiveness of biosolids production and management practices and ~~implement~~ corrective and preventative action plans to improve management practices, as needed.
- ~~**Quality Practices:** Identify and~~ implement operation and maintenance procedures, including good housekeeping, ~~practices for biosolids production, processing, transport, storage, and during final end use or disposal operations~~ to reduce the potential for off-site odor impacts.
- ~~**Contingency and Emergency Response Plans:** Maintain~~ contingency and emergency response plans to address ~~for~~ unanticipated events such as inclement weather, spills, and equipment malfunctions.
 

~~**Sustainable Management Practices and Operations:** Enhance the environment by committing to sustainable, environmentally acceptable biosolids management practices and operations.~~
- ~~**Preventative Maintenance:** Prepare and implement a plan for preventative maintenance for equipment used to manage biosolids and wastewater solids to ensure reliability and meet regulatory compliance requirements.~~ Develop technology evaluations for a range of biosolids management options to support long-term planning efforts.
- ~~**Cost Effectiveness:** Maintain cost-effective biosolids management practices and use.~~
- ~~**Communication:** Provide methods of effective c~~ Communicate key elements of the District's biosolids management program, ion including EMS program performance, with regulators, stakeholders, and other interested parties. ~~citizens regarding the key elements of the District's biosolids program, including information relative to EMS performance.~~

**Authority**

Adopted by Resolution 33365-03, July 8, 2003  
 Amended by Resolution 33523-06, March 28, 2006  
 Amended by Resolution 33550-06, July 25, 2006  
 Amended by Resolution No. 33763-10, April 27, 2010.  
 Amended by Resolution No. 33883-12, June 26, 2012  
Amended by Resolution No. XXXXX-14, August 12, 2014

**Reference**

Policy 7.05 – Sustainability  
 Policy 7.07 – Energy



# Policy 8.02

EFFECTIVE 12 AUG 14

SUPERSEDES 26 JUN 12

## BIOSOLIDS MANAGEMENT

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Promote the beneficial, sustainable, and cost-effective use of biosolids, in accordance with the District's mission statement, while complying with all applicable federal, state, county, and local laws, rules, and regulations. Commit to a best practices and continuous improvement approach in administering the District's biosolids management program, consistent with the National Biosolids Partnership's Code of Good Practices.

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**Definition** Biosolids are nutrient-rich organic materials that are stabilized through anaerobic digestion at the District's Main Wastewater Treatment Plant.

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**Objectives** To support this policy, the District will:

- Produce biosolids that comply with all applicable federal, state, and local requirements and quality standards regarding biosolids production, management, testing, storage, transportation, and end use or disposal.
- Enhance the environment by committing to sustainable, environmentally-acceptable biosolids management practices and operations. Maximize biosolids resource recovery (carbon, nutrients, water, and energy) and minimize negative impacts to land and air, including potential for off-site odors.
- Maintain cost-effective biosolids management practices and end uses, while monitoring emerging technologies and uses for potential future application.

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**Method** To meet these objectives, the District will:

- Continue to implement an environmental management system (EMS) that ensures regulatory compliance and provides a framework to identify and implement program improvements. Ensure that the biosolids EMS is consistent with National Biosolids Partnership program requirements, including periodic program verification audits.
- Monitor solids processing operations (production, processing, transport, storage, and end use), implement preventive maintenance plans, and develop corrective and preventative action plans to improve management practices, as needed.
- Identify and implement operation and maintenance procedures, including good housekeeping, to reduce the potential for off-site odor impacts.
- Maintain contingency and emergency response plans to address unanticipated events such as inclement weather, spills, and equipment malfunctions.
- Develop technology evaluations for a range of biosolids management options to support long-term planning efforts.
- Communicate key elements of the District's biosolids management program, including EMS program performance, with regulators, stakeholders, and other interested parties.

**Authority**

Adopted by Resolution 33365-03, July 8, 2003  
Amended by Resolution 33523-06, March 28, 2006  
Amended by Resolution 33550-06, July 25, 2006  
Amended by Resolution No. 33763-10, April 27, 2010.  
Amended by Resolution No. 33883-12, June 26, 2012  
Amended by Resolution No. XXXXX-14, August 12, 2014

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**Reference**

Policy 7.05 – Sustainability  
Policy 7.07 – Energy

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AGENDA NO. 14.

MEETING DATE August 12, 2014

TITLE SPECIAL DISTRICT GENERAL OBLIGATION BOND TAX RATE

MOTION  RESOLUTION  ORDINANCE

**RECOMMENDED ACTION**



Fix the ad valorem tax rate for Special District No.1 (SD-1) to cover debt service, delinquencies, and county administrative fees in the amounts of \$3,947,927.22, \$78,960, and \$19,740 respectively on Wastewater System General Obligation Bond Series G for FY15 at a rate of \$0.0047 per \$100 of assessed value for properties located within the service area of SD-1. This represents a decrease of 29% over last year.

**BACKGROUND**

Following a public meeting on July 25, 1995 and a public hearing on August 8, 1995, the Board adopted a policy utilizing an ad valorem tax to cover the General Obligation bond debt service approved by SD-1 voters in 1970.

The basis of the ad valorem tax is the assessed values of secured and unsecured property established by the Assessors of Alameda and Contra Costa counties. Alameda and Contra Costa counties are authorized to collect the ad valorem tax for SD-1 and to withhold customary fees and charges for collection, which are limited by statute to no more than one-half of one percent of the amount of ad valorem tax collected.

In accordance with Section 12899 of the MUD Act, the fixing of the tax rate for FY15 is the necessary administrative process to continue the collection of the tax. The county tax collector relies on the certification of the formal annual "fixing" of the rate by the Board as authority to include the levy on the tax bill for the current fiscal year.

Funds Available FY:		Budget Code:
DEPARTMENT SUBMITTING:	DEPARTMENT MANAGER or DIRECTOR:	APPROVED:
FINANCE	 Eric L. Sandler	 General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.



The table below shows the calculation that was used to develop the ad valorem tax rate.

<b>Wastewater System General Obligation Bond Series G - Ad Valorem Tax Rate</b>		
	<b>FY14</b>	<b>FY15</b>
<b>Debt Service</b>	\$4,227,750	\$3,947,927
<b>Delinquencies (2%)</b>	0	78,960
<b>County Collection Fee (0.50%)</b>	<u>21,140</u>	<u>19,740</u>
<b>Total Tax Collected</b>	\$4,248,890	\$4,046,627
<b>Estimated Assessed Valuation</b>		
<b>Alameda County</b>		
Secured and Utility	\$69,940,693,178	\$74,139,640,675
Unsecured*	5,065,133,055	4,994,915,777
Less: Redevelopment**	(14,848,733,100)	0
<b>Contra Costa County</b>		
Secured and Utility	4,375,941,440	4,781,080,484
Unsecured*	60,903,535	61,653,184
Less: Redevelopment**	<u>(543,171,153)</u>	<u>0</u>
<b>Total</b>	\$64,050,766,955	\$83,977,290,120
<b>Ad Valorem Tax Rate (\$/\$100 of Assessed Value)</b>	0.0066	0.0047

\*Unsecured property is assessed in arrears so FY14 tax rate of 0.0066 is used on prior year unsecured property levy.

\*\*Assessed valuation does not appear for Redevelopment in FY15 due to dissolution of redevelopment agencies by the State of California.

## DISCUSSION

As shown in the table above, the tax rate of \$0.0047 per \$100 (\$4.70 per \$100,000) of assessed value for FY15 is a decrease of \$0.0019 per \$100 (approximately 29%), from the FY14 tax rate of \$0.0066 per \$100 of assessed value.

The tax rate is decreasing for three reasons. The primary reason is the dissolution of the state's redevelopment agencies which results in increased ad valorem over which to spread the costs of debt service. The second reason for the decrease in the tax rate is the refunding of the Wastewater System General Obligation Bonds Series F by the Series G bonds, which took advantage of low interest rates and reduced the debt service from \$4,227,750 in FY14 to \$3,947,927 in FY15. A third reason for the reduction in the ad valorem tax rate is that property valuations within the SD-1 service area increased as a result of a robust local real estate market recovery.

The levy of \$0.0047 per \$100 of assessed value will generate sufficient revenues to cover the debt service on outstanding General Obligation bonds for FY15 as provided in the FY14-15 Budget.

**ALTERNATIVE**

**Increase wastewater treatment charges by approximately 6% to meet the SD-1 General Obligation bond debt service obligation.** This alternative is not recommended as the District has already noticed its FY15 wastewater treatment charges in conformance with notice requirements under Proposition 218 and as the tax levy has been in place since 1995.



RESOLUTION NO. \_\_\_\_\_

FIXING THE RATE OF TAX FOR EAST BAY MUNICIPAL  
UTILITY DISTRICT SPECIAL DISTRICT NO. 1

Introduced by Director

; Seconded by Director

WHEREAS, pursuant to an election duly and regularly held in East Bay Municipal Utility District on November 3, 1970, the Board of Directors on June 8, 1971, adopted Resolution No. 25676 providing for the issuance of \$60,000,000 principal amount of East Bay Municipal Utility District Special District No. 1 Bonds, Issue of 1970 (the "Bonds"), authorizing the issuance of said Bonds in series and providing for the levy of a tax on the property of said Special District to pay the principal and interest of said bonds; and

WHEREAS, on August 8, 1995, following a duly noticed public hearing, the Board of Directors adopted Resolution No. 32933-95 determining (1) that the revenues of East Bay Municipal Utility District Special District No. 1 would not be sufficient to pay the principal of and interest on the Bonds as the same become due, or to carry out the objects and purposes of said Special District No. 1, or to provide a sum for sinking fund purposes for the retirement of the Bonds and (2) that a tax shall be levied upon properties within the Special District No. 1 for the payment of the principal of and interest on the Bonds and fixed the rate of taxation for fiscal year 1996; and

WHEREAS, the Board of Directors, having elected to avail itself of the assessments made by the assessors of Alameda and Contra Costa Counties and by the State Board of Equalization for the two counties, is required by Public Utilities Code section 12899 to fix the rate of tax using as a basis the value of property transmitted annually to the Board of Directors by the county auditors; and

WHEREAS, the Board of Directors hereby determines that the total amount of revenue required by Special District No. 1 which will be derived from ad valorem tax on property on the tax roll, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, is the sum of \$4,046,627 and divides the sum so determined between the Counties of Alameda and Contra Costa as follows: Alameda County, \$3,813,269; Contra Costa County, \$233,358;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Bay Municipal Utility District that the rate of taxation for East Bay Municipal Utility District Special District No. 1, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, is hereby fixed at the rate of \$.0047 upon each \$100 of the valuation of secured property as so assessed by the County Assessor of Alameda County and by the State Board of Equalization for the property within Alameda County, and at \$.0047 upon each \$100 of assessed valuation of secured property as so assessed by the County Assessor of Contra Costa County and by the State Board of Equalization for the property within Contra Costa County, said rates of tax being necessary to raise the amount of revenue hereinbefore apportioned to each county by the Board of Directors.

BE IT FURTHER RESOLVED that the Secretary is hereby instructed to immediately transmit to the County Auditors of said counties, respectively, a statement of the rate of taxation so fixed by the Board of Directors by filing with each of said County Auditors a certified copy of this resolution.

BE IT FURTHER RESOLVED that there shall be set aside out of the sum raised by the foregoing tax levy and/or out of other revenues of said Special District No. 1 amounts sufficient to constitute sinking funds to pay the outstanding Bonds of said Special District No. 1, as it becomes due, and the interest on any of said Bonds, which interest becomes due before the next general tax levy, and to carry out the objects and purposes of said Special District No. 1.

ADOPTED this 12<sup>th</sup> day of August, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

President

ATTEST:

---

Secretary

APPROVED AS TO FORM AND PROCEDURE:

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General Counsel

ITEM #15

Public Hearing

Please refer to Item #16





AGENDA NO.  
MEETING DATE

16.1 - 16.2  
August 12, 2014

**TITLE** DECLARE A WATER SHORTAGE EMERGENCY WITHIN THE DISTRICT'S SERVICE AREA AND ADOPT SECTION 28, "WATER USE DURING WATER SHORTAGE EMERGENCY CONDITION"

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTION**

Conduct a public hearing on the proposed water shortage emergency declaration.

1. Declare a water shortage emergency within the District's service area.
2. Adopt Section 28, "Water Use During Water Shortage Emergency Condition," of the EBMUD Regulations Governing Water Service to Customers to define and impose temporary water use prohibitions and restrictions and enforcement provisions that will be effective August 12, 2014 and remain in effect for up to 270 days or until Section 28 is either revised based on changing circumstances or rescinded when the emergency is declared to be over.

**SUMMARY**

Staff is recommending that the Board conduct a public hearing on the proposed water shortage emergency declaration and adopt the resolution (a) declaring a water shortage emergency within the District's service area and (b) adopting Section 28 of the District's Regulations Governing Water Service to Customers. This action will comply with the State Water Resources Control Board's emergency regulation directing urban water suppliers to prohibit certain classes of outdoor irrigation and water uses to increase water conservation on a state-wide basis to preserve and maintain remaining water supplies to address the present drought.

**DISCUSSION**

On January 17, 2014, Governor Brown declared a drought state of emergency and on February 11, 2014, the District implemented a 2014 Preliminary Dry Year Response Plan which asked customers to voluntarily reduce water use by ten percent starting February 11, 2014 and continuing until further notice along with a comprehensive water conservation and customer outreach program. On April 22, 2014, the

Funds Available: FY15		Budget Code:
DEPARTMENT SUBMITTING Customer & Community Services	DEPARTMENT MANAGER or DIRECTOR <i>Sherri A. Hong</i> Sherri A. Hong	APPROVED <i>Alexander B. Lewis</i> General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.



Declare A Water Shortage Emergency Within the District's Service Area and  
Adopt Section 28, "Water Use During Water Shortage Emergency Condition"  
August 12, 2014  
Page 2

Water Supply Availability and Deficient Report was filed with the Board in accordance with District Policy 9.03, declaring that the District's water supply is deficient for meeting customer demands in 2014. On May 13, 2014, the Board adopted the 2014 Water Shortage Action Plan in accordance with Policy 9.03, increasing the District's water shortage public outreach efforts, conservation incentives, and preparing for continued drought. Since February 2014, District customers have cut back their water use by more than ten percent and are ahead of schedule in achieving the 20 percent reduction goal in per capita water use by 2020 mandated by SB 7x7.

On April 25, 2014, the Governor issued an Executive Order calling on the State to redouble state drought actions. In response, the State Water Resources Control Board ("State Water Board") adopted emergency regulations which include a prohibition on certain outdoor irrigation and water uses, an order for all urban water suppliers to implement mandatory conservation measures by July 28, 2014, and an order for water suppliers with 3,000 or more service connections to provide monthly data on water production. There is some flexibility in the July 28, 2014 date to allow water agencies to comply with the public notification process.

Although the prohibited water use practices in the State Water Board's emergency regulation are largely already covered by the District's existing rules, regulations and conservation outreach, staff is recommending that the Board exercise its authority to conduct a hearing, declare a water shortage emergency within the District's service area, and adopt Section 28, "Water Use During Water Shortage Emergency Condition" in order to comply with the State Water Board's emergency regulation. Section 28 of the District's Regulations Governing Water Service to Customers of the District is adopted by the Board only after declaring a water shortage emergency under Water Code Section 350 to provide for special restrictions on water use as well as enforcement through warnings, installation of flow restrictors and finally disconnection of service. Section 28 is amended as appropriate during each water shortage and the proposed regulation complies with the prohibitions on certain irrigation and outdoor water use mandated by the State Water Board's emergency regulation. It will remain in effect for up to 270 days or until the emergency is declared to be over.

In declaring a water shortage emergency within the District's service area and adopting Section 28, the Board is finding and determining that the restrictions on water use contained in Section 28 will conserve the water supply for the greatest public benefit, that the prohibited uses represent unreasonable and wasteful use in this drought period, and that the enforcement measures are appropriate and reasonable and may be used by the District in order to control water use.

#### **FISCAL IMPACT**

Costs associated with the implementation of this declaration and adoption of Regulation Section 28 will be covered within existing FY15 budget resources.

Declare A Water Shortage Emergency Within the District's Service Area and  
Adopt Section 28, "Water Use During Water Shortage Emergency Condition"  
August 12, 2014  
Page 3

## **ALTERNATIVES**

**Take no action.** This alternative is not recommended. Staff has revised Section 28 in order to ensure compliance with the State Water Board's emergency regulation and avoid fines and/or other State action. Section 28 is adopted by the Board only after declaring a water shortage emergency under Water Code Section 350.

**Adopt and enforce monetary penalties against individuals.** The State Water Board's emergency regulation allows the District to impose monetary penalties against individuals who violate the prohibitions in Section 28 of up to \$500 for each day in which the violation occurs. This alternative is not recommended. The District does not have the resources to administer a monetary infraction system of enforcement typically administered by local law enforcement agencies. Also the District has found that monetary penalties are not necessary in order to ensure that District customers comply with the District's restrictions on wasteful water use practices. Based on past drought experience, the District uses other non-monetary enforcement actions which have proven to be effective.

## **Attachments**

I:\Sec\2014 Board Related Items\081214 Board Agenda Items\CCS\CCS - BD-1 Declaring a water shortage emergency and adopting Section 28





## SECTION 28

### WATER USE DURING WATER SHORTAGE EMERGENCY CONDITION

Drought conditions require that all customers reduce their use of EBMUD water supplies until further notice to ensure availability of the public water supply for critical uses. This regulation specifies the water uses that are prohibited during the drought and provides guidelines on effective water use practices to help customers conserve. It also defines the exceptions and enforcement provisions should customers fail to comply with the prohibitions.

#### A. EMERGENCY REGULATIONS AND RESTRICTIONS ON WATER USE

During the water shortage emergency condition declared by the Board of Directors, all customers must comply with prohibitions on water uses described below to conserve the public water supply to meet critical needs. In addition, customers are asked to follow the water saving guidelines below.

##### 1. Potable Water Uses Prohibited During the Water Shortage Emergency

- a. Using potable water for decorative ponds, fountains and other water features that do not recirculate water is prohibited.
- b. Washing cars, boats, trailers, aircraft or other vehicles with potable water by hose without a shutoff nozzle is prohibited, except to wash such vehicles at commercial or fleet vehicle washing facilities operated at fixed washing locations.
- c. Washing sidewalks or driveways with potable water is prohibited.
- d. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
- e. Irrigating lawn, garden areas, or landscaping with potable water on consecutive days or more frequently than two days per week is prohibited, except for potted plants.
- f. Flushing sewers or hydrants with potable water is prohibited, except in cases of emergency and for essential operations.

##### 2. Water Savings Guidelines

- a. Conserve water indoors. Most customers can do this by shortening showers and using less bath water, running only full loads of laundry and dishes, and keeping a close eye on faucet use. Additionally, customers are encouraged to reduce use of kitchen garbage disposals through composting or curbside green waste collection and not to use toilets as wastebaskets. Customers also may want to consider upgrading to more water-efficient plumbing fixtures and appliances.



- b. Promptly repair leaks indoors and outside.
- c. Use covers on swimming pools and home spas (hot tubs) and avoid draining, refilling and topping off.
- d. Encourage all restaurants and other food service facilities to serve water to customers only upon request.
- e. Encourage gyms, spas and similar facilities to ask patrons to conserve water while showering and using wash basins.
- f. Encourage all food preparation establishments, such as restaurants and cafeterias, to install and use high-efficiency pre-rinse spray nozzles in their kitchens.
- g. Encourage all hotels and motels to provide customers with information about how to choose not to have towels and linens laundered daily.
- h. Irrigate less outdoors. Most customers can cut outdoor watering 30% without affecting long-term plant health by irrigating before dawn or at dusk, no more than two days per week.
- i. Use of EBMUD potable water for construction, street cleaning, soil compaction and dust control is discouraged if a feasible alternative source of water is available. All water for construction, soil compaction and dust control will require a permit issued by EBMUD.

**B. EXCEPTIONS**

Consideration of written applications for exceptions regarding regulations and restrictions on water use set forth in this Section shall be as follows:

- 1. Written applications for exceptions shall be accepted, and may be granted, by the Manager of Customer and Community Services;
- 2. Denials of applications may be appealed in writing to the General Manager;
- 3. Grounds for granting such applications are:
  - a. Failure to do so would cause an unnecessary and undue hardship to the applicant, including, but not limited to, adverse economic impacts, such as loss of production or jobs; or
  - b. Failure to do so would cause a condition affecting the health, sanitation, fire protection or safety of the applicant or the public.



**C. ENFORCEMENT**

1. The District may, after one written warning, order that a special meter reading or readings be made in order to ascertain whether wasteful use of water is occurring. Charges for such a meter reading or readings or for follow-up visits by District staff are fixed by the Board from time to time and shall be paid by the customer.
2. In the event that the District observes that apparent excessive water use is occurring at a customer's premises, the General Manager or the Manager of Customer & Community Services may, after a written warning to the customer, authorize installation of a flow-restricting device on the service line for any customer observed by District personnel to be willfully violating any of the regulations and restrictions on water use set forth in this section. Charges for installation of flow-restricting devices may be fixed by the Board from time to time and shall be paid by the customer.
3. In the event that a further willful violation is observed by District personnel, the District may discontinue service. Charges for restoring service may be fixed by the Board from time to time and shall be paid by the customer.
4. The District may immediately revoke a permit to use water from an EBMUD hydrant when water is observed being used in violation of the emergency regulations or restrictions on water use.



RESOLUTION NO. \_\_\_\_\_

DECLARE A WATER SHORTAGE EMERGENCY WITHIN THE DISTRICT'S SERVICE AREA AND ADOPT SECTION 28, "WATER USE DURING WATER SHORTAGE EMERGENCY CONDITION"

Introduced by Director \_\_\_\_\_ ; Seconded by Director \_\_\_\_\_

WHEREAS, California is experiencing one of the most severe droughts on record and many areas of the state will face water shortages this year; and

WHEREAS, the East Bay Municipal Utility District (the "District") has undertaken substantial investments in aggressive water conservation programs, water recycling projects and dry year supplemental water supply projects to help reduce the severity of water rationing that may be required in droughts, and will continue doing so; and

WHEREAS, since the adoption of the Water Conservation Master Plan in 1994, the District has invested more than \$80 million in a host of water conservation programs and plans, which has resulted in an estimated customer water savings of more than 30 million gallons per day or nearly 11 billion gallons annually; and

WHEREAS, the District has set a water recycling goal of 14 million gallons per day by 2020, which means that the District's customers will be recycling a total of more than 5.1 billion gallons per year by 2020, through the District's participation and investment in recycling projects such as the San Ramon Valley Recycled Water Program, the East Bayshore Recycled Water Project, the North Richmond Water Reclamation Plant Improvement Project, and the Richmond Advanced Recycled Expansion Water Project; and

WHEREAS, Governor Brown declared a drought state of emergency on January 17, 2014 and called on all Californians to do their part to reduce their water use; and

WHEREAS, on February 11, 2014, the District Board of Directors (the "District Board") implemented a 2014 Preliminary Dry Year Response Plan which asked customers to voluntarily reduce water use by ten percent starting on February 11, 2014 and continuing until further notice along with a comprehensive water conservation and customer outreach program; and

WHEREAS, on April 22, 2014, the Water Supply Availability and Deficiency Report was filed with the Board in accordance with District Policy 9.03, declaring that the District's water supply is deficient for meeting customer demands in 2014 and on May 13, 2014, the Board adopted the 2014 Water Shortage Action Plan, increasing the District's water shortage public outreach efforts and conservation incentives, and preparing for continued drought; and

WHEREAS, since February 2014, District customers have cut back on their water use by more than ten percent and are achieving the goal mandated by Senate Bill X7-7 of 20 percent reduction in per capita water use by 2020 ahead of schedule; and



WHEREAS, on April 25, 2014, the Governor signed an Executive Order calling on the state to redouble state drought actions; and

WHEREAS, on July 15, 2014, the State Water Resources Control Board (“State Water Board”) declared that an emergency exists due to severe drought conditions, as identified in the Governor’s drought emergency proclamations, and determined that immediate action is needed to effectively increase water conservation statewide so that remaining supplies are maintained to address the present drought, and adopted emergency regulations which include a prohibition on certain classes of outdoor irrigation and water use, an order for all urban water suppliers to implement mandatory conservation measures, and an order for water suppliers with 3,000 or more service connections to provide monthly data on water production; and

WHEREAS, the District Board applauds the Governor’s leadership and supports the State Water Board’s statewide emergency regulations in response to the severe drought facing California; and

WHEREAS, Section 29 “Prohibiting Wasteful Use of Water” is an ongoing provision in the Regulations Governing Water Service to customers of the District that describes actions aimed at eliminating wasteful use and imposes restrictions on largely the same classes of outdoor irrigation and water use that are prohibited by the State Water Board’s emergency regulations; and

WHEREAS, Section 28 “Water Use During Water Shortage” in the Regulations Governing Water Service is adopted by the District Board only after declaring a water shortage emergency condition under Water Code section 350 to provide for special restrictions on water use as well as enforcement through warnings, installation of flow restrictors and finally disconnection of service; and

WHEREAS, Section 28 “Water Use During Water Shortage” in the Regulations Governing Water Service may be amended as appropriate during a water shortage emergency condition, and is rescinded when the emergency is declared to be over; and

WHEREAS, a water shortage emergency condition within the meaning of Water Code section 350 includes both an immediate emergency, in which the District is presently unable to meet its customers’ needs and a threatened water shortage, in which the District is empowered to anticipate a future water shortage and to impose appropriate regulations and restrictions where, lacking such control, its water supply will become depleted and it will be unable to meet the needs of its consumers and therefore the District is authorized under Water Code section 350 to declare a water shortage emergency condition and implement Section 28 in the Regulations Governing Water Service in order to comply with the State Water Board’s emergency regulations; and

WHEREAS, in accordance with Section 352 of the Water Code, a notice of the time and place of a public hearing was published in compliance with Government Code section 6061 at least seven days prior to the hearing; and

WHEREAS, in further support of the Governor’s declaration of a drought state of emergency and in compliance with the State Water Board’s emergency regulations directing urban water

suppliers to implement mandatory restrictions on certain classes of outdoor irrigation and water use under their water shortage contingency plans, the Board conducted a public hearing on August 12, 2014 at which time all interested persons were afforded an opportunity to be heard on the proposed declaration of a water shortage emergency and adoption of Section 28 "Water Use During Water Shortage" in the Regulations Governing Water Service; and

WHEREAS, the Board has considered all the oral and written information presented to it regarding the proposed declaration of a water shortage emergency and adoption of Section 28 "Water Use During Water Shortage" in the Regulations Governing Water Service;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of East Bay Municipal Utility District finds and determines and hereby declares the following:

Section 1. Authority. This resolution is adopted pursuant to Water Code sections 350, *et seq.*

Section 2. Recitals. The District Board hereby finds and determines that the above recitals are true and correct and are incorporated herein.

Section 3. Declaration. In compliance with the State Water Board emergency regulations, the District Board hereby declares a water shortage emergency condition to prevail within the service area of the District.

Section 4. Section 28. The District Board hereby adopts Section 28 "Water Use During Water Shortage," in the Regulations Governing Water Service, effective August 12, 2014, which is attached hereto and incorporated by reference as Exhibit A. Section 28 may be amended as appropriate during the water shortage emergency, and will be rescinded when the emergency is declared to be over.

The District Board hereby finds and determines that the restrictions on water use contained in Section 28 of the Regulations Governing Water Service will, in the sound discretion of the District Board, conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation and fire protection. The District Board further determines that the use prohibited by Section 28 represents unreasonable and wasteful use in this drought period, and the enforcement measures are appropriate and reasonable and may be used by the District in order to control water use.

BE IT FURTHER RESOLVED that the District Board hereby finds and determines that the Board's declaration of a water shortage emergency and its adoption of Section 28 of the Regulations Governing Water Service to its Customers are exempt from the requirements of the California Environmental Quality Act because they are necessary to mitigate the water shortage emergency and because on April 25, 2014, the Governor suspended the California Environmental Quality Act's application to the State Water Board's adoption of emergency regulations pursuant to Water Code section 1058.5 to prevent the waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of water, to promote water recycling and water conservation, and the Secretary is hereby authorized and directed to file a Notice of Exemption in

accordance with applicable statutes and regulations with the County Clerks of Alameda and Contra Costa Counties.

BE IT FURTHER RESOLVED that all officers of the District are hereby authorized to perform such duties as may be required for the successful implementation of the restrictions on water use contained in Section 28 of the Regulations Governing Water Service.

ADOPTED this 12th day of August, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

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President

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Secretary

APPROVED AS TO FORM AND PROCEDURE:

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General Counsel

## EXHIBIT A



### SECTION 28

#### WATER USE DURING WATER SHORTAGE EMERGENCY CONDITION

Drought conditions require that all customers reduce their use of EBMUD water supplies until further notice to ensure availability of the public water supply for critical uses. This regulation specifies the water uses that are prohibited during the drought and provides guidelines on effective water use practices to help customers conserve. It also defines the exceptions and enforcement provisions should customers fail to comply with the prohibitions.

#### **A. EMERGENCY REGULATIONS AND RESTRICTIONS ON WATER USE**

During the water shortage emergency condition declared by the Board of Directors, all customers must comply with prohibitions on water uses described below to conserve the public water supply to meet critical needs. In addition, customers are asked to follow the water saving guidelines below.

##### 1. Potable Water Uses Prohibited During the Water Shortage Emergency

- a. Using potable water for decorative ponds, fountains and other water features that do not recirculate water is prohibited.
- b. Washing cars, boats, trailers, aircraft or other vehicles with potable water by hose without a shutoff nozzle is prohibited, except to wash such vehicles at commercial or fleet vehicle washing facilities operated at fixed washing locations.
- c. Washing sidewalks or driveways with potable water is prohibited.
- d. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures is prohibited;
- e. Irrigating lawn, garden areas, or landscaping with potable water on consecutive days or more frequently than two days per week is prohibited, except for potted plants.
- f. Flushing sewers or hydrants with potable water is prohibited, except in cases of emergency and for essential operations.

##### 2. Water Savings Guidelines

- a. Conserve water indoors. Most customers can do this by shortening showers and using less bath water, running only full loads of laundry and dishes, and keeping a close eye on faucet use. Additionally, customers are encouraged to reduce use of kitchen garbage disposals through composting or curbside green waste collection and not to use toilets as wastebaskets. Customers also may want to consider upgrading to more water-efficient plumbing fixtures and appliances.



- b. Promptly repair leaks indoors and outside.
- c. Use covers on swimming pools and home spas (hot tubs) and avoid draining, refilling and topping off.
- d. Encourage all restaurants and other food service facilities to serve water to customers only upon request.
- e. Encourage gyms, spas and similar facilities to ask patrons to conserve water while showering and using wash basins.
- f. Encourage all food preparation establishments, such as restaurants and cafeterias, to install and use high-efficiency pre-rinse spray nozzles in their kitchens.
- g. Encourage all hotels and motels to provide customers with information about how to choose not to have towels and linens laundered daily.
- h. Irrigate less outdoors. Most customers can cut outdoor watering 30% without affecting long-term plant health by irrigating before dawn or at dusk, no more than two days per week.
- i. Use of EBMUD potable water for construction, street cleaning, soil compaction and dust control is discouraged if a feasible alternative source of water is available. All water for construction, soil compaction and dust control will require a permit issued by EBMUD.

**B. EXCEPTIONS**

Consideration of written applications for exceptions regarding regulations and restrictions on water use set forth in this Section shall be as follows:

- 1. Written applications for exceptions shall be accepted, and may be granted, by the Manager of Customer and Community Services;
- 2. Denials of applications may be appealed in writing to the General Manager;
- 3. Grounds for granting such applications are:
  - a. Failure to do so would cause an unnecessary and undue hardship to the applicant, including, but not limited to, adverse economic impacts, such as loss of production or jobs; or
  - b. Failure to do so would cause a condition affecting the health, sanitation, fire protection or safety of the applicant or the public.



**C. ENFORCEMENT**

1. The District may, after one written warning, order that a special meter reading or readings be made in order to ascertain whether wasteful use of water is occurring. Charges for such a meter reading or readings or for follow-up visits by District staff are fixed by the Board from time to time and shall be paid by the customer.
2. In the event that the District observes that apparent excessive water use is occurring at a customer's premises, the General Manager or the Manager of Customer and Community Services may, after a written warning to the customer, authorize installation of a flow-restricting device on the service line for any customer observed by District staff to be willfully violating any of the regulations and restrictions on water use set forth in this section. Charges for installation of flow-restricting devices may be fixed by the Board from time to time and shall be paid by the customer.
3. In the event that a further willful violation is observed by District staff, the District may discontinue service. Charges for restoring service may be fixed by the Board from time to time and shall be paid by the customer.
4. The District may immediately revoke a permit to use water from an EBMUD hydrant when water is observed being used in violation of the emergency regulations or restrictions on water use.





AGENDA NO. \_\_\_\_\_ 17.  
 MEETING DATE August 12, 2014

TITLE APPROVE A WATER SHORTAGE EMERGENCY ACTION PLAN

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTION**

Approve a Water Shortage Emergency Action Plan in accordance with District Policy 9.03 to guide public outreach in support of District Regulation 28 (Water Use During Water Shortage Emergency Condition) and to support public education on statewide mandatory restrictions on outdoor water use pursuant to California Water Code, Section 1058.5 and State Water Board Resolution 2014-0038.

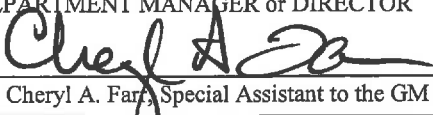

**SUMMARY**

At the August 12, 2014 Board meeting, staff is recommending that the Board conduct a public hearing to consider declaring a water shortage emergency and adopting a resolution declaring a water shortage emergency within the service area and adopting a District regulation, Water Use During Water Shortage Emergency Condition (Section 28). To guide District outreach activities in support of these proposed actions, staff also is recommending the adoption of a Water Shortage Emergency Action Plan (Attachment 1) to replace the 2014 Water Shortage Action Plan that the Board adopted earlier this year.

The new plan will support implementation of Section 28 and includes actions to comply with the State Water Board's Emergency Regulation for Statewide Urban Water Conservation, which directs urban water suppliers to conduct drought-related outreach activities intended to inform customers that certain outdoor irrigation and water use practices are prohibited and to report to the state monthly on the status of water supplies.

**DISCUSSION**

Governor Brown has provided strong leadership to foster a statewide response to the severe drought facing California and state agencies have been working to encourage water conservation. The State Water Board adopted emergency regulations that prohibit certain uses of potable water for outdoor irrigation, sidewalk and driveway cleaning, vehicle cleaning and decorative fountains. These regulations are now in effect. In adopting the emergency regulations, the state also directed that urban water agencies such as EBMUD implement mandatory water use restrictions and fulfill several communications and reporting responsibilities. The Board's adoption of Section 28 addresses responsibilities for prohibiting certain classes of outdoor irrigation and water uses. The Board's adoption of the Water Shortage Emergency

Funds Available: FY15		Budget Code: WSO\314\101318 and WSO\116\1013818	
DEPARTMENT SUBMITTING  OGM - Communications	DEPARTMENT MANAGER or DIRECTOR   Cheryl A. Farr, Special Assistant to the GM	APPROVED   General Manager	

Contact the Office of the District Secretary with questions about completing or submitting this form.



Action Plan establishes the District's plan to comply with public outreach and reporting requirements and guidance from the State Water Board.

EBMUD has adopted a goal of a voluntary ten percent water use reduction. To guide public outreach in achieving that goal, the Board adopted a preliminary Water Shortage Action Plan on February 11 and an updated plan in May. Attachment 2 is the latest Water Conservation Demand Reduction Report summarizing customer contacts made, rebates approved, and items distributed (water saving devices and drought reminder cards, table tents, stickers and other materials). This month, the Home Water Reports Phase 2 Pilot Program launched, and 5,000 customers are receiving reports to help them compare their water use to similar households. This program will continue to be rolled out with 50,000 customers receiving the reports by January. As of July 31, 2014, customer savings achieved are approaching 11 percent. The Water Shortage Emergency Action Plan shows changes to goals and objectives from the prior plan in red.

## **FISCAL IMPACT**

Staff will complete the tasks identified in the Water Shortage Emergency Action Plan using FY15 budgeted funds and staff.

## **ALTERNATIVES**

**Establish a different goal than a voluntary 10 percent reduction.** A higher goal is not recommended at this time because the current level is appropriate based on the service area water supply status, long-term local conservation that has hardened demand, and the District's responsibility to protect businesses and residents by avoiding higher cutbacks unless they are essential. EBMUD's Water Shortage Contingency Plan sets a rationing reduction goal of 10 to 15 percent when projected September 30 total system storage is greater than 425 thousand acre feet (TAF). Projected September 30 storage is 425-430 TAF and EBMUD has a contract for up to 133 TAF in additional supplemental supplies in 2015 (contractually subject to cutbacks, which in past statewide shortages have been up to 50 percent). Consistent customer conservation has hardened water demand as shown by a 2014 water use level that is better than the state-mandated "20 by 2020" goal. If the drought continues, additional customer conservation and additional efforts to procure supplemental supplies may be required.

**Add resources to conduct more outreach.** This alternative is not recommended because customers are continuing to meet the savings goal and prudent outreach spending reduces the fiscal impact of drought. The District has reallocated some budgeted funds but at this time is not using special drought rates or reserves to increase outreach spending related to the drought. Staff is monitoring customer savings based on water production and will inform the Board if more resources may be needed to maintain the savings target.

## **Attachments**

1. Water Supply Emergency Action Plan
2. Water Conservation Demand Reduction Report

## Water Shortage Emergency Action Plan

### Goals

- **Provide notice of the state's emergency water conservation regulations to customers in English, Spanish and Chinese**
- **Educate customers on District Section 28 drought water use restrictions and guidelines in support of the state regulations.**
- **Stress the need for customers to sustain their achievement of the 10 percent voluntary reduction target established by the Board while expressing appreciation for the conservation ethic of East Bay customers.**
- **Promote awareness of the District's supplemental supply: what it means for customers, how it was achieved, what it costs to operate.**
- **Educate customers on how to save water indoors and outdoors and the many services and programs available to help them succeed.**

### Key Messages

- **EBMUD applauds the Governor's leadership and the SWRCB's action to prohibit outdoor water waste to protect California's water supplies, and has adopted regulations to implement those restrictions. Except where necessary for public health and safety, effective August 12, 2014 all EBMUD customers are required to:**
  - a. Limit watering of outdoor landscapes to two times per week and prevent excessive runoff when watering;**
  - b. Use a hose with a shutoff valve when hand-washing motor vehicles;**
  - c. Use a broom or air blower, not water, to clean driveways, sidewalks, patios and other hard surfaces; and**
  - d. Turn off any fountain or decorative water feature that uses potable water unless the water is recirculated.**
- Our community is in a severe water shortage emergency. Please voluntarily cut your water use by 10 percent compared to 2013.
  - a. Finding and fixing leaks is an easy way for most customers to meet their 10 percent goal.
  - b. EBMUD promises water use reductions this year will not impact allocations if mandatory rationing is necessary in the future.
  - c. Swapping lawns for WaterSmart plants and using drip irrigation are great ways to reduce outdoor water use.
  - d. Heat wave reminder (if needed): Most lawns and gardens will survive a short-term heat wave without additional watering. Apply mulch in your garden, check your soil and limit landscape watering to before dawn or at dusk to lower evaporation.
  - e. Visit our WaterSmart Center at <http://www.ebmud.com/water-and-wastewater/watersmart-center> to obtain free water saving devices and information to help you use water most efficiently. Thank you for your help.
- EBMUD is not requiring the 20 percent cut requested by the governor for these reasons:
  - a. Our customers are achieving our region's state mandated 20% by 2020 per capita water use reduction target, years ahead of schedule.
  - b. Customer investments in supplemental supplies allow EBMUD to keep cutback targets to 10 percent at this time. EBMUD has brought 23,400 acre feet of supplemental drought water supplies--about a month's supply in the summer--into local reservoirs.
  - c. Ongoing customer water conservation savings have contributed toward more water supply storage in the EBMUD reservoirs.

**Summary of Actions by Audience (*italics are completed events*)**

<b>Audience/ Measure</b>	<b>Objective</b>	<b>Actions/Status</b>
Media	<ul style="list-style-type: none"> <li>• Share the District’s key messages with the local news outlets to seek positive earned media, and coordinate activities with statewide and local earned media, including ACWA’s “Save Our Water” campaign.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>2/11 - Media release on 10 percent voluntary</i></li> <li>• <i>3/14 - Media alert on fix a leak open house</i></li> <li>• <i>4/22 - Freeport decision media release on Board action</i></li> <li>• <i>4/30 - Freeport first use media conference</i></li> <li>• <i>5/03 - Freeport op-ed published in Contra Costa Times</i></li> <li>• <i>8/12 –Media release announcing mandatory measures</i></li> <li>• Staff continues to proactively seek earned media coverage of conservation messages and supplemental supply actions. To date more than 230 media interactions have led to 132 news mentions about District actions.</li> </ul>
Reported Water Waste	<ul style="list-style-type: none"> <li>• Encourage reports of water waste and follow up to educate customers on ways to save water.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>2/21- Water Waste Hotline established</i></li> <li>• <b>Aug - Develop procedure for handling Section 28 reported violations</b></li> <li>• Ongoing: As of 7/31, received more than 125 reports of water water; about 30 percent are resolved and the remainder are under investigation.</li> </ul>
Bill payers	<ul style="list-style-type: none"> <li>• Request 10 percent voluntary reduction from customers and provide helpful information in <b>Pipeline and explain new state regulations on outdoor watering through additional bill communications</b> to assist customers in meeting their cutback goal.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Feb –Apr - Top of bill 10 percent voluntary cutback alert</i></li> <li>• <i>July-August- Top of bill-summer watering tips</i></li> <li>• <b>August-Sept – Top of bill-mandatory limit on outdoor irrigation</b></li> <li>• <b>August-Sept—Supplemental bill insert explaining new regulations</b></li> <li>• <b>August – email, where possible, to e-bill customers on new regulations</b></li> <li>• Sept-October Top of bill-drought update</li> <li>• Nov-Dec Top of bill-indoor use tips</li>   <li>• <i>Jan-Feb Pipeline: Cut unnecessary water use</i></li> <li>• <i>Mar-Apr Pipeline: Fix toilet leaks</i></li> <li>• <i>May-June Pipeline: Fix outdoor leaks; the Lawn Goodbye Part 1</i></li> <li>• <i>July-Aug Pipeline: The Lawn Goodbye 2, water less, Sac River supplies</i></li> <li>• Sept-Oct Pipeline: outdoor planting and watering, EBMUD flushing</li> <li>• Nov-Dec Pipeline: Your baseline water use; winterizing irrigation systems</li> </ul>

Audience/ Measure	Objective	Actions/Status
Contact Center Callers	<ul style="list-style-type: none"> <li>• Shortage alert/tips on toll free phone number.</li> <li>• Provide consistent information to employees with extensive customer interaction to help them answer common questions.</li> </ul>	<ul style="list-style-type: none"> <li>• 2/1 – <i>Tips line established</i></li> <li>• 2/20 -<i>Developed Frequently Asked Questions for employee use</i></li> <li>• 2/20- <i>Began tracking shortage-related inquiries</i></li> <li>• 4/23 –<i>Distributed updated FAQs; will continue updating as needed</i></li> <li>• 7/18 –<i>Updated FAQs on new state regulations affecting water use</i></li> <li>• <b>8/12 – Update FAQs to address Section 28</b></li> </ul>
Web visitors	<ul style="list-style-type: none"> <li>• Provide helpful informational resources online to make it easy for customers to understand the drought and receive water savings tips to cut back their water use.</li> <li>• Expand supplemental supply information.</li> </ul>	<ul style="list-style-type: none"> <li>• 2/11 – <i>Shortage alert posted</i></li> <li>• 3/14 - <i>Leak information posted</i></li> <li>• 3/14 -<i>Shower stickers, tabletop tents, etc. available via online store</i></li> <li>• 4/14- <i>Mulch coupons for 20 nurseries available</i></li> <li>• July--<i>Published drought tolerant landscapes photo gallery</i></li> <li>• July--<i>Updated information about the lawn conversion program.</i></li> <li>• July--<i>Launched the Community WaterSmart Garden Program</i></li> <li>• July -<i>Added homepage buttons on lawn conversion and outdoor watering</i></li> <li>• July- <i>Updated drought page with news about regulations</i></li> <li>• <b>Aug-Add Save Our Water link to EBMUD website</b></li> <li>• Ongoing- <i>Water supply updates posted online monthly</i></li> <li>• TBD- <i>Develop videos on finding outdoor leaks</i></li> <li>• TBD - <i>Update Freeport information as needed</i></li> </ul>
Irrigators	<ul style="list-style-type: none"> <li>• Provide helpful information to assist irrigators in meeting their cutback goal.</li> </ul>	<ul style="list-style-type: none"> <li>• Feb – <i>Met with area golf course GM’s and with Moraga Country Club</i></li> <li>• Mar- <i>Participated in DWR landscaping workshops</i></li> <li>• Mar- <i>Updated tip sheets for different business groups available</i></li> <li>• Apr- <i>Held Golf Course Superintendent Field Workshop in Oakland</i></li> <li>• May–<i>Held field workshop for City of Oakland Public Works</i></li> <li>• May- <i>Hosted a DWR landscape professional workshop with CCWD</i></li> <li>• June- <i>CA Landscape Contractors Assn conference in Alameda</i></li> <li>• July –<i>Irrigation training for Castro Valley Unified School District</i></li> <li>• TBD - <i>Additional irrigation workshops to be scheduled as needed</i></li> </ul>

Audience/ Measure	Objective	Actions/Status
Renters and homeowners	<ul style="list-style-type: none"> <li>• Provide 1-1 assistance via surveys, rebates and irrigation scheduling assistance on request, make presentations to homeowner associations and business property managers, and provide educational conservation savings information at local nurseries, irrigation equipment suppliers and retail appliance stores.</li> <li>• Launch Single-Family Residential Home Water Report Phase 2 pilot to promote savings.</li> <li>• Outreach to customers who do not pay a water bill and receive the bill insert, <i>Pipeline</i>.</li> <li>• Conduct survey research on drought awareness and penetration of conservation messages.</li> </ul>	<ul style="list-style-type: none"> <li>• 2/20 - Updated District water supply fact sheet</li> <li>• 3/06 - Met with 20 nurseries to discuss water shortage</li> <li>• 3/19 - Updated water conservation tip sheets made available</li> <li>• 4/28 – Updated District water supply fact sheet</li> <li>• June - Second nursery meeting held</li> <li>• June - Conservation tips in property manager trade publication</li> <li>• Oct – Landscape sheet mulching workshop</li> <li>• Mar – Drip irrigation workshop scheduled (March 2015)</li> <li>• Ongoing- HOA presentations, news articles and conservation services; <b>Rossmoor 8-22 and 8-29 event for all 16 HOAs; partnering with San Lorenzo HOA and UC Berkeley on lawn conversion design templates</b></li> <li>• Ongoing: Promote WaterSmart Home Survey Kits and distribute devices to single family and multi-family residential accounts</li> <li>• Feb - Approved by Board</li> <li>• Aug - Expansion launched to about 11,000 customers receiving surveys; initial email and print distribution 1,000-1,500 weekly with a goal of reaching 50,000 customers by January 2015</li> <li>• Feb, Apr, August-Letters from the Board President to HOAs to reach customers who don't pay a water bill with water reduction goals and tips</li> <li>• 3/25 - survey results reported to Board</li> <li>• TBD - Consider focus groups for message refinement if needed</li> </ul>
Commercial Industrial	<ul style="list-style-type: none"> <li>• Provide helpful information to assist businesses in meeting their cutback goal.</li> <li>• Continue outreach and marketing of business WaterSmart Certification Program.</li> </ul>	<ul style="list-style-type: none"> <li>• Mar - Providing restaurant tents, hotel clings etc. via online store</li> <li>• Mar - Updated tip sheets for different business groups available</li> <li>• Apr - CEP Newsletter: water saving tips; recycled water truck program</li> <li>• May –Roundtable on drought outreach with CCWD and 17 nurseries</li> <li>• June – Save Like a Pro posters made available for distribution</li> </ul>

Audience/ Measure	Objective	Actions/Status
	<ul style="list-style-type: none"> <li>• Coordinate conservation services with county Green Business programs and local nurseries.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>July- Surveyed nursery interest in plant toppers and signs</i></li> <li>• <i>Aug- Launched nursery promotion of plant toppers for low water use landscapes and lawn conversion programs.</i></li> <li>• <i>Sept-Expand mulch program via Chinook Book through October</i></li> <li>• <i>Oct - Recognize new WaterSmart Business Certificate Awardees</i></li> <li>• <i>Ongoing-Promote WaterSmart Business Certification</i></li> </ul>
Cities and civic groups, other public agencies	<ul style="list-style-type: none"> <li>• Encourage stakeholder groups to assist with public knowledge of drought by providing information and resources to key organizations and individuals.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>2/13 - BOD President letters on shortage; offer of presentations</i></li> <li>• <i>4/23 – BOD President letter reporting Board’s water shortage actions</i></li> <li>• <i>Spring – Completed ward briefings in four wards.</i></li> <li>• <i>Aug – hosting booths at Danville and Richmond Home Shows</i></li> <li>• <b>8-14 – BOD President letter reporting mandatory restrictions</b></li> <li>• <i>Ongoing- Track outreach conducted by District’s Speaker’s Bureau</i></li> <li>• <i>Ongoing- Expanded community fair and event participation (76 to date)</i></li> <li>• <i>Ongoing- Partner with other agencies to promote conservation messages</i></li> <li>• <i>Ongoing- Outreach to large employers to educate employees on water use</i></li> </ul>
Schools	<ul style="list-style-type: none"> <li>• Provide classroom water supply and conservation presentations and materials</li> <li>• Work with universities and city colleges on campus conservation outreach efforts.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>April – semi-annual flyer mailed to schools</i></li> <li>• <i>Jan-Feb--Sponsored and developed two Kid Scoop news articles</i></li> <li>• <i>Ongoing- look for opportunities to work with universities and colleges on conservation outreach activities.</i></li> </ul>
Billboards	<ul style="list-style-type: none"> <li>• Oakport billboard: “Leak is a Four Letter Word”</li> <li>• Wastewater billboard: Save Our Water</li> </ul>	<ul style="list-style-type: none"> <li>• <i>3/14 – Oakport drought billboard in place; ongoing</i></li> <li>• <i>April – Save Our Water posted on wastewater treatment plant billboard</i></li> <li>• <i>Fall--Use additional Clear Channel credits for fall/winter messages</i></li> </ul>
Recycled Water and Graywater	<ul style="list-style-type: none"> <li>• Look for new recycled water opportunities and encourage use of trucked recycled water by customers where that use is appropriate</li> <li>• Promote use of car washes (they recycle water)</li> </ul>	<ul style="list-style-type: none"> <li>• <i>7/30 – Letter to 90 trucked recycled water permit holders and 280 portable hydrant meter users encouraging use of recycled water</i></li> <li>• <i>Ongoing – Investigating feasibility of using recycled water in the Administration Building cooling tower</i></li> <li>• <i>Ongoing- Encourage commercial car wash use because they recycle</i></li> </ul>

Audience/ Measure	Objective	Actions/Status
	<ul style="list-style-type: none"> <li>• Support graywater use</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Aug- Launched graywater laundry to landscape rebate program</i></li> <li>• <i>8/13 – Hosting residential graywater 101 workshop</i></li> <li>• <i>9/10 – Hosting residential graywater laundry to landscape nuts and bolts workshop to reuse clotheswasher discharge in the landscape</i></li> </ul>
Employees	<ul style="list-style-type: none"> <li>• Make it easy for EBMUD employees to stay up to date on the latest news about the water shortage</li> </ul>	<ul style="list-style-type: none"> <li>• <i>1/08 - Alert to employees re: drought in the news; water supply plans</i></li> <li>• <i>2/11- General Manager’s email to staff re: 10 percent voluntary</i></li> <li>• <i>3/03 -Update to staff on Customer Service leak hotline message</i></li> <li>• <i>3/11- GM email to staff re: water shortage update and Board action</i></li> <li>• <i>3/13 -Drought overview for employees on local boards and commissions</i></li> <li>• <i>4/04 -Splashes in-depth feature on Freeport startup</i></li> <li>• <i>4/22 -GM announcement to staff regarding supply status</i></li> <li>• <i>4/22: Updated Water Conservation home page on intranet launch pad</i></li> <li>• <i>7/11 –GM announcement to staff about upcoming emergency regulations</i></li> <li>• <b>8/12 – GM announcement about action on Section 28</b></li> <li>• <i>Ongoing: regular updates in Splashes</i></li> <li>• <i>Ongoing: intranet “drought central” tool for employee use</i></li> </ul>
District leaks search	<ul style="list-style-type: none"> <li>• Help customers understand pipe flushing.</li> <li>• Continue/enhance distribution system pipeline leak identification and repairs.</li> <li>• Install data loggers at selected locations to monitor water use.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>2/11 - Signage developed in last drought for field use back in use</i></li> <li>• <i>4/8 - Agenda item recommending purchase of more data loggers approved</i></li> <li>• <i>March+ - installed more than 1,000 data loggers to monitor up to 500 miles of distribution system pipe</i></li> <li>• <i>Aug 2014 - Fixed network leak detection pilot in Kensington starts</i></li> </ul>
District rec areas/bldgs.	<ul style="list-style-type: none"> <li>• Promote fix-a-leak weak campaign.</li> <li>• Audit facilities and cut water use 20 percent</li> <li>• Place drought signage at areas where landscaping is affected by reduced irrigation.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Mar - Distributed handouts at Lafayette, San Pablo and Admin Building</i></li> <li>• <i>May-Audited 39 District facilities to look for ways to cut water use</i></li> <li>• <i>TBD-Identifying locations and having the sign shop make signs.</i></li> </ul>
District Vehicles	<ul style="list-style-type: none"> <li>• Promote conservation</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Aug- Save Water bumper stickers placed on EBMUD vehicles</i></li> </ul>

Audience/ Measure	Objective	Actions/Status
<p><b>Track water production and GPCPD</b></p>	<ul style="list-style-type: none"> <li>• <b>Track water production against a goal of reducing production 10 percent when compared to the same period in 2013.</b></li> <li>• <b>Track residential gallons per capita per day and report it to the State Water Resources Control Board by the 15th of each month from October 2014-April 2015.</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Report water production to date from February 11th to the most current month.</b> To date from February 11th through July 31, water production is 10.7 percent below the same time period in 2013.</li> <li>• <b>Residential GPCPD will be reported starting in October.</b></li> </ul>
<p>Use Freeport facilities to draw supplies</p>	<ul style="list-style-type: none"> <li>• Test fish screens</li> <li>• Transfer CVP water to local reservoirs</li> <li>• Next steps in supplemental supplies</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Apr – Completed</i></li> <li>• <i>July - Completed</i></li> <li>• 9/23 – Report on lessons learned from first year use</li> <li>• 12/9 – Initial report on recommendations for 2015</li> </ul>

As of 8/07/14





## FY15 Demand Reduction Program

*As of July 31, 2014*

Monthly Water Conservation Activity	Current Month	Activity Level to Date
<b>Customer Outreach (on-site audits, self-survey kits, landscape consultations, high-bill inquiries, new account review) - Residential</b>	<b>253</b>	<b>2,563</b>
<i>Single Family</i>	215	2,223
<i>Multi Family (number of dwelling units audited)</i>	38	340
<b>Customer Outreach (on-site audits, landscape consultations, high bill inquiries) - Non Residential</b>	<b>1,554</b>	<b>9,049</b>
<i>Commercial</i>	2	42
<i>Industrial</i>	-	-
<i>Institutional</i>	-	5
<i>Irrigation and IRIS Water Budget Program</i>	1,552	9,002
<b>Devices, Materials and Information Distributed</b>	<b>1,387</b>	<b>9,162</b>
Water Saving Devices (showerheads, aerators, dye tabs, toilet bags, hose nozzles)	75	2,027
Table tents, hotel cards, shower stickers	1,243	5,972
Plant Books	144	1,163
<b>Water Waste Response</b>	<b>266</b>	<b>359</b>
<i>Residential</i>	170	39
<i>Commercial</i>	66	50
<i>Institutional</i>	30	4
<b>Rebates and Leak Adjustments</b>	<b>628</b>	<b>5,509</b>
Rebates Paid (toilets, clotheswashers, irrigation controllers, landscape, etc.) :		-
<i>Residential</i>	618	4,886
<i>Non-Residential</i>	10	623
<b>Community Outreach Presentations/Events</b>	<b>8</b>	<b>84</b>
<b>Contact Center Activity</b>	<b>Current Month</b>	<b>Activity Level to Date</b>
<b>No. of Leak Adjustments</b>	<b>318</b>	<b>1,970</b>
<b>Drought Related Calls</b>	<b>181</b>	<b>311</b>
<b>Drought Related Emails</b>	<b>78</b>	<b>155</b>



**EAST BAY MUNICIPAL UTILITY DISTRICT**

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DATE: August 7, 2014  
 MEMO TO: Board of Directors  
 FROM: Alexander R. Coate, General Manager *AMC*  
 SUBJECT: Legislative Report No. 10-14

The following issues are being referred to the Board of Directors for action, as appropriate.

<u>STATE LEGISLATION</u>	<u>RECOMMENDED POSITION</u>
<b>AB 1739</b> <b>(Dickinson)</b> <b>SB 1168</b> <b>(Pavley)</b>	<b>Support if Amended</b>

Existing law encourages local agencies to work cooperatively to manage groundwater resources within their jurisdictions and, if not otherwise required by law, to voluntarily adopt and implement groundwater management plans. In order for a local agency to be eligible for groundwater project funds administered by the Department of Water Resources (DWR), groundwater management plans must contain components related to funding, management and monitoring. Under existing law, all groundwater basins identified in DWR's Groundwater Report, Bulletin 118, are required to be regularly and systematically monitored locally. If no local entity performs the groundwater elevation monitoring function, DWR will do so, but the local entities are then barred from receiving state water grants or loans.

AB 1739 (Dickinson) and SB 1168 (Pavley), as amended on August 4, 2014, are identical companion measures intended to provide for the sustainable management of groundwater basins in the state. The bills specifically state that the intent is to:

- enhance local management of groundwater consistent with rights to use or store groundwater;
- establish minimum standards for sustainable groundwater management;
- provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater;
- avoid or minimize subsidence;
- improve data collection and understanding about groundwater;
- increase groundwater storage and remove impediments to recharge; and

- 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.

These measures reflect stakeholder input that was solicited by the legislature and administration during the month of July. Additional amendments are anticipated in the coming weeks to further refine the measures.

According to the Assembly Committee on Water, Parks and Wildlife, California uses more groundwater than any other state yet there are no statewide standards for groundwater management. Groundwater provides, on average, 40 percent of California's water supply and that usage can increase to 60 percent or greater in dry years, with DWR estimating that California is overdrafting its groundwater at a rate of 1.5 million acre-feet per year.

AB 1739 and SB 1168 are intended to ensure that all groundwater basins in the state have a designated management entity, known as a groundwater sustainability agency, and to require groundwater sustainability plans for all medium and high priority groundwater basins, which are basins DWR has determined, based on specified criteria including overlying population and water supply use, would benefit the most from monitoring of groundwater levels.

#### Groundwater sustainability agencies

AB 1739 and SB 1168 would require local agencies to identify whether they elect to be, or elect to form, a groundwater sustainability agency with other local agencies. A groundwater sustainability agency is defined as "one or more local agencies," including a local agency "that has water supply, water management or land use responsibilities within a groundwater basin." Under this definition, EBMUD could be a groundwater sustainability agency or could participate as one of the agencies that comprise a groundwater sustainability agency.

Groundwater sustainability agencies would be tasked with developing a groundwater sustainability plan for those basins in their jurisdiction that are classified by DWR as medium and/or high priority basins. In order to carry out this responsibility, groundwater sustainability agencies would be authorized to adopt rules, regulations, ordinances, and resolutions; impose fees on the extraction of groundwater from the basin; and impose civil penalties for excess extractions. In addition, groundwater sustainability agencies would be permitted to perform investigations; acquire property; acquire surface and/or groundwater rights; and regulate groundwater extractions.

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 would be presumed to be the groundwater sustainability agency for that area. The bills also provide for state intervention for basins that are determined to be inadequately managed.

#### Groundwater sustainability plan

AB 1739 and SB 1168 would require that a groundwater sustainability plan be developed and implemented for each medium and high priority basin in the state. The plan would be required to include measureable objectives to achieve sustainability within 20 years and include a planning horizon of 50 years. The bills set forth specific content requirements for a plan that include, but are not limited to, projected water demand and supplies; measures to address contamination; recharge; and efforts to coordinate with land use planning agencies. Plans would be required to be certified by the groundwater sustainability agency and submitted to DWR every five years.

#### Basin boundaries

The measures define groundwater basins as those identified in DWR's Bulletin 118 and requires DWR, as part of the existing California Statewide Groundwater Elevation Monitoring (CASGEM) program, to categorize each basin and subbasin as either a high, medium, low, or very low priority.

Some of the basin boundaries identified in Bulletin 118 may be outdated and appropriately the measures include provisions that would allow a local agency to request DWR to revise the boundaries of a basin, including the establishment of new subbasins. However, the bills do not specifically allow a local agency to request that the prioritization of a basin be changed nor is DWR required to reassess the prioritization of a basin when the boundaries are revised.

The use of appropriate basin boundaries and prioritizations is critical to provide fair access to bond funding. DWR has added CASGEM compliance to its criteria for Proposition 84 funding eligibility and it is possible that compliance with the requirements set forth under this bill could also be used to determine future funding eligibility.

#### EBMUD

Local groundwater resources are a key component of EBMUD's future supplemental water supply strategy. EBMUD led the effort to develop the South East Bay Plain Basin Groundwater Management Plan to safeguard this valuable basin that underlies a portion of EBMUD's service territory. Within the South East Bay Plain Basin, EBMUD has constructed the first phase of the Bayside Groundwater Project which will provide much needed drought supplies to EBMUD customers by storing wet year water underground for use in dry years.

However, Bulletin 118 identifies a single "East Bay Plain Basin" which encompasses both the South East Bay Plain Basin and the North East Bay Plain Basin. Because DWR currently relies on Bulletin 118 basin boundaries, the entire East Bay Plain Basin has been designated under CASGEM as a medium priority basin with no distinction between the South East Bay Plain Basin and the North East Bay Plain Basin despite the marked difference between these two basins. They are not hydrologically connected and, while the South East Bay Plain Basin has a water supply potential, the North East Bay Plain Basin does not.

Amendments needed

AB 1739 and SB 1168 appropriately allow local agencies, such as EBMUD, to request that a basin's boundaries be revised. Having the ability to request that the East Bay Plain Basin boundaries be revised to differentiate between the North East Bay Plain Basin and the South East Bay Plain Basin will help ensure that EBMUD can continue to appropriately manage the South East Bay Plain Basin without having to assume responsibility for the North East Bay Plain Basin, which would provide no ratepayer benefit.

However, when basin boundaries are adjusted, basin prioritizations should be reassessed to ensure that they reflect actual basin conditions. AB 1739 and SB 1168 should be amended to require DWR to reassess a basin's prioritization when the basin's boundaries are revised. This will help ensure that valuable state and local resources are directed to those basins that are accurately characterized as medium and high priority.

Amend Water Code Section 10722.2

**(d) The department shall reassess the prioritization of a basin and/or subbasin when the basin boundaries have been revised pursuant to this act.**

EBMUD has previously supported measures to facilitate groundwater management. In 2011, EBMUD supported AB 359 (Huffman) to increase information available and improve transparency in groundwater management activities. AB 359 was signed into law (Chapter 572). In 2009, EBMUD's Board adopted a "support if amended" position on SB 133 (Corbett) which allowed for a permitting program to protect the Niles Cone Groundwater Basin. EBMUD secured amendments to ensure there would be no adverse impact to EBMUD. SB 133 was signed into law (Chapter 563).

A current list of support and opposition to AB 1739 and SB 1168 is not available.

<b>SB 1199 (Hancock)</b>	<b>WILD AND SCENIC RIVERS: MOKELUMNE RIVER</b>	<b>SUPPORT IF AMENDED</b>
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At the June 24<sup>th</sup> Board meeting, the Board adopted a "support if amended" position on SB 1199, as amended May 28, 2014, on the basis that amendments were under discussion between the Mokelumne area water agencies and Senator Hancock's office to address four main issues:

- revise "free-flowing" language to better define how this non-degradation standard would be applied;
- restore prior language which excluded Roaring Camp from the designated reaches that was in an earlier version of the bill and was subsequently deleted;
- preclude the state from seeking a federal "wild and scenic" designation; and
- make a technical correction regarding the use of "subdivision" as opposed to "chapter."

Staff communicated EBMUD's agreement with these concepts to Senator Hancock and expressed support for a designation that would protect the proposed approximately 37-mile stretch of river from future on-stream development while allowing for the development of water supply-related projects outside of the designated stretch without setting a new "wild and scenic" designation standard that is lower than exists today.

Discussions between the Mokelumne area water agencies, Senator Hancock's office, and the bill's sponsors (Foothill Conservancy and Friends of River) occurred during the month of July in an effort to resolve the four main issues. Initially staff understood that the "chapter" versus "subdivision" issue was a readily correctable technical amendment. We have since learned that this is a point of significant disagreement and has been under discussion along with the other three main points listed above. No final agreement has been reached to date and the bill has not been amended since the Board adopted its "support if amended" position on the bill.

SB 1199 was before the Assembly Appropriations Committee on August 6<sup>th</sup> and placed on the "suspense" file. The committee is scheduled to consider its suspense file on August 14<sup>th</sup> and is expected to act on SB 1199 at that time.

## **FEDERAL LEGISLATION**

<b>S. 2771</b> <b>(Boxer)</b> <b>H.R. 5363</b> <b>(Napolitano)</b>	<b>WATER IN THE 21<sup>ST</sup> CENTURY ACT</b>	<b>SUPPORT</b>
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In 2006, the U.S. Environmental Protection Agency (EPA) initiated a "WaterSense" voluntary labeling program to recognize water-using products that are 20 percent more water-efficient and perform as well or better than standard products. According to the WaterSense website, the program's goal is to decrease indoor and outdoor nonagricultural water use through more efficient products, equipment and programs. Since the program's inception, WaterSense product recognition has been awarded to high-efficiency toilets, urinals, bathroom sink faucets, showerheads, landscape irrigation controllers, and new homes.

S. 2771 (Boxer) and H.R. 5363 (Napolitano) are identical companion measures known as the Water in the 21<sup>st</sup> Century Act (Act). The Act would primarily do five things: (1) strengthen the WaterSense program by providing funding for the program; (2) create a new competitive grant program within EPA to assist water and wastewater systems with climate change mitigation efforts such as projects to conserve water, increase water efficiency or reuse, and modify or move infrastructure; (3) provide loans and loan guarantees to help support projects on a regional scale related to water recycling, groundwater management, water storage and water conveyance infrastructure; (4) support water-use efficiency and desalination research by reauthorizing the Water Resources Research Act and the Water Desalination Act through 2020; and (5) authorize funding for water research institutes.



The WaterSense funding is of particular interest to EBMUD. Similar to H.R. 123 (Miller) from 2013, which EBMUD supported and which would have provided funding and institutional recognition for the WaterSense program, the Act contains authorizations for the WaterSense program of \$100 million, \$150 million, \$200 million, \$150 million, and \$100 million for the years 2015, 2016, 2017, 2018, and 2019, respectively. This funding would be provided to cover up to 50 percent of the costs of state and local programs that provide financial incentives for consumer purchases and installation of water-efficient products, buildings, or landscapes. Entities that would be eligible to receive this funding are the state government, local or county governments, tribal governments, wastewater or sewage utilities, municipal water authorities, energy utilities, water utilities, or nonprofit organizations. Under the provisions of this measure EBMUD would be considered an eligible entity for this funding.

EBMUD provides incentives to its residential customers for the installation of water saving devices such as high-efficiency toilets and water-efficient clothes washers. The Act would promote water conservation by providing federal support for water conservation incentive programs, such as the ones operated by EBMUD.

In addition, the Act seeks to provide additional funding support for climate change mitigation projects, such as water conservation, water-use efficiency, and water recycling projects through a new competitive grant program, though authorized funding levels are not specified, as well as support for local investments in regional projects, such as water recycling and desalination, through a loan and loan guarantee program. EBMUD would potentially be eligible to compete for funding under these provisions.

Support of S. 2771 and H.R. 5363 is consistent with EBMUD's efforts to encourage water conservation and water recycling, as well as EBMUD's 2014 federal initiatives to seek federal funding opportunities.

EBMUD has previously supported measures to strengthen the WaterSense program. Most recently, in 2013, EBMUD supported H.R. 123 (Holt, Miller) which would have provided funding for the WaterSense program. EBMUD also supported two prior measures identical to H.R. 123, H.R. 1967 (Holt, Miller) in 2011 and H.R.2368 (Holt, Miller) in 2009. Each of these measures failed to advance out of congress.

A current list of support and opposition to S. 2771 and H.R. 5363 is not available.

ARC:MD:JF

AMENDED IN ASSEMBLY AUGUST 4, 2014

AMENDED IN ASSEMBLY JUNE 17, 2014

AMENDED IN SENATE APRIL 23, 2014

AMENDED IN SENATE APRIL 10, 2014

**SENATE BILL**

**No. 1168**

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**Introduced by Senator Pavley**

(Principal coauthor: Assembly Member Dickinson)

February 20, 2014

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An act to amend Sections 65352 and 65352.5 of, and to add Section 65350.5 to, the Government Code, and to amend Sections ~~10927 and 10933~~ of, to add Sections ~~113 and 10750.11~~ to, *1120, 1831, 10927, 10933, and 12924* of, to add Sections *113, 1529.5, and 10750.1* to, to add Part 5.2 (commencing with Section 5200) to Division 2 of, and to add Part 2.74 (commencing with Section 10720) to Division 6 of, the Water Code, relating to groundwater.

LEGISLATIVE COUNSEL'S DIGEST

SB 1168, as amended, Pavley. Groundwater management.

*(1) The California Constitution requires the reasonable and beneficial use of water. Existing law establishes various state water policies, including the policy that the people of the state have a paramount interest in the use of all the water of the state and that the state is required to determine what water of the state, surface and underground, can be converted to public use or be controlled for public protection.*

*This bill would state the policy of the state that groundwater resources be managed sustainably for long-term water supply reliability and multiple economic, social, or environmental benefits for current and future beneficial uses. This bill would state that sustainable groundwater*

*management is best achieved locally through the development, implementation, and updating of plans and programs based on the best available science.*

*(2) Existing law requires the Department of Water Resources, in conjunction with other public agencies, to conduct an investigation of the state's groundwater basins and to report its findings to the Legislature not later than January 1, 2012, and thereafter in years ending in 5 and 0. Existing law requires the department to identify the extent of monitoring of groundwater elevations that is being undertaken within each basin or subbasin and to prioritize groundwater basins and subbasins.*

*This bill would require the department, in consultation with the Department of Fish and Wildlife, to identify and develop prioritization criteria for the purpose of identifying groundwater basins and subbasins that should be prioritized based on adverse impacts to habitat and surface water resources. This bill would require the department to categorize each basin as high-, medium-, low-, or very low priority and would require the initial priority for each basin to be established no later than January 1, 2017. This bill would authorize a local agency to request that the department revise the boundaries of a basin. This bill would require the department to provide a copy of its draft revision of a basin's boundaries to the California Water Commission and would require the commission to hear and comment on the draft revision.*

*(3) Existing law authorizes local agencies to adopt and implement a groundwater management plan. Existing law requires a groundwater management plan to contain specified components and requires a local agency seeking state funds administered by the Department of Water Resources for groundwater projects or groundwater quality projects to do certain things, including, but not limited to, preparing and implementing a groundwater management plan that includes basin management objectives for the groundwater basin.*

*This bill would prohibit, beginning January 1, 2015, a new groundwater management plan from being adopted or an existing groundwater management plan from being renewed, except for a low- or very low priority basin.*

*This bill would require, by January 31, 2020, all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans of a groundwater sustainability agency, with specified exceptions. This bill would require*

*a groundwater sustainability plan to be developed and implemented to meet the sustainability goal, established as prescribed, and would require the plan to include prescribed components. This bill would require a groundwater sustainability agency to certify to the department that its plan complies with the requirements of the act no later than January 31, 2020, and every 5 years thereafter. This bill would encourage and authorize basins designated as low- or very low priority basins to be managed under groundwater sustainability plans.*

*This bill would authorize any local agency, as defined, or combination of local agencies to elect to be a groundwater sustainability agency and would require, within 30 days of electing to be or forming a groundwater sustainability agency, the groundwater sustainability agency to inform the department of its election or formation and its intent to undertake sustainable groundwater management. This bill would provide that a county within which an area unmanaged by a groundwater sustainability agency lies is presumed to be the groundwater sustainability agency for that area and would require the county to provide a prescribed notification to the department. This bill would provide specific authority to a groundwater sustainability agency, including, but not limited to, the ability to require registration of a groundwater extraction facility, to require that a groundwater extraction facility be measured with a water-measuring device, to regulate groundwater pumping, and to impose certain fees.*

*This bill would authorize the department or a groundwater sustainability agency to provide technical assistance to entities that extract or use groundwater to promote water conservation and protect groundwater resources. This bill would require the department, by January 1, 2017, to publish on its Internet Web site best management practices for the sustainable management of groundwater.*

*This bill would require a groundwater sustainability agency to submit a groundwater sustainability plan to the department for review upon completion. This bill would require the department to periodically review groundwater sustainability plans, and by June 1, 2016, would require the department, in consultation with the State Water Resources Control Board, to develop guidelines for evaluating groundwater sustainability plans and groundwater sustainability programs. This bill would authorize a local agency to submit to the department for evaluation and assessment an alternative plan that is not a groundwater sustainability plan that the local agency believes satisfies the objectives of these provisions as a functional equivalent. This bill would provide*

*that a basin is in compliance with these provisions if a groundwater agency or other local agency submits to the department, no later than January 31, 2020, a copy of a governing final judgment or other judicial order or decree establishing a groundwater sustainability program for the basin or a prescribed report that shows that current management or operations activities have been consistent with the sustainable yield of the basin over a period of at least 10 years. This bill would require the department to review any of the above-described submissions at least every 5 years after initial submission to the department. This bill would require the department to adopt a schedule of fees to recover costs incurred.*

*This bill would authorize a groundwater sustainability agency and the board to conduct inspections and would authorize a groundwater sustainability agency or the board to obtain an inspection warrant. Because the willful refusal of an inspection lawfully authorized by an inspection warrant is a misdemeanor, this bill would impose a state-mandated local program by expanding the application of a crime.*

*This bill would authorize the board to designate a basin as a probationary basin, if the board makes a certain determination. This bill would authorize the board to develop an interim plan for a probationary basin if the board, in consultation with the department, determines that a local agency has not remedied a deficiency that resulted in designating the basin as a probationary basin within a certain timeframe. This bill would authorize the board to adopt an interim plan for a probationary basin after notice and a public hearing and would require state entities to comply with an interim plan. This bill would specifically authorize the board to rescind all or a portion of an interim plan if the board determines at the request of specified petitioners that a groundwater sustainability plan or 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. This bill would provide that the board has authority to stay its proceedings relating to an interim plan or to rescind or amend an interim plan based on the progress made by a groundwater sustainability agency or in an adjudication action.*

*Existing law establishes the Water Rights Fund, which consists of various fees and penalties. The moneys in the Water Rights Fund are available, upon appropriation by the Legislature, for the administration of the board's water rights program.*

*This bill would require the board to adopt a schedule of fees in an amount sufficient to recover all costs incurred and expended from the Water Rights Fund for the purpose of administering the above-described provisions.*

*Under existing law, a person who violates a cease and desist order of the board may be liable in an amount not to exceed \$1,000 for each day in which the violation occurs. Revenue generated from these penalties is deposited in the Water Rights Fund.*

*This bill would authorize the board to issue a cease and desist order in response to a violation or threatened violation of the above-described provisions.*

*(4) Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city with specified elements, including, among others, land use and conservation elements. Existing law requires a city or county, upon the adoption or revision of its general plan, on or after January 1, 1996, to utilize as a source document any urban water management plan submitted to the city or county by a water agency.*

*This bill would require, prior to the adoption or any substantial amendment of a general plan, the planning agency to review and consider a groundwater sustainability plan, groundwater management plan, groundwater management court order, judgment, or decree, adjudication of water rights, or a certain order of the State Water Resources Control Board. This bill would require the planning agency to refer a proposed action to adopt or substantially amend a general plan to any groundwater sustainability agency that has adopted a groundwater sustainability plan or local agency that otherwise manages groundwater and to the State Water Resources Control Board if it has adopted an interim plan that includes territory within the planning area.*

*Existing law requires a public water system to provide a planning agency with certain information upon receiving notification of a city's or a county's proposed action to adopt or substantially amend a general plan.*

*This bill would also require a public water system to provide a report on the anticipated effect of the proposed action on implementation of a groundwater sustainability plan. This bill would require a groundwater sustainability agency to provide the planning agency with certain information as is appropriate and relevant.*

*By imposing new duties on a city or county, this bill would impose a state-mandated local program.*

*(5) This bill would state the intent of the Legislature to subsequently amend this measure to adopt extraction reporting requirements for basins identified by the State Water Resources Control Board as probationary basins or basins without a groundwater sustainability agency.*

*(6) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

*(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*

*This bill would make legislative findings to that effect.*

~~Existing law requires the Department of Water Resources to identify the extent of monitoring of groundwater elevations that is being undertaken within each basin or subbasin and prioritize groundwater basins and subbasins.~~

~~This bill would require the department, pursuant to these provisions, to categorize each basin and subbasin as either high priority, medium priority, low priority, or very low priority. The bill would require the Department of Fish and Wildlife, in collaboration with the department, to identify those basins and subbasins where species and ecosystems are vulnerable to existing or future groundwater conditions.~~

~~Existing law authorizes local agencies, as defined, to adopt and implement a groundwater management plan. Existing law requires a groundwater management plan to contain specified components and requires a local agency seeking state funds administered by the department for groundwater projects or groundwater quality projects to do certain things, including, but not limited to, prepare and implement~~

~~a groundwater management plan that includes basin management objectives for the groundwater basin.~~

~~This bill would prohibit a groundwater management plan from being adopted, or an existing groundwater management plan from being renewed, under these provisions, on or after January 1, 2015. The bill would instead enact the Sustainable Groundwater Management Act, and would state as the intent of the Legislature to, among other things, provide local groundwater agencies with the authority and assistance necessary to sustainably manage groundwater. The bill would authorize a local agency or agencies to form a groundwater management agency and to develop a sustainable groundwater management plan, defined as a document that describes the activities intended to be included in a groundwater management program, to be developed and adopted to encompass an entire basin or subbasin. The bill would also authorize a groundwater management agency to, among other things, establish and collect fees for the management of groundwater and establish a system for allocating groundwater. The bill would require a groundwater management agency to be formed and managed so that the interests of all beneficial uses and users of groundwater are considered and would require a sustainable groundwater management plan to meet certain criteria, including provisions relating to the monitoring and management of groundwater levels within the groundwater basin, mitigating or avoiding conditions of overdraft, and controlling saline water intrusion, if relevant.~~

~~The bill would require, for basins and subbasins that have been identified by the department as high priority or medium priority, that a groundwater management plan be completed and submitted to the department by January 1, 2020, and be designed to achieve sustainable groundwater management within 20 years of the plan's adoption. The bill would require the department, in consultation with the board, to establish a process for the certification of groundwater management plans that existed before January 1, 2015, if those plans substantially meet the purposes and goals of this measure.~~

~~This bill would require the groundwater management agency to prepare and provide notice to the public of an annual report, which would include a summary of the agency's characterization of the basin, water budget, sustainable yield, and status of the groundwater management plan development and implementation. The bill would authorize the state to take action to cause a sustainable groundwater management plan to be developed, adopted, and implemented, and~~



would require that the state make all reasonable efforts to transfer management of a groundwater basin back to local agencies. The bill would require the department to provide technical assistance to groundwater management agencies, including developing best management practices and guidelines to assist groundwater agencies in the development and implementation of sustainable groundwater management plans and reporting on statewide groundwater basin characterization.

The Planning and Zoning Law requires the legislative body of a city or county to adopt a general plan that consists of various elements, including a land use element, a conservation element, and an open-space element. Existing law requires, prior to action by a legislative body to adopt or substantially amend a general plan, that the planning agency refer the proposed action to specified state, local, and federal agencies.

This bill would require that the plan also be referred to a groundwater management agency or local agency that has adopted a groundwater management plan, or the State Water Resources Control Board if it has adopted a groundwater management plan, that includes territory within the planning area of the proposed general plan. The bill would require the local agency or the State Water Resources Control Board, upon receiving notice of the proposed action to adopt or substantially amend the general plan, to provide the planning agency with certain information relating to groundwater. The bill would also require the planning agency, before adoption or substantial amendment to the general plan, to review and revise its land use, conservation, and open-space element to address groundwater management plans and any limitations on groundwater pumping imposed by a groundwater management agency. By imposing additional duties on local officials, this 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. (a) The Legislature finds and declares as follows:*

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

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

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

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

20     *(5) Failure to manage groundwater to prevent long-term*  
21 *overdraft infringes on groundwater rights.*

22     *(6) Groundwater resources are most effectively managed at the*  
23 *local or regional level.*

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

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

29     *(9) In those circumstances where a local groundwater*  
30 *management agency is not managing its groundwater sustainably,*  
31 *the state needs to protect the resource until it is determined that*  
32 *a local groundwater management agency can sustainably manage*  
33 *the groundwater basin or subbasin.*

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

37     *(11) Sustainable groundwater management in California*  
38 *depends upon creating more opportunities for robust conjunctive*

1 management of surface water resources. Climate change will  
 2 intensify the need to recalibrate and reconcile surface and  
 3 groundwater management strategies.

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

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

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

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

21 (4) To respect overlying and other proprietary rights to  
 22 groundwater.

23 SEC. 2. Section 65350.5 is added to the Government Code, to  
 24 read:

25 65350.5. Before the adoption or any substantial amendment  
 26 of a city's or county's general plan, the planning agency shall  
 27 review and consider all of the following:

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

33 (b) An adjudication of water rights.

34 (c) An order by the State Water Resources Control Board  
 35 pursuant to Chapter 11 (commencing with Section 10735) of Part  
 36 2.74 of Division 6 of the Water Code.

37 SEC. 3. Section 65352 of the Government Code is amended to  
 38 read:

39 65352. (a) ~~Prior to action by~~ Before a legislative body takes  
 40 action to adopt or substantially amend a general plan, the planning

1 agency shall refer the proposed action to all of the following  
2 entities:

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

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

8 (3) The local agency formation commission.

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

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

15 (6) (A) The branches of the United States Armed Forces that  
16 have provided the Office of Planning and Research with a  
17 California mailing address pursuant to subdivision (d) of Section  
18 ~~65944~~ ~~when 65944~~, if the proposed action is within 1,000 feet of  
19 a military installation, or lies within special use airspace, or beneath  
20 a low-level flight path, as defined in Section 21098 of the Public  
21 Resources Code, ~~provided that~~ *and if* the United States Department  
22 of Defense provides electronic maps of low-level flight paths,  
23 special use airspace, and military installations at a scale and in an  
24 electronic format that is acceptable to the Office of Planning and  
25 Research.

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

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

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

7 (9) The State Water Resources Control Board, if it has adopted  
 8 an interim plan pursuant to Part 2.74 (commencing with Section  
 9 10720) of Division 6 of the Water Code that includes territory  
 10 within the planning area of the proposed general plan.

11 ~~(8)~~  
 12 (10) The Bay Area Air Quality Management District for a  
 13 proposed action within the boundaries of the district.

14 ~~(9) On and after March 1, 2005, a~~

15 (11) A California Native American tribe, that is on the contact  
 16 list maintained by the Native American Heritage Commission,  
 17 with Commission and that has traditional lands located within the  
 18 city city’s or county’s jurisdiction.

19 ~~(10)~~

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

24 (b) ~~Each~~An entity receiving a proposed general plan or  
 25 amendment of a general plan pursuant to this section shall have  
 26 45 days from the date the referring agency mails it or delivers it  
 27 in which to comment unless a longer period is specified by the  
 28 planning agency.

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

32 (2) To the extent that the requirements of this section conflict  
 33 with the requirements of Chapter 4.4 (commencing with Section  
 34 65919), the requirements of Chapter 4.4 shall prevail.

35 SEC. 4. Section 65352.5 of the Government Code is amended  
 36 to read:

37 65352.5. (a) The Legislature finds and declares that it is vital  
 38 that there be close coordination and consultation between  
 39 California’s water supply or management agencies and California’s  
 40 land use approval agencies to ensure that proper water supply and

1 *management* planning occurs ~~in order~~ to accommodate projects  
2 that will result in increased demands on water supplies *or impact*  
3 *water resource management*.

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

10 (c) Upon receiving, pursuant to Section 65352, notification of  
11 a city's or a county's proposed action to adopt or substantially  
12 amend a general plan, a public water system, as defined in Section  
13 116275 of the Health and Safety Code, with 3,000 or more service  
14 connections, shall provide the planning agency with the following  
15 information, as is appropriate and relevant:

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

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

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

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

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

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

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

36 (A) Agricultural users.

37 (B) Commercial users.

38 (C) Industrial users.

39 (D) Residential users.

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

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

9 (10) *A report on the anticipated effect of proposed action to*  
 10 *adopt or substantially amend a general plan on implementation*  
 11 *of a groundwater sustainability plan pursuant to Part 2.74*  
 12 *(commencing with Section 10720) of Division 6 of the Water Code.*

13 (d) *Upon receiving, pursuant to Section 65352, notification of*  
 14 *a city’s or a county’s proposed action to adopt or substantially*  
 15 *amend a general plan, a groundwater sustainability agency, as*  
 16 *defined in Section 10720.5 of the Water Code, shall provide the*  
 17 *planning agency with the following information, as is appropriate*  
 18 *and relevant:*

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

22 (2) *If the groundwater sustainability agency manages*  
 23 *groundwater pursuant to a court order, judgment, decree, or*  
 24 *agreement among affected water rights holders, or if the State*  
 25 *Water Resources Control Board has adopted a groundwater*  
 26 *sustainability plan pursuant to Part 2.74 (commencing with Section*  
 27 *10720) of Division 6 of the Water Code, the groundwater*  
 28 *sustainability agency shall provide the planning agency with maps*  
 29 *of recharge basins and percolation ponds, extraction limitations,*  
 30 *and other relevant information, or the court order, judgment, or*  
 31 *decree.*

32 SEC. 5. *Section 113 is added to the Water Code, to read:*

33 113. *It is the policy of the state that groundwater resources be*  
 34 *managed sustainably for long-term water supply reliability and*  
 35 *multiple economic, social, or environmental benefits for current*  
 36 *and future beneficial uses. Sustainable groundwater management*  
 37 *is best achieved locally through the development, implementation,*  
 38 *and updating of plans and programs based on the best available*  
 39 *science.*

40 SEC. 6. *Section 1120 of the Water Code is amended to read:*

1 1120. This chapter applies to any decision or order issued under  
2 this part or Section 275, Part 2 (commencing with Section 1200),  
3 Part 2 (commencing with Section 10500) of Division 6, *Chapter*  
4 *11 (commencing with Section 10735) of Part 2.74 of Division 6,*  
5 Article 7 (commencing with Section 13550) of Chapter 7 of  
6 Division 7, or the public trust doctrine.

7 *SEC. 7. Section 1529.5 is added to the Water Code, to read:*

8 *1529.5. (a) The board shall adopt a schedule of fees pursuant*  
9 *to Section 1530 to recover costs incurred in administering Chapter*  
10 *11 (commencing with Section 10735) of Part 2.74 of Division 6.*  
11 *Recoverable costs include, but are not limited to, costs incurred*  
12 *in connection with investigations, facilitation, monitoring, hearings,*  
13 *enforcement, and administrative costs in carrying out these actions.*

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

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

18 *(2) A fee for the filing of a report pursuant to Part 5.2*  
19 *(commencing with Section 5200) of Division 2 for extractions from*  
20 *a source within the boundaries of a probationary basin under*  
21 *Section 10735.2.*

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

31 *SEC. 8. Section 1831 of the Water Code is amended to read:*

32 *1831. (a) When the board determines that any person is*  
33 *violating, or threatening to violate, any requirement described in*  
34 *subdivision (d), the board may issue an order to that person to*  
35 *cease and desist from that violation.*

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

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



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

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

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

7 (3) Any decision or order of the board issued under this part,  
 8 Section 275, *Chapter 11 (commencing with Section 10735) of Part*  
 9 *2.74 of Division 6*, or Article 7 (commencing with Section 13550)  
 10 of Chapter 7 of Division 7, in which decision or order the person  
 11 to whom the cease and desist order will be issued, or a predecessor  
 12 in interest to that person, was named as a party directly affected  
 13 by the decision or order.

14 (4) A regulation adopted under Section 1058.5.

15 (5) *Any pumping restriction, limitation, order, or regulation*  
 16 *adopted or issued under Chapter 11 (commencing with Section*  
 17 *10735) of Part 2.74 of Division 6.*

18 (e) This article ~~shall~~ *does* not authorize the board to regulate in  
 19 any manner, the diversion or use of water not otherwise subject to  
 20 regulation of the board under this ~~part~~ *division or Section 275.*

21 *SEC. 9. Part 5.2 (commencing with Section 5200) is added to*  
 22 *Division 2 of the Water Code, to read:*

23  
 24 ***PART 5.2. GROUNDWATER EXTRACTION REPORTING FOR***  
 25 ***PROBATIONARY BASINS AND BASINS WITHOUT A***  
 26 ***GROUNDWATER SUSTAINABILITY AGENCY***  
 27

28 *5200. It is the intent of the Legislature to subsequently amend*  
 29 *this measure to adopt extraction reporting requirements for basins*  
 30 *identified as probationary basins pursuant to Section 10735.2, or*  
 31 *as authorized by subdivision (b) of Section 10724, for basins*  
 32 *without a groundwater sustainability agency.*

33 *SEC. 10. Part 2.74 (commencing with Section 10720) is added*  
 34 *to Division 6 of the Water Code, to read:*

1 PART 2.74. SUSTAINABLE GROUNDWATER MANAGEMENT

2  
3 CHAPTER 1. GENERAL PROVISIONS

4  
5 10720. This part shall be known, and may be cited, as the  
6 “Sustainable Groundwater Management Act.”

7 10720.1. In enacting this part, it is the intent of the Legislature  
8 to do all of the following:

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

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

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

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

22 (e) To avoid or minimize subsidence.

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

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

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

31 10720.3. (a) This part applies to all groundwater basins in  
32 the state.

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

36 10720.5. Groundwater management pursuant to this part shall  
37 be consistent with Section 2 of Article X of the California  
38 Constitution. Nothing in this part modifies rights or priorities to  
39 use or store groundwater consistent with Section 2 of Article X of  
40 the California Constitution, except that in basins designated

1 *medium- or high-priority basins by the department, no extraction*  
2 *of groundwater between January 1, 2015, and the date of adoption*  
3 *of a groundwater sustainability plan pursuant to this part,*  
4 *whichever is sooner, may be used as evidence of, or to establish*  
5 *or defend against, any claim of prescription.*

6 *10720.7. Subject to Chapter 6 (commencing with Section*  
7 *10725), by January 31, 2020, all basins designated as high- or*  
8 *medium-priority basins by the department shall be managed under*  
9 *a groundwater sustainability plan or coordinated groundwater*  
10 *sustainability plans pursuant to this part. The Legislature*  
11 *encourages and authorizes basins designated as low-and very low*  
12 *priority basins by the department to be managed under*  
13 *groundwater sustainability plans pursuant to this part.*

14 *10720.9. (a) Except as provided in Section 10733.6, this part*  
15 *does not apply to a local agency that conforms to the requirements*  
16 *of an adjudication of water rights in a groundwater basin or to*  
17 *that adjudicated basin. For purposes of this section, an*  
18 *adjudication includes an adjudication under Section 2101, an*  
19 *administrative adjudication, and an adjudication in state or federal*  
20 *court, including, but not limited to, the following adjudicated*  
21 *groundwater basins:*

- 22 *(1) Beaumont Basin.*
- 23 *(2) Brite Basin.*
- 24 *(3) Central Basin.*
- 25 *(4) Chino Basin.*
- 26 *(5) Cucamonga Basin.*
- 27 *(6) Cummings Basin.*
- 28 *(7) Goleta Basin.*
- 29 *(8) Main San Gabriel Basin: Puente Narrows.*
- 30 *(9) Mojave Basin Area.*
- 31 *(10) Puente Basin.*
- 32 *(11) Raymond Basin.*
- 33 *(12) San Jacinto Basin.*
- 34 *(13) Santa Margarita River Watershed.*
- 35 *(14) Santa Maria Valley Basin.*
- 36 *(15) Santa Paula Basin.*
- 37 *(16) Scott River Stream System.*
- 38 *(17) Seaside Basin.*
- 39 *(18) Six Basins.*
- 40 *(19) Tehachapi Basin.*

- 1 (20) *Upper Los Angeles River Area.*
- 2 (21) *Warren Valley Basin.*
- 3 (22) *West Coast Basin.*
- 4 (23) *Western San Bernardino.*
- 5 (b) *The Antelope Valley basin at issue in the Antelope Valley*
- 6 *Groundwater Cases (Judicial Council Coordination Proceeding*
- 7 *Number 4408) shall be treated as an adjudicated basin pursuant*
- 8 *to this section if the superior court issues a final judgment, order,*
- 9 *or decree.*

10  
11 *CHAPTER 2. DEFINITIONS*

12  
13 *10721. Unless the context otherwise requires, the following*

14 *definitions govern the construction of this part:*  
15 (a) *“Adjudication action” means an action filed in the superior*

16 *court to determine the rights to extract groundwater from a basin*

17 *or store water within a basin, including, but not limited to, actions*

18 *to quiet title respecting rights to extract or store groundwater or*

19 *an action brought to impose a physical solution on a basin.*

20 (b) *“Basin” means a groundwater basin or subbasin identified*

21 *and defined in Bulletin 118 or as modified pursuant to Chapter 3*

22 *(commencing with Section 10722).*

23 (c) *“Bulletin 118” means the department’s report entitled*

24 *“California’s Groundwater: Bulletin 118” updated in 2003, as it*

25 *may be subsequently updated or revised in accordance with Section*

26 *12924.*

27 (d) *“Coordination agreement” means a legal agreement adopted*

28 *between two or more groundwater sustainability agencies that*

29 *provides the basis for coordinating multiple agencies or*

30 *groundwater sustainability plans within a basin pursuant to this*

31 *part.*

32 (e) *“De minimus extractor” means a person who extracts, for*

33 *domestic purposes, two acre-feet or less per year.*

34 (f) *“Governing body” means the legislative body of a*

35 *groundwater sustainability agency.*

36 (g) *“Groundwater” means water beneath the surface of the*

37 *earth within the zone below the water table in which the soil is*

38 *completely saturated with water, but does not include water that*

39 *flows in known and definite channels.*

- 1 (h) “Groundwater extraction facility” means a device or method  
2 for extracting groundwater from within a basin.
- 3 (i) “Groundwater recharge” means the augmentation of  
4 groundwater, by natural or artificial means.
- 5 (j) “Groundwater sustainability agency” means one or more  
6 local agencies that implement the provisions of this part. For  
7 purposes of imposing fees pursuant to Chapter 8 (commencing  
8 with Section 10730) or taking action to enforce a groundwater  
9 sustainability plan, “groundwater sustainability agency” also  
10 means each local agency comprising the groundwater  
11 sustainability agency if the plan authorizes separate agency action.
- 12 (k) “Groundwater sustainability plan” or “plan” means a plan  
13 of a groundwater sustainability agency proposed or adopted  
14 pursuant to this part.
- 15 (l) “Groundwater sustainability program” means a coordinated  
16 and ongoing activity undertaken to benefit a basin, pursuant to a  
17 groundwater sustainability plan.
- 18 (m) “Local agency” means a local public agency that has water  
19 supply, water management, or land use responsibilities within a  
20 groundwater basin.
- 21 (n) “Operator” means a person operating a groundwater  
22 extraction facility. The owner of a groundwater extraction facility  
23 shall be conclusively presumed to be the operator unless a  
24 satisfactory showing is made to the governing body of the  
25 groundwater sustainability agency that the groundwater extraction  
26 facility actually is operated by some other person.
- 27 (o) “Owner” means a person owning a groundwater extraction  
28 facility or an interest in a groundwater extraction facility other  
29 than a lien to secure the payment of a debt or other obligation.
- 30 (p) “Planning and implementation horizon” means a 50-year  
31 time period over which a groundwater sustainability agency  
32 determines that plans and measures will be implemented in a basin  
33 to ensure that the basin is operated within its sustainable yield.
- 34 (q) “Public water system” has the same meaning as defined in  
35 Section 116275 of the Health and Safety Code.
- 36 (r) “Recharge area” means the area that supplies water to an  
37 aquifer in a groundwater basin.
- 38 (s) “Sustainability goal” means the existence and  
39 implementation of one or more groundwater sustainability plans  
40 that achieve sustainable groundwater management by identifying

1 *and causing the implementation of measures targeted to ensure*  
2 *that the applicable basin is operated within its sustainable yield.*

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

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

12 (v) *“Undesirable result” means one or more of the following*  
13 *effects occurring after January 1, 2015, and caused by*  
14 *groundwater conditions occurring throughout the basin:*

15 (1) *Chronic lowering of groundwater levels indicating a*  
16 *significant and unreasonable depletion of supply if continued over*  
17 *the planning and implementation horizon, excluding lowering*  
18 *groundwater levels caused by a drought.*

19 (2) *Significant and unreasonable reduction of groundwater*  
20 *storage.*

21 (3) *Significant seawater intrusion.*

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

25 (5) *Significant land subsidence that substantially interferes with*  
26 *surface land uses.*

27 (6) *Surface water depletions that have significant adverse*  
28 *impacts on beneficial uses.*

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

32 (x) *“Watermaster” means a watermaster appointed by a court*  
33 *or pursuant to other law.*

34 (y) *“Water year” means the period from October 1 through the*  
35 *following September 30, inclusive.*

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

## CHAPTER 3. BASIN BOUNDARIES

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*10722. Unless other basin boundaries are established pursuant to this chapter, a basin's boundaries shall be as identified in Bulletin 118.*

*10722.2. (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 develop and publish guidelines regarding the information required to comply with subdivision (a). The guidelines required pursuant to this subdivision are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.*

*(c) 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. (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 1, 2017.*

1           *CHAPTER 4. ESTABLISHING GROUNDWATER SUSTAINABILITY*  
2                                 *AGENCIES*

3  
4           10723. (a) *Any local agency or combination of local agencies*  
5 *may elect to be a groundwater sustainability agency.*

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

10          10723.2. *The groundwater sustainability agency shall consider*  
11 *the interests of all beneficial uses and users of groundwater, as*  
12 *well as those responsible for implementing groundwater*  
13 *sustainability plans. These interests include, but are not limited*  
14 *to, all of the following:*

15          (a) *Holders of overlying groundwater rights, including:*

16           (1) *Agricultural users.*

17           (2) *Domestic well owners.*

18          (b) *Municipal well operators.*

19          (c) *Public water systems.*

20          (d) *Local land use planning agencies.*

21          (e) *Environmental users of groundwater.*

22          (f) *Surface water users, if there is a hydrologic connection*  
23 *between surface and groundwater bodies.*

24          (g) *The federal government, including, but not limited to, the*  
25 *military and managers of federal lands.*

26          (h) *Indian tribes.*

27          10723.4. *The groundwater sustainability agency shall establish*  
28 *and maintain a list of persons interested in receiving notices*  
29 *regarding plan preparation, meeting announcements, and*  
30 *availability of draft plans, maps, and other relevant documents.*  
31 *Any person may request, in writing, to be placed on the list of*  
32 *interested persons.*

33          10723.6. *A combination of local agencies may form a*  
34 *groundwater sustainability agency by using any of the following*  
35 *methods:*

36          (a) *A joint powers agreement.*

37          (b) *A memorandum of agreement or other legal agreement.*

38          10723.8. *Within 30 days of electing to be or forming a*  
39 *groundwater sustainability agency, the groundwater sustainability*  
40 *agency shall inform the department of its election or formation*



1 *and its intent to undertake sustainable groundwater management.*  
 2 *The notification shall include the following information, as*  
 3 *applicable:*

4 *(a) The service area boundaries, the basin the agency is*  
 5 *managing, and the other groundwater sustainability agencies*  
 6 *operating within the basin.*

7 *(b) A copy of the resolution forming the new agency.*

8 *(c) A copy of the bylaws, ordinances, and new authorities.*

9 *10724. (a) In the event that there is an area within a basin*  
 10 *that is not within the management area of a groundwater*  
 11 *sustainability agency, the county within which that unmanaged*  
 12 *area lies will be presumed to be the groundwater sustainability*  
 13 *agency for that area.*

14 *(b) A county described in subdivision (a) shall provide*  
 15 *notification to the department pursuant to Section 10723.8 unless*  
 16 *the county notifies the department that it will not be the*  
 17 *groundwater sustainability agency for the area. Extractions of*  
 18 *groundwater made after 2016 in that area shall be subject to*  
 19 *reporting in accordance with Part 5.2 (commencing with Section*  
 20 *5200) of Division 2 if the county does either of the following:*

21 *(1) Notifies the department that it will not be the groundwater*  
 22 *sustainability agency for an area.*

23 *(2) Fails to provide notification to the department pursuant to*  
 24 *Section 10723.8 for an area on or before January 1, 2017.*

25

26 *CHAPTER 5. POWERS AND AUTHORITIES*

27

28 *10725. (a) A groundwater sustainability agency may exercise*  
 29 *any of the powers described in this chapter in implementing this*  
 30 *part, in addition to, and not as a limitation on, any existing*  
 31 *authority, if the groundwater sustainability agency adopts and*  
 32 *submits to the department a groundwater sustainability plan or*  
 33 *prescribed alternative documentation in accordance with Section*  
 34 *10733.6.*

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

39 *10725.2. (a) A groundwater sustainability agency may perform*  
 40 *any act necessary or proper to carry out the purposes of this part.*

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

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

11 10725.4. (a) A groundwater sustainability agency may conduct  
12 an investigation for the purposes of this part, including, but not  
13 limited to, investigations for the following:

14 (1) To determine the need for groundwater management.

15 (2) To prepare and adopt a groundwater sustainability plan  
16 and implementing rules and regulations.

17 (3) To propose and update fees.

18 (4) To monitor compliance and enforcement.

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

21 (c) In connection with an investigation, a groundwater  
22 sustainability agency may inspect the property or facilities of a  
23 person or entity to ascertain whether the purposes of this part are  
24 being met and compliance with this part. The local agency may  
25 conduct an inspection pursuant to this section upon obtaining any  
26 necessary consent or obtaining an inspection warrant pursuant  
27 to the procedure set forth in Title 13 (commencing with Section  
28 1822.50) of Part 3 of the Code of Civil Procedure.

29 10725.6. A groundwater sustainability agency may require  
30 registration of a groundwater extraction facility within the  
31 management area of the groundwater sustainability agency.

32 10725.8. (a) A groundwater sustainability agency may require  
33 through its groundwater sustainability plan that the use of every  
34 groundwater extraction facility within the management area of  
35 the groundwater sustainability agency be measured by a  
36 water-measuring device satisfactory to the groundwater  
37 sustainability agency.

38 (b) All costs associated with the purchase and installation of  
39 the water-measuring device shall be borne by the owner or  
40 operator of each groundwater extraction facility. The water

1 *measuring devices shall be installed by the groundwater*  
2 *sustainability agency or, at the groundwater sustainability agency's*  
3 *option, by the owner or operator of the groundwater extraction*  
4 *facility. Water-measuring devices shall be calibrated on a*  
5 *reasonable schedule as may be determined by the groundwater*  
6 *sustainability agency.*

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

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

17 *(e) This section does not apply to de minimus extractors.*

18 *10726. An entity within the area of a groundwater sustainability*  
19 *plan shall only divert surface water to underground storage*  
20 *consistent with the plan and shall report the diversion to*  
21 *underground storage to the groundwater sustainability agency for*  
22 *the relevant portion of the basin.*

23 *10726.2. A groundwater sustainability agency may do the*  
24 *following:*

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

32 *(b) Appropriate and acquire surface water or groundwater and*  
33 *surface water or groundwater rights, import surface water or*  
34 *groundwater into the agency, and conserve and store within or*  
35 *outside the agency that water for any purpose necessary or proper*  
36 *to carry out the provisions of this part, including, but not limited*  
37 *to, the spreading, storing, retaining, or percolating into the soil*  
38 *of the waters for subsequent use or in a manner consistent with*  
39 *the provisions of Section 10727.2. As part of this authority, the*  
40 *agency may validate an existing groundwater conjunctive use or*

1 *storage program upon a finding that the program would aid or*  
2 *assist the agency in developing or implementing a groundwater*  
3 *sustainability plan.*

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

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

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

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

22 *10726.4. (a) A groundwater sustainability agency shall have*  
23 *the following additional authority and may regulate groundwater*  
24 *pumping using that authority:*

25 *(1) To impose spacing requirements on new groundwater well*  
26 *construction to minimize well interference and impose reasonable*  
27 *operating regulations on existing groundwater wells to minimize*  
28 *well interference, including requiring pumpers to operate on a*  
29 *rotation basis.*

30 *(2) To control groundwater extractions by regulating, limiting,*  
31 *or suspending extractions from individual groundwater wells or*  
32 *extractions from groundwater wells in the aggregate, the*  
33 *construction of new groundwater wells, the enlarging of existing*  
34 *groundwater wells, the reactivation of abandoned groundwater*  
35 *wells, or otherwise establishing groundwater extraction*  
36 *allocations. A limitation on extractions by a groundwater*  
37 *sustainability agency shall not be construed to be a final*  
38 *determination of rights to extract groundwater from the basin or*  
39 *any portion of the basin.*

1 (3) To authorize temporary and permanent transfers of  
2 groundwater extraction allocations within the agency's boundaries,  
3 if the total quantity of groundwater extracted in any water year is  
4 consistent with the provisions of the groundwater sustainability  
5 plan.

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

11 (b) Nothing in this section shall be construed to grant a  
12 groundwater sustainability agency the authority to issue permits  
13 for the construction, modification, or abandonment of groundwater  
14 wells. A county may authorize a groundwater sustainability agency  
15 to issue permits for the construction, modification, or abandonment  
16 of groundwater wells.

17 10726.6. (a) A groundwater sustainability agency that adopts  
18 a groundwater sustainability plan may file an action to determine  
19 the validity of the plan pursuant to Chapter 9 (commencing with  
20 Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

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

25 (c) Any judicial action or proceeding to attack, review, set aside,  
26 void, or annul the ordinance or resolution imposing a new, or  
27 increasing an existing, fee imposed pursuant to Section 10730,  
28 10730.2, or 10730.4 shall be brought pursuant to Section 66022  
29 of the Government Code.

30 (d) Any person may pay a fee imposed pursuant to Section  
31 10730, 10730.2, or 10730.4 under protest and bring an action  
32 against the governing body in the superior court to recover any  
33 money that the governing body refuses to refund. Payments made  
34 and actions brought under this section shall be made and brought  
35 in the manner provided for the payment of taxes under protest and  
36 actions for refund of that payment in Article 2 (commencing with  
37 Section 5140) of Chapter 5 of Part 9 of Division 1 of the Revenue  
38 and Taxation Code, as applicable.

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

4 10726.8. (a) This part is in addition to, and not a limitation  
5 on, the authority granted to a local agency under any other law.  
6 The local agency may use the local agency's authority under any  
7 other law to apply and enforce any requirements of this part,  
8 including, but not limited to, the collection of fees.

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

11 (c) This part does not authorize a local agency to impose any  
12 requirement or impose any penalty or fee on the state or any  
13 agency, department, or officer of the state. State agencies and  
14 departments shall work cooperatively with a local agency on a  
15 voluntary basis.

16  
17 CHAPTER 6. GROUNDWATER SUSTAINABILITY PLANS  
18

19 10727. (a) A groundwater sustainability plan shall be  
20 developed and implemented for each medium- or high-priority  
21 basin by a groundwater sustainability agency to meet the  
22 sustainability goal established pursuant to this part. The  
23 groundwater sustainability plan may incorporate, extend, or be  
24 based on a plan adopted pursuant to Part 2.75 (commencing with  
25 Section 10750).

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

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

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

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

36 10727.2. A groundwater sustainability plan shall include all  
37 of the following:

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

40 (1) Historical data, to the extent available.

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

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

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

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

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

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

20 (3) Notwithstanding paragraph (1), at the request of the  
21 groundwater sustainability agency, the department may grant an  
22 extension of up to 10 years beyond the 20-year sustainability  
23 timeframe upon a showing of good cause.

24 (c) A planning and implementation horizon of 50 years.

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

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

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

34 (3) Mitigation of overdraft.

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

37 (e) A summary of the type of monitoring sites, type of  
38 measurements, and the frequency of monitoring for each location  
39 monitoring groundwater levels, groundwater quality, subsidence,  
40 streamflow, precipitation, evaporation, and tidal influence. The

1 *plan shall include a summary of monitoring information such as*  
2 *well depth, screened intervals, and aquifer zones monitored, and*  
3 *a summary of the type of well relied on for the information,*  
4 *including public, irrigation, domestic, industrial, and monitoring*  
5 *wells.*

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

14 *10727.4. In addition to the requirements of Section 10727.2,*  
15 *a groundwater sustainability plan shall include, where appropriate*  
16 *and in collaboration with the appropriate local agencies, all of*  
17 *the following:*

18 *(a) Control of saline water intrusion.*

19 *(b) Wellhead protection areas and recharge areas.*

20 *(c) Migration of contaminated groundwater.*

21 *(d) A well abandonment and well destruction program.*

22 *(e) Replenishment of groundwater extractions.*

23 *(f) Activities implementing, opportunities for, and impediments*  
24 *to, conjunctive use.*

25 *(g) Well construction policies.*

26 *(h) Measures addressing groundwater contamination cleanup,*  
27 *recharge, diversions to storage, conservation, water recycling,*  
28 *conveyance, and extraction projects.*

29 *(i) Efficient water management practices, as defined in Section*  
30 *10902, for the delivery of water and water conservation methods*  
31 *to improve the efficiency of water use.*

32 *(j) Efforts to develop relationships with state and federal*  
33 *regulatory agencies.*

34 *(k) Processes to review land use plans and efforts to coordinate*  
35 *with land use planning agencies to assess activities that potentially*  
36 *create risks to groundwater quality or quantity.*

37 *10727.6. Groundwater sustainability agencies intending to*  
38 *develop and implement multiple groundwater sustainability plans*  
39 *pursuant to paragraph (3) of subdivision (b) of Section 10727 shall*  
40 *coordinate with other agencies preparing a groundwater*



1 sustainability plan within the basin to ensure that the plans utilize  
2 the same data for the following assumptions in developing the  
3 plan:

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

11 10727.8. Prior to initiating the development of a groundwater  
12 sustainability plan, the groundwater sustainability agency shall  
13 make available to the public and the department a written statement  
14 describing the manner in which interested parties may participate  
15 in the development and implementation of the groundwater  
16 sustainability plan. The groundwater sustainability agency may  
17 appoint and consult with an advisory committee consisting of  
18 interested parties for the purposes of developing and implementing  
19 a groundwater sustainability plan. The groundwater sustainability  
20 agency shall encourage the active involvement of diverse social,  
21 cultural, and economic elements of the population within the  
22 groundwater basin prior to and during the development and  
23 implementation of the groundwater sustainability plan.

24 10728. (a) Except as provided in subdivision (b), a  
25 groundwater sustainability agency shall certify that its plan  
26 complies with this part no later than January 31, 2020, and every  
27 five years thereafter. A groundwater sustainability agency shall  
28 submit this certification to the department within 30 days of the  
29 certification.

30 (b) (1) The department may review the submissions made  
31 pursuant to this section and Section 10733.6 and may request the  
32 supporting information on which the certification pursuant to  
33 subdivision (a) relied upon or the other documentation relied upon  
34 pursuant to subdivision (b) of Section 10733.6. The department  
35 may issue findings concerning the validity of the certification or  
36 other submission.

37 (2) Before issuing findings pursuant to paragraph (1), the  
38 department shall transmit a draft of its findings to the submitting  
39 agency and shall consult with that agency. The submitting agency

1 *may submit a response to the department within 60 days of*  
2 *receiving the department’s draft findings.*

3 *(3) If the department’s findings issued pursuant to paragraph*  
4 *(1) concern the compliance of a plan with requirements for*  
5 *sustainable groundwater management or the operation of a basin*  
6 *consistent with the basin’s sustainable yield, the submitting agency,*  
7 *within 90 days of receipt, shall consider amendments to its plan*  
8 *or technical analysis to address the department’s findings.*

9 *10728.2. A groundwater sustainability agency shall periodically*  
10 *evaluate its groundwater sustainability plan, assess changing*  
11 *conditions in the basin that may warrant modification of the plan*  
12 *or management objectives, and may adjust components in the plan.*  
13 *An evaluation of the plan shall focus on determining whether the*  
14 *actions under the plan are meeting the plan’s management*  
15 *objectives and whether those objectives are meeting the*  
16 *sustainability goal in the basin.*

17 *10728.4. A groundwater sustainability agency may adopt or*  
18 *amend a groundwater sustainability plan if the groundwater*  
19 *sustainability agency holds a public hearing and more than 90*  
20 *days have passed since the groundwater sustainability agency*  
21 *provided notice to a city or county within the area of the proposed*  
22 *plan or amendment. The groundwater sustainability agency shall*  
23 *obtain comments from any city or county that receives notice*  
24 *pursuant to this section and shall consult with a city or county that*  
25 *requests consultation within 30 days of receipt of the notice.*  
26 *Nothing in this section is intended to preclude an agency and a*  
27 *city or county from otherwise consulting or commenting regarding*  
28 *the adoption or amendment of a plan.*

29  
30 *CHAPTER 7. TECHNICAL ASSISTANCE*

31  
32 *10729. (a) The department or a groundwater sustainability*  
33 *agency may provide technical assistance to entities that extract*  
34 *or use groundwater to promote water conservation and protect*  
35 *groundwater resources.*

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

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

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

10

11

CHAPTER 8. FINANCIAL AUTHORITY

12

13 10730. (a) A groundwater sustainability agency may impose  
14 fees, including, but not limited to, permit fees and fees on  
15 groundwater extraction or other regulated activity, to fund the  
16 costs of a groundwater sustainability program, including, but not  
17 limited to, preparation, adoption, and amendment of a groundwater  
18 sustainability plan, and program administration, investigations,  
19 inspections, compliance assistance, and enforcement. A  
20 groundwater sustainability agency shall not impose a fee pursuant  
21 to this subdivision on a de minimus extractor unless the agency  
22 has regulated the users pursuant to this part.

23

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

28

29 (2) Notice of the time and place of the meeting shall include a  
30 general explanation of the matter to be considered and a statement  
31 that the data required by this section is available. The notice shall  
32 be mailed at least 14 days prior to the meeting to each record  
33 owner of property within the basin and to any interested party who  
34 files a written request with the agency for mailed notice of the  
35 meeting on new or increased fees. A written request for mailed  
36 notices shall be valid for one year from the date that the request  
37 is made and may be renewed by making a written request on or  
38 before April 1 of each year.

39

(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.

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

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

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

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

16 10730.2. (a) A groundwater sustainability agency that adopts  
17 a groundwater sustainability plan pursuant to this part may impose  
18 fees on the extraction of groundwater from the basin to fund costs  
19 of groundwater management, including, but not limited to, the  
20 costs of the following:

21 (1) Administration, operation, maintenance, and acquisition of  
22 lands or other property, facilities, and services.

23 (2) Supply, production, treatment, or distribution of water.

24 (3) Other activities necessary or convenient to implement the  
25 plan.

26 (b) Fees may be implemented pursuant to Part 2.75  
27 (commencing with Section 10750) in accordance with the  
28 procedures provided in this section.

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

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

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

1 10730.4. A groundwater sustainability agency may fund  
2 activities pursuant to Part 2.75 (commencing with Section 10750)  
3 and may impose fees pursuant to Section 10732.5 to fund activities  
4 undertaken by the agency pursuant to Part 2.75 (commencing with  
5 Section 10750).

6 10730.6. (a) A groundwater fee levied pursuant to this chapter  
7 shall be due and payable to the groundwater sustainability agency  
8 by each owner or operator on a day established by the groundwater  
9 sustainability agency.

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

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

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

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

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

4 10730.8. (a) *Nothing in this chapter shall affect or interfere*  
5 *with the authority of a groundwater sustainability agency to levy*  
6 *and collect taxes, assessments, charges, and tolls as otherwise*  
7 *provided by law.*

8 (b) *For the purposes of Section 6254.16 of the Government*  
9 *Code, persons subject to payment of fees pursuant to this chapter*  
10 *are utility customers of a groundwater sustainability agency.*

11 10731. (a) *If there is reasonable cause to believe that the*  
12 *production of groundwater from any groundwater extraction*  
13 *facility is in excess of that disclosed by the statements covering*  
14 *the facility or if no statement is filed covering the facility, the*  
15 *governing body may cause an investigation and report to be made*  
16 *concerning the production of groundwater from that groundwater*  
17 *extraction facility that includes, but is not limited to, the accuracy*  
18 *of the water-measuring device. The governing body may make a*  
19 *determination fixing the amount of groundwater production from*  
20 *the groundwater extraction facility at an amount not to exceed the*  
21 *maximum production capacity of the facility for purposes of levying*  
22 *a groundwater charge. If a water-measuring device is permanently*  
23 *attached to the groundwater extraction facility, the record of*  
24 *production as disclosed by the water-measuring device shall be*  
25 *presumed to be accurate unless the contrary is established by the*  
26 *groundwater management agency after investigation.*

27 (b) *After the governing body makes a determination fixing the*  
28 *amount of groundwater production pursuant to subdivision (a), a*  
29 *written notice of the determination shall be mailed to the owner*  
30 *or operator of the groundwater extraction facility at the address*  
31 *as shown by the groundwater management agency's records. A*  
32 *determination made by the governing body shall be conclusive on*  
33 *the owner or operator and the groundwater charges, based on the*  
34 *determination together with any interest and penalties, shall be*  
35 *payable immediately unless within 10 days after the mailing of the*  
36 *notice the owner or operator files with the governing body a written*  
37 *protest setting forth the ground for protesting the amount of*  
38 *production or the groundwater charges, interest, and penalties. If*  
39 *a protest is filed pursuant to this subdivision, the governing body*  
40 *shall hold a hearing to determine the total amount of the*

1 groundwater production and the groundwater charges, interest,  
 2 and penalties. The determination by the governing body at the  
 3 hearing shall be conclusive if based upon substantial evidence.  
 4 Notice of the hearing shall be mailed to each protestant at least  
 5 10 days before the date fixed for the hearing. Notice of the  
 6 determination of the governing body hearing shall be mailed to  
 7 each protestant. The owner or operator shall have 20 days from  
 8 the date of mailing of the determination to pay the groundwater  
 9 charges, interest, and penalties determined by the governing body.

10  
 11 *CHAPTER 9. GROUNDWATER SUSTAINABILITY AGENCY*  
 12 *ENFORCEMENT POWERS*

13  
 14 10732. (a) (1) A person who extracts groundwater in excess  
 15 of the amount that person is authorized to extract under a rule,  
 16 regulation, ordinance, or resolution adopted pursuant to Section  
 17 10725.2, shall be subject to a civil penalty not to exceed five  
 18 hundred dollars (\$500) per acre-foot extracted in excess of the  
 19 amount that person is authorized to extract. Liability under this  
 20 subdivision is in addition to any liability imposed under paragraph  
 21 (2) and any fee imposed for the extraction.

22 (2) A person who violates any rule, regulation, ordinance, or  
 23 resolution adopted pursuant to Section 10724.2 shall be liable for  
 24 a civil penalty not to exceed one thousand dollars (\$1,000) plus  
 25 one hundred dollars (\$100) for each additional day on which the  
 26 violation continues if the person fails to comply within 30 days  
 27 after the local agency has notified the person of the violation.

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

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

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

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

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

6  
7 CHAPTER 10. STATE EVALUATION AND ASSESSMENT  
8

9 10733. (a) The department shall periodically review the  
10 groundwater sustainability plans developed by groundwater  
11 sustainability agencies pursuant to this part to evaluate whether  
12 a plan conforms with Sections 10727.2 and 10727.4 and is likely  
13 to achieve the sustainability goal for the basin covered by the  
14 groundwater sustainability plan.

15 (b) If a groundwater sustainability agency develops multiple  
16 groundwater sustainability plans for a basin, the department shall  
17 evaluate whether the plans conform with Sections 10727.2,  
18 10727.4, and 10727.6 and are together likely to achieve the  
19 sustainability goal for the basin covered by the groundwater  
20 sustainability plans.

21 10733.2. (a) By June 1, 2016, the department, in consultation  
22 with the board, shall develop guidelines for evaluating  
23 groundwater sustainability plans and groundwater sustainability  
24 programs pursuant to this chapter.

25 (b) The guidelines shall identify the necessary plan components  
26 specified in Sections 10727.2 and 10727.4 and other information  
27 that will assist local agencies in developing and implementing  
28 groundwater sustainability plans and groundwater sustainability  
29 programs.

30 (c) The department may update the guidelines, including to  
31 incorporate the best management practices identified pursuant to  
32 Section 10729.

33 (d) The guidelines required pursuant to this section are exempt  
34 from Chapter 3.5 (commencing with Section 11340) of Part 1 of  
35 Division 3 of Title 2 of the Government Code. The establishment  
36 of guidelines pursuant to this section shall instead be accomplished  
37 by means of a public process reasonably calculated to give  
38 interested persons an opportunity to be heard.

39 10733.4. (a) Upon completion of a groundwater sustainability  
40 plan, a groundwater sustainability agency shall submit the



1 groundwater sustainability plan to the department for review  
2 pursuant to this chapter.

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

10 (1) The groundwater sustainability plans.

11 (2) An explanation of how the groundwater sustainability plans  
12 implemented together satisfy Section 10729 for the entire basin.

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

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

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

26 10733.6. (a) If there is not a groundwater sustainability plan  
27 for a basin, but a local agency believes that an alternative plan,  
28 such as a plan developed pursuant to Part 2.75 (commencing with  
29 Section 10750), satisfies the objectives of this part, the local agency  
30 may submit the alternative plan to the department for evaluation  
31 and assessment of whether the plan is the functional equivalent of  
32 a groundwater sustainability plan pursuant to this part. In  
33 evaluating an alternative plan, the department shall, to the extent  
34 feasible, use the guidelines developed pursuant to Section 10733.2.

35 (b) A basin shall be in compliance with this part if a  
36 groundwater agency for a basin or other local agency submits to  
37 the department, no later than January 31, 2020, and every five  
38 years thereafter, any of the following documents:

1 (1) A copy of a governing final judgment or other judicial order  
2 or decree establishing a groundwater sustainability program for  
3 the basin.

4 (2) A report approved by a groundwater agency that shows that  
5 current management or operations activities have been consistent  
6 with the sustainable yield of the basin over a period of at least 10  
7 years. The report shall be prepared by a registered professional  
8 engineer or geologist who is licensed by the state and submitted  
9 under that engineer's or geologist's seal. The report may  
10 demonstrate compliance with the sustainability goal in the basin  
11 by presenting a balanced water budget for the basin, a technical  
12 analysis demonstrating stable groundwater levels over the relevant  
13 period, or other sufficient technical analyses.

14 10733.8. At least every five years after submission, the  
15 department, in consultation with the board, shall review any  
16 available groundwater sustainability plan, alternative plan  
17 submitted in accordance with Section 10729.6, and the  
18 implementation of the corresponding groundwater sustainability  
19 program for consistency with this part, including achieving the  
20 sustainability goal. The department shall issue an assessment for  
21 each basin for which a plan has been submitted in accordance  
22 with this chapter. The assessment may include recommended  
23 corrective actions to address any deficiencies identified by the  
24 department.

25 10734. (a) Consistent with Section 3 of Article XIII A of the  
26 California Constitution, the department shall adopt a schedule of  
27 fees to recover costs incurred in carrying out this chapter.

28 (b) It is the intent of the Legislature to amend this measure to  
29 adopt additional authority for the department to implement the  
30 fee authority provided by this section.

31  
32 *CHAPTER 11. STATE INTERVENTION*

33  
34 10735. As used in this chapter, the following terms have the  
35 following meanings:

36 (a) "Condition of long-term overdraft" means the condition of  
37 a groundwater basin where the average annual amount of water  
38 extracted for a long-term period, generally 10 years or more,  
39 exceeds the long-term average annual supply of water to the basin,  
40 plus any temporary surplus. Overdraft during a period of drought

1 *is not sufficient to establish a condition of long-term overdraft if*  
2 *extractions and recharge are managed as necessary to ensure that*  
3 *reductions in groundwater levels or storage during a period of*  
4 *drought are offset by increases in groundwater levels or storage*  
5 *during other periods.*

6 (b) *“Person” means any person, firm, association, organization,*  
7 *partnership, business, trust, corporation, limited liability company,*  
8 *or public agency, including any city, county, city and county,*  
9 *district, joint powers authority, state, or any agency or department*  
10 *of those entities. “Person” includes, to the extent authorized by*  
11 *federal law, the United States, a department, agency or*  
12 *instrumentality of the federal government, an Indian tribe, an*  
13 *authorized Indian tribal organization, or interstate body.*

14 (c) *“Probationary basin” means a basin for which the board*  
15 *has issued a determination under this section.*

16 (d) *“Significant depletions of interconnected surface waters”*  
17 *means reductions in flow or levels of a surface water that is*  
18 *hydrologically connected to the basin such that the reduced surface*  
19 *water flow or level adversely affects beneficial uses of the surface*  
20 *water.*

21 10735.2. (a) *The board, after notice and a public hearing,*  
22 *may designate a basin as a probationary basin, if the board finds*  
23 *one or more of the following applies to the basin:*

24 (1) *After January 1, 2017, none of the following have occurred:*

25 (A) *No local agency has elected to be a groundwater*  
26 *sustainability agency that intends to develop a groundwater*  
27 *sustainability plan for the entire basin.*

28 (B) *No collection of local agencies has formed a groundwater*  
29 *sustainability agency or prepared agreements to develop one or*  
30 *more groundwater sustainability plans that will collectively serve*  
31 *as a groundwater sustainability plan for the entire basin.*

32 (C) *There is no plan developed pursuant to Part 2.75*  
33 *(commencing with Section 10750) that satisfies the objectives of*  
34 *this part.*

35 (D) *There is no report approved by a groundwater agency that*  
36 *shows that current management or operations activities have been*  
37 *consistent with the sustainable yield of the basin over a period of*  
38 *at least 10 years, as described in paragraph (2) of subdivision (b)*  
39 *of Section 10733.6.*

40 (2) *After January 31, 2020, none of the following have occurred:*

1 (A) No groundwater sustainability agency has adopted a  
2 groundwater sustainability plan for the entire basin.

3 (B) No collection of local agencies have adopted groundwater  
4 sustainability plans that collectively serve as a groundwater  
5 sustainability plan for the entire basin.

6 (C) The department has not determined that a local agency has  
7 a functional equivalent as described in Section 10733.6.

8 (D) There is no report approved by a groundwater agency that  
9 shows that current management or operations activities have been  
10 consistent with the sustainable yield of the basin over a period of  
11 at least 10 years, as described in paragraph (2) of subdivision (b)  
12 of Section 10733.6.

13 (3) After January 31, 2020, either of the following have  
14 occurred:

15 (A) The department has determined that a groundwater  
16 sustainability plan is inadequate or that the groundwater  
17 sustainability program is not being implemented in a manner that  
18 will likely achieve the sustainability goal.

19 (B) The basin is in a condition of long-term overdraft or in a  
20 condition where groundwater extractions result in significant  
21 depletions of interconnected surface waters.

22 (b) (1) In making the findings associated with subparagraph  
23 (A) of paragraph (3) of subdivision (a), the board may rely on  
24 periodic assessments the department has prepared pursuant to  
25 Chapter 10 (commencing with Section 10733). The board may  
26 request that the department conduct additional assessments  
27 utilizing the guidelines developed pursuant to Chapter 10  
28 (commencing with 10733) and make determinations pursuant to  
29 this section. The board shall post on its Internet Web site and  
30 provide at least 30 days for the public to comment on any  
31 determinations provided by the department pursuant to this  
32 subdivision.

33 (2) The board shall consult with the department in assessing  
34 technical determinations pursuant to subparagraph (A) of  
35 paragraph (3) of subdivision (a).

36 (c) The determination shall set an amount of groundwater  
37 extractions, for purposes of establishing the amount for which  
38 reports of groundwater extraction are required under Part 5.2  
39 (commencing with Section 5200) of Division 2, and may include

1 *exclusions for certain classes or categories of extractions that are*  
2 *likely to have a minimal impact on basin withdrawals.*

3 *10735.4. (a) If the board designates a basin as a probationary*  
4 *basin pursuant to paragraph (1) or (2) of subdivision (a) of Section*  
5 *10735.2, a local agency or groundwater sustainability agency*  
6 *shall have 180 days to remedy the deficiency. The board may*  
7 *appoint a mediator or other facilitator, after consultation with*  
8 *affected local agencies, to assist in resolving disputes, and*  
9 *identifying and implementing actions that will remedy the*  
10 *deficiency.*

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

15 *(c) The board may develop an interim plan pursuant to Section*  
16 *10735.8 for the probationary basin at the end of the time period*  
17 *provided by subdivision (a) or any extension provided pursuant*  
18 *to subdivision (b), if the board, in consultation with the department,*  
19 *determines that a local agency has not remedied the deficiency*  
20 *that resulted in designating the basin as a probationary basin*  
21 *pursuant to this section.*

22 *10735.6. (a) If the board designates a basin as a probationary*  
23 *basin pursuant to paragraph (3) of subdivision (a) of Section*  
24 *10735.2, the board shall identify the specific deficiencies and*  
25 *identify potential actions to address the deficiencies. The board*  
26 *may request the department to provide local agencies, within 90*  
27 *days of the designation of a probationary basin, with technical*  
28 *recommendations to remedy the deficiencies.*

29 *(b) The board may develop an interim plan pursuant to Section*  
30 *10735.8 for the probationary basin one year after the designation*  
31 *of the basin pursuant to paragraph (3) of subdivision (a) of Section*  
32 *10735.2, if the board, in consultation with the department,*  
33 *determines that a local agency has not remedied the deficiency*  
34 *that result in designating the basin a probationary basin.*

35 *10735.8. (a) The board, after notice and a public hearing,*  
36 *may adopt an interim plan for a probationary basin.*

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

38 *(1) Identification of the actions that are necessary to correct a*  
39 *condition of long-term overdraft or a condition where groundwater*  
40 *extractions result in significant depletions of interconnected surface*

1 *waters, including recommendations for appropriate action by any*  
2 *person.*

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

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

6 *(c) The interim plan may include the following:*

7 *(1) Restrictions on groundwater pumping or extraction.*

8 *(2) A physical solution.*

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

11 *(d) To the extent feasible, consistent with Sections 100 and 275*  
12 *and subdivision (e), the interim plan shall be consistent with water*  
13 *right priorities.*

14 *(e) Where, in the judgment of the board, a groundwater*  
15 *sustainability plan, groundwater sustainability program, or an*  
16 *adjudication action can be relied on as part of the interim plan,*  
17 *either throughout the basin or in an area within the basin, the*  
18 *board may rely on, or incorporate elements of, that plan, program,*  
19 *or adjudication into the interim plan adopted by the board or allow*  
20 *local agencies to continue implementing those parts of a plan or*  
21 *program that the board determines are adequate.*

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

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

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

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

39 *(2) The board shall act on a petition filed pursuant to paragraph*  
40 *(1) within 90 days after the petition is complete. If the board*

1 *determines that the groundwater sustainability plan or adjudication*  
2 *action is adequate, the board shall rescind the interim plan adopted*  
3 *by the board for the probationary basin, except as provided in*  
4 *paragraphs (3) and (4).*

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

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

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

19 *10736. (a) The board shall adopt or amend a determination*  
20 *or interim plan under Section 10735.2 or 10735.8 in accordance*  
21 *with procedures for quasi-legislative action.*

22 *(b) The board shall provide notice of a hearing described in*  
23 *subdivision (a) of Section 10735.2 or subdivision (a) of Section*  
24 *10735.8 as follows:*

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

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

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

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

1 *the names and addresses of persons and entities known to the local*  
2 *agency who extract water from the basin, and the board shall mail*  
3 *or send by electronic mail notice to those persons.*

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

8 *(d) (1) Except as provided in paragraphs (2) and (3), Chapter*  
9 *3.5 (commencing with Section 11340) of Part 1 of Division 2 of*  
10 *Title 2 of the Government Code does not apply to any action*  
11 *authorized pursuant to Section 10735.2 or 10735.8.*

12 *(2) The board may adopt a regulation in accordance with*  
13 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*  
14 *2 of Title 2 of the Government Code setting procedures for*  
15 *adopting a determination or plan.*

16 *(3) The board may adopt a regulation applying or interpreting*  
17 *this part pursuant to Section 1530 if the board determines that the*  
18 *emergency regulation is reasonably necessary for the allocation,*  
19 *administration, or collection of fees authorized pursuant to Section*  
20 *1529.5.*

21 *10736.2. Division 13 (commencing with Section 21000) of the*  
22 *Public Resources Code does not apply to any action or failure to*  
23 *act by the board under this chapter, other than the adoption or*  
24 *amendment of an interim plan pursuant to Section 10735.8.*

25 *10736.4. The extraction or use of water extracted in violation*  
26 *of an interim plan under this part shall not be relied upon as a*  
27 *basis for establishing the extraction or use of water to support a*  
28 *claim in an action or proceeding for determination of water rights.*

29 *10736.6. (a) The board may order a person that extracts or*  
30 *uses water from a basin that is subject to an investigation or*  
31 *proceeding under this chapter to prepare and submit to the board*  
32 *any technical or monitoring program reports related to that*  
33 *person's or entity's extraction or use of water as the board may*  
34 *specify. The costs incurred by the person in the preparation of*  
35 *those reports shall bear a reasonable relationship to the need for*  
36 *the report and the benefit to be obtained from the report. If the*  
37 *preparation of individual reports would result in a duplication of*  
38 *effort, or if the reports are necessary to evaluate the cumulative*  
39 *effect of several diversions or uses of water, the board may order*



1 any person subject to this subdivision to pay a reasonable share  
2 of the cost of preparing reports.

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

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

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

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

31 SEC. 11. Section 10750.1 is added to the Water Code, to read:

32 10750.1. (a) Beginning January 1, 2015, a new plan shall not  
33 be adopted and an existing plan shall not be renewed pursuant to  
34 this part, except as provided in subdivision (b). A plan adopted  
35 before January 1, 2015, shall remain in effect until a groundwater  
36 sustainability plan is adopted pursuant to Part 2.74 (commencing  
37 with Section 10720).

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

1     *SEC. 12. Section 10927 of the Water Code is amended to read:*

2     10927. Any of the following entities may assume responsibility  
3 for monitoring and reporting groundwater elevations in all or a  
4 part of a basin or subbasin in accordance with this part:

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

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

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

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

19     (c) A local agency that is managing all or part of a groundwater  
20 basin or subbasin pursuant to Part 2.75 (commencing with Section  
21 10750) and that was monitoring groundwater elevations in all or  
22 a part of a groundwater basin or subbasin on or before January 1,  
23 2010, or a local agency or county that is managing all or part of a  
24 groundwater basin or subbasin pursuant to any other legally  
25 enforceable groundwater management plan with provisions that  
26 are substantively similar to those described in that part and that  
27 was monitoring groundwater elevations in all or a part of a  
28 groundwater basin or subbasin on or before January 1, 2010.

29     (d) A local agency that is managing all or part of a groundwater  
30 basin or subbasin pursuant to an integrated regional water  
31 management plan prepared pursuant to Part 2.2 (commencing with  
32 Section 10530) that includes a groundwater management  
33 component that complies with the requirements of Section 10753.7.

34     (e) A local agency that has been collecting and reporting  
35 groundwater elevations and that does not have an adopted  
36 groundwater management plan, if the local agency adopts a  
37 groundwater management plan in accordance with Part 2.75  
38 (commencing with Section 10750) by January 1, 2014. The  
39 department may authorize the local agency to conduct the  
40 monitoring and reporting of groundwater elevations pursuant to

1 this part on an interim basis, until the local agency adopts a  
2 groundwater management plan in accordance with Part 2.75  
3 (commencing with Section 10750) or until January 1, 2014,  
4 whichever occurs first.

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

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

11 *SEC. 13. Section 10933 of the Water Code is amended to read:*

12 10933. (a) ~~On or before January 1, 2012, the~~ The department  
13 shall commence to identify the extent of monitoring of groundwater  
14 elevations that is being undertaken within each basin and subbasin.

15 (b) (1) The department shall prioritize groundwater basins and  
16 subbasins for the purpose of implementing this section. In  
17 prioritizing the basins and subbasins, the department shall, to the  
18 extent data are available, consider all of the following:

19 ~~(1)~~

20 (A) The population overlying the basin or subbasin.

21 ~~(2)~~

22 (B) The rate of current and projected growth of the population  
23 overlying the basin or subbasin.

24 ~~(3)~~

25 (C) The number of public supply wells that draw from the basin  
26 or subbasin.

27 ~~(4)~~

28 (D) The total number of wells that draw from the basin or  
29 subbasin.

30 ~~(5)~~

31 (E) The irrigated acreage overlying the basin or subbasin.

32 ~~(6)~~

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

35 ~~(7)~~

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

39 ~~(8)~~

1 (H) Any other information determined to be relevant by the  
2 department.

3 (2) *The department, in consultation with the Department of Fish*  
4 *and Wildlife, shall identify and develop prioritization criteria for*  
5 *the purpose of identifying groundwater basins and subbasins that*  
6 *should be prioritized based on adverse impacts to habitat and*  
7 *surface water resources. The criteria shall be incorporated into*  
8 *the determination of basin and subbasin prioritization at the*  
9 *department's next update of basin and subbasin prioritizations*  
10 *that occurs after January 1, 2017.*

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

14 (1) Attempt to contact all well owners within the area not being  
15 monitored.

16 (2) Determine if there is an interest in establishing any of the  
17 following:

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

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

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

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

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

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

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

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

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

14 *SEC. 14. Section 12924 of the Water Code is amended to read:*

15 12924. (a) The department, in conjunction with other public  
16 agencies, shall conduct an investigation of the state's groundwater  
17 basins. The department shall identify the state's groundwater basins  
18 on the basis of geological and hydrological conditions and  
19 consideration of political boundary lines whenever practical. The  
20 department shall also investigate existing general patterns of  
21 groundwater pumping and groundwater recharge within those  
22 basins to the extent necessary to identify basins that are subject to  
23 critical conditions of overdraft.

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

27 ~~(b)~~

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

31 *SEC. 15. The provisions of this act are severable. If any*  
32 *provision of this act or its application is held invalid, that invalidity*  
33 *shall not affect other provisions or applications that can be given*  
34 *effect without the invalid provision or application.*

35 *SEC. 16. No reimbursement is required by this act pursuant*  
36 *to Section 6 of Article XIII B of the California Constitution for*  
37 *certain costs that may be incurred by a local agency or school*  
38 *district because, in that regard, this act creates a new crime or*  
39 *infraction, eliminates a crime or infraction, or changes the penalty*  
40 *for a crime or infraction, within the meaning of Section 17556 of*

1 *the Government Code, or changes the definition of a crime within*  
2 *the meaning of Section 6 of Article XIII B of the California*  
3 *Constitution.*

4 *However, if the Commission on State Mandates determines that*  
5 *this act contains other costs mandated by the state, reimbursement*  
6 *to local agencies and school districts for those costs shall be made*  
7 *pursuant to Part 7 (commencing with Section 17500) of Division*  
8 *4 of Title 2 of the Government Code.*

9 *SEC. 17. The Legislature finds and declares that Section 5 of*  
10 *this act, which adds Section 10730.8 to the Water Code, imposes*  
11 *a limitation on the public's right of access to the meetings of public*  
12 *bodies or the writings of public officials and agencies within the*  
13 *meaning of Section 3 of Article I of the California Constitution.*  
14 *Pursuant to that constitutional provision, the Legislature makes*  
15 *the following findings to demonstrate the interest protected by this*  
16 *limitation and the need for protecting that interest:*

17 *In order to allow this act to fully accomplish its goals, it is*  
18 *necessary to protect proprietary information submitted pursuant*  
19 *to this act as confidential. Therefore, it is in the state's interest to*  
20 *limit public access to this information.*

21 **SECTION 1.** (a) ~~The Legislature finds and declares as follows:~~

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

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

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

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

1 ~~(5) Failure to manage groundwater to prevent long-term~~  
2 ~~overdraft infringes on groundwater rights.~~

3 ~~(6) Groundwater resources are most effectively managed at the~~  
4 ~~local or regional level.~~

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

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

10 ~~(9) In those circumstances where a local groundwater~~  
11 ~~management agency is not managing its groundwater sustainably,~~  
12 ~~the state needs to protect the resource until it is determined that a~~  
13 ~~local groundwater management agency can sustainably manage~~  
14 ~~the groundwater basin or subbasin.~~

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

18 ~~(b) It is therefore the intent of the Legislature to do all of the~~  
19 ~~following:~~

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

22 ~~(2) To provide that if no local groundwater agency or agencies~~  
23 ~~provide sustainable groundwater management for a groundwater~~  
24 ~~basin or subbasin, the state has the authority to develop and~~  
25 ~~implement a sustainable groundwater management plan until the~~  
26 ~~time the local groundwater management agency or agencies can~~  
27 ~~assume management of the basin or subbasin.~~

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

35 ~~(4) To respect overlying and other proprietary rights to~~  
36 ~~groundwater.~~

37 ~~SEC. 2.— Section 65350.5 is added to the Government Code, to~~  
38 ~~read:~~

39 ~~65350.5.— Before the adoption of or any substantial amendment~~  
40 ~~to a city or county's general plan, the planning agency shall review~~

1 and, if necessary, revise the land use, conservation, open space,  
2 or any other element as appropriate to address all of the following:

3 (a) ~~Any adoption of, or update to, a groundwater management~~  
4 ~~plan by a groundwater management agency or local agency~~  
5 ~~pursuant to Part 2.74 (commencing with Section 10720) or Part~~  
6 ~~2.75 (commencing with Section 10750) of the Water Code or other~~  
7 ~~provisions of law or a court order, judgment, or decree, or the State~~  
8 ~~Water Resources Control Board if it has adopted a groundwater~~  
9 ~~management plan pursuant to Section 10747.~~

10 (b) ~~Any limitation on pumping of groundwater by a local~~  
11 ~~groundwater management agency.~~

12 (c) ~~An adjudication of water rights.~~

13 ~~SEC. 3. Section 65352 of the Government Code is amended~~  
14 ~~to read:~~

15 ~~65352. (a) Before action is taken by a legislative body to adopt~~  
16 ~~or substantially amend a general plan, the planning agency shall~~  
17 ~~refer the proposed action to all of the following entities:~~

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

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

23 (3) ~~The local agency formation commission.~~

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

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

30 (6) (A) ~~The branches of the United States Armed Forces that~~  
31 ~~have provided the Office of Planning and Research with a~~  
32 ~~California mailing address pursuant to subdivision (d) of Section~~  
33 ~~65944 if the proposed action is within 1,000 feet of a military~~  
34 ~~installation, or lies within special use airspace, or beneath a~~  
35 ~~low-level flight path, as defined in Section 21098 of the Public~~  
36 ~~Resources Code, and if the United States Department of Defense~~  
37 ~~provides electronic maps of low-level flight paths, special use~~  
38 ~~airspace, and military installations at a scale and in an electronic~~  
39 ~~format that is acceptable to the Office of Planning and Research.~~



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

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

15    ~~(8) A groundwater management agency or local agency that has~~  
 16    ~~adopted a groundwater management plan or sustainable~~  
 17    ~~groundwater management plan, or that otherwise manages~~  
 18    ~~groundwater pursuant to other provisions of law or a court order,~~  
 19    ~~judgment, or decree, or the State Water Resources Control Board~~  
 20    ~~if it has adopted a groundwater management plan pursuant to~~  
 21    ~~Section 10747 of the Water Code, that includes territory within~~  
 22    ~~the planning area of the proposed general plan.~~

23    ~~(9) The Bay Area Air Quality Management District, for a~~  
 24    ~~proposed action within the boundaries of the district.~~

25    ~~(10) A California Native American tribe, that is on the contact~~  
 26    ~~list maintained by the Native American Heritage Commission and~~  
 27    ~~that has traditional lands located within the city or county's~~  
 28    ~~jurisdiction.~~

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

32    ~~(b) An entity that receives a proposed general plan or~~  
 33    ~~amendment of a general plan pursuant to this section shall have~~  
 34    ~~45 days from the date the referring agency mails it or delivers it~~  
 35    ~~to comment unless a longer period is specified by the planning~~  
 36    ~~agency.~~

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

1 ~~(2) To the extent that the requirements of this section conflict~~  
2 ~~with the requirements of Chapter 4.4 (commencing with Section~~  
3 ~~65919), the requirements of Chapter 4.4 shall prevail.~~

4 SEC. 4. ~~Section 65352.5 of the Government Code is amended~~  
5 ~~to read:~~

6 ~~65352.5.—(a) The Legislature finds and declares that it is vital~~  
7 ~~that there be close coordination and consultation between~~  
8 ~~California’s water supply agencies and California’s land use~~  
9 ~~approval agencies to ensure that proper water supply planning~~  
10 ~~occurs to accommodate projects that will result in increased~~  
11 ~~demands on water supplies.~~

12 ~~(b) It is, therefore, the intent of the Legislature to provide a~~  
13 ~~standardized process for determining the adequacy of existing and~~  
14 ~~planned future water supplies to meet existing and planned future~~  
15 ~~demands on these water supplies.~~

16 ~~(c) Upon receiving, pursuant to Section 65352, notification of~~  
17 ~~a city’s or a county’s proposed action to adopt or substantially~~  
18 ~~amend a general plan, a public water system, as defined in Section~~  
19 ~~116275 of the Health and Safety Code, with 3,000 or more service~~  
20 ~~connections, shall provide the planning agency with the following~~  
21 ~~information, as is appropriate and relevant:~~

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

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

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

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

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

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

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

4 ~~(A) Agricultural users.~~

5 ~~(B) Commercial users.~~

6 ~~(C) Industrial users.~~

7 ~~(D) Residential users.~~

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

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

16 ~~(d) Upon receiving, pursuant to Section 65352, notification of~~  
17 ~~a city’s or a county’s proposed action to adopt or substantially~~  
18 ~~amend a general plan, a local agency that has adopted a~~  
19 ~~groundwater management plan, or that otherwise manages~~  
20 ~~groundwater pursuant to other provisions of law or a court order,~~  
21 ~~judgment, or decree, or the State Water Resources Control Board~~  
22 ~~if it has adopted a groundwater management plan pursuant to~~  
23 ~~Section 10747 of the Water Code, shall provide the planning~~  
24 ~~agency with maps of recharge basins, percolation ponds, and any~~  
25 ~~other information that is appropriate and relevant.~~

26 ~~SEC. 5.— Section 113 is added to the Water Code, to read:~~

27 ~~113. (a) It is the policy of the state that groundwater resources~~  
28 ~~be managed sustainably.~~

29 ~~(b) Sustainable groundwater management mean the management~~  
30 ~~of a groundwater basin to provide for multiple long-term benefits~~  
31 ~~without resulting in or aggravating conditions that cause significant~~  
32 ~~economic, social, or environmental impacts such as long-term~~  
33 ~~overdraft, land subsidence, ecosystem degradation, depletions from~~  
34 ~~surface water bodies, and water quality degradation, in order to~~  
35 ~~protect the resource for future generations.~~

36 ~~SEC. 6.— Part 2.74 (commencing with Section 10720) is added~~  
37 ~~to Division 6 of the Water Code, to read:~~

PART 2.74. SUSTAINABLE GROUNDWATER  
MANAGEMENT

CHAPTER 1. GENERAL PROVISIONS

10720. ~~This part may be known, and may be cited, as the Sustainable Groundwater Management Act.~~

10721. ~~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 provide local groundwater agencies with the authority and assistance necessary to sustainably manage groundwater.~~

(c) ~~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 a sustainable groundwater management plan until the time the local groundwater management agency or agencies can assume management of the basin or subbasin.~~

10722. ~~This part applies to all groundwater basins in the state.~~

CHAPTER 2. DEFINITIONS

10725. ~~Unless the context otherwise requires, the following definitions govern the construction of this part:~~

(a) ~~“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.~~

(b) ~~“Groundwater basin” means any basin or subbasin identified in the department’s Bulletin No. 118, dated September 1975, and any amendments to that bulletin.~~

(c) ~~“Groundwater extraction facility” means a device or method for the extraction of groundwater within a groundwater basin.~~

(d) ~~“Groundwater management agency” means one or more local agencies formed to develop and implement the provisions of this part.~~

(e) ~~“Groundwater recharge” means the augmentation of groundwater, by natural or artificial means, with surface water or recycled water.~~

- 1 (f) “Local agency” means a local public agency that has water  
2 management or land use responsibilities within the groundwater  
3 basin.
- 4 (g) “Overdraft” means the condition of the groundwater basin  
5 where the average annual amount of water extracted exceeds the  
6 average annual supply of water to groundwater.
- 7 (h) “Recharge area” means the area that supplies water to an  
8 aquifer in a groundwater basin and includes multiple wellhead  
9 protection areas.
- 10 (i) “Sustainable groundwater management” means the  
11 management of a groundwater basin to provide for multiple  
12 long-term benefits without resulting in or aggravating conditions  
13 that cause significant economic, social, or environmental impacts  
14 such as long-term overdraft, land subsidence, ecosystem  
15 degradation, depletions from surface water bodies, and water  
16 quality degradation, in order to protect the resource for present  
17 and future generations.
- 18 (j) “Sustainable groundwater management plan” or “plan” means  
19 a document that describes the activities intended to be included in  
20 a groundwater management program.
- 21 (k) “Sustainable groundwater management program” or  
22 “program” means a coordinated and ongoing activity undertaken  
23 for the benefit of a groundwater basin, or a portion of a  
24 groundwater basin, pursuant to a groundwater management plan  
25 adopted pursuant to this part.
- 26 (l) “Sustainable yield” means the average annual quantity of  
27 groundwater that can be withdrawn over a specified planning  
28 timeframe from a groundwater basin without resulting in or  
29 aggravating conditions of sustainable groundwater management.
- 30 (m) “Water budget” means an accounting of the total  
31 groundwater and surface entering and leaving a basin including  
32 the changes in the amount of water stored.
- 33 (n) “Watermaster” means a watermaster appointed by a court  
34 or pursuant to other provisions of law.
- 35 (o) “Wellhead protection area” means the surface and subsurface  
36 area surrounding a water well or well field that supplies a public  
37 water system through which contaminants are reasonably likely  
38 to migrate toward the water well or well field.

~~CHAPTER 2.5. BASIN AND SUBBASIN PRIORITY~~

~~10726. (a) Pursuant to Section 10933, the department shall categorize each basin and subbasin as one of the following priorities:~~

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

~~(b) (1) No later than January 1, 2018, the Department of Fish and Wildlife, in collaboration with the department, shall identify those basins and subbasins where species and ecosystems are vulnerable to existing or future groundwater conditions.~~

~~(2) The department shall revise the priorities for those basins and subbasins identified in paragraph (1) as appropriate.~~

~~CHAPTER 3. GROUNDWATER MANAGEMENT AGENCY FORMATION~~

~~10730. It is the intent of the Legislature that the groundwater subbasin, or basin when no subbasin is defined, as identified by Bulletin 118, is the most appropriate geographic boundary for groundwater management.~~

~~10730.1. Any local agency or combination of local agencies may establish a groundwater management agency.~~

~~10730.2. Before establishing a groundwater management 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 subbasin or basin to discuss requirements of this part.~~

~~10730.3. The groundwater management agency shall be formed and managed to provide that the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing sustainable groundwater management plans, are appropriately considered. 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) Local land use planning agencies.~~

1 ~~(d) Environmental users of groundwater.~~  
 2 ~~(e) Surface water users, if there is a hydrologic connection~~  
 3 ~~between surface and groundwater bodies.~~

4 ~~(f) \_\_\_\_\_.~~

5 ~~10730.4. The groundwater management agency shall establish~~  
 6 ~~and maintain a list of persons interested in receiving notices~~  
 7 ~~regarding plan preparation, meeting announcements, and~~  
 8 ~~availability of draft plans, maps, and other relevant documents.~~  
 9 ~~Any person may request, in writing, to be placed on the list of~~  
 10 ~~interested persons.~~

11 ~~10730.5. A combination of local agencies may form a~~  
 12 ~~groundwater management agency by using any of the following~~  
 13 ~~methods:~~

- 14 ~~(a) A joint powers agreement.~~
- 15 ~~(b) A memorandum of agreement or other legal agreement.~~

16 ~~10730.6. (a) A local agency may request a change to the~~  
 17 ~~boundaries of a groundwater basin or subbasin to the department~~  
 18 ~~in order to form groundwater management agencies.~~

19 ~~(b) The department shall establish procedures and standards for~~  
 20 ~~local agencies and groundwater management agencies regarding~~  
 21 ~~the determination and modification of basin and subbasin~~  
 22 ~~boundaries for the implementation of this part.~~

23 ~~10730.7. A groundwater management agency shall inform the~~  
 24 ~~state board of the formation of the groundwater management~~  
 25 ~~agency and its intent to undertake sustainable groundwater~~  
 26 ~~management. The notification shall include the following~~  
 27 ~~information:~~

- 28 ~~(a) The service area boundaries, the basin or subbasin the agency~~  
 29 ~~is managing, and the other groundwater management agencies~~  
 30 ~~operating within the subbasin.~~
- 31 ~~(b) A copy of the resolution forming the new agency.~~
- 32 ~~(c) A copy of the bylaws, ordinances, and new authorities.~~

33  
 34 ~~CHAPTER 4. SUSTAINABLE GROUNDWATER MANAGEMENT~~  
 35 ~~PLANS~~  
 36

37 ~~10735. (a) A sustainable groundwater management plan shall~~  
 38 ~~be developed by a groundwater management agency to meet the~~  
 39 ~~requirements of this part.~~

1 ~~(b) A sustainable groundwater management plan shall~~  
2 ~~encompass an entire basin or subbasin. If more than one~~  
3 ~~groundwater management agency is managing within a basin or~~  
4 ~~subbasin, the agencies shall jointly develop a plan to ensure all~~  
5 ~~agencies are coordinated and a common set of objectives to address~~  
6 ~~the management of the basin or subbasin are in place.~~

7 ~~(c) A sustainable groundwater management plan shall describe~~  
8 ~~how the groundwater management agency will achieve sustainable~~  
9 ~~groundwater management in the basin or subbasin within the~~  
10 ~~following timeframes:~~

11 ~~(1) For basins and subbasins identified by the department as~~  
12 ~~high and medium priority, a sustainable groundwater management~~  
13 ~~plan shall be completed and submitted to the department by January~~  
14 ~~1, 2020. The plan shall be designed to achieve sustainable~~  
15 ~~groundwater management within 20 years of the plan's adoption,~~  
16 ~~with progress reports submitted to the department and the board~~  
17 ~~every five years.~~

18 ~~(2) For basins and subbasins identified by the department as~~  
19 ~~low or very low priority, sustainable groundwater management~~  
20 ~~plans may be submitted to the department.~~

21 ~~(d) The department, in consultation with the board, shall~~  
22 ~~establish the minimum standards for development of sustainable~~  
23 ~~groundwater management plans, which shall include:~~

24 ~~(1) An identification of the geographic boundaries, physical~~  
25 ~~characteristics of the basin, and mapping of those features that~~  
26 ~~affect groundwater management.~~

27 ~~(2) Identification of physical interactions of impacts across~~  
28 ~~subbasin boundaries.~~

29 ~~(3) A water budget and sustainable yield of the subbasin.~~

30 ~~(4) Data identifying the extent of the impacts and measurable~~  
31 ~~objectives to reduce the impacts associated with long-term~~  
32 ~~overdraft, water quality, subsidence, surface water flows, and~~  
33 ~~groundwater dependent ecosystems in the subbasin.~~

34 ~~(5) Interim milestones and final targets with measurable~~  
35 ~~objectives that demonstrate progress toward achieving sustainable~~  
36 ~~groundwater management.~~

37 ~~(6) Descriptions of management objectives to achieve~~  
38 ~~sustainability in the groundwater basin or subbasin, including~~  
39 ~~monitoring and management actions.~~



1 ~~(e) The department, in consultation with the board, shall~~  
2 ~~establish a process to certify a groundwater management plan~~  
3 ~~which was in place before January 1, 2015, and has been~~  
4 ~~established by local agencies or through adjudication, if the plan~~  
5 ~~substantially meets the purposes and goals of this part. The~~  
6 ~~department in consultation with the board, shall identify~~  
7 ~~amendments or additions necessary to certify a groundwater~~  
8 ~~management plan which was in place before January 1, 2015,~~  
9 ~~under this subdivision wherever feasible. Final certification shall~~  
10 ~~be provided by the board.~~

11 ~~10736. Before initiating the plan development, a groundwater~~  
12 ~~management agency preparing a groundwater management plan~~  
13 ~~shall convene a scoping session of all interested parties, including,~~  
14 ~~but not limited to, those described in Section 10730.3.~~

15 ~~10737. (a) A local agency shall do the following to meet this~~  
16 ~~part:~~

17 ~~(1) Prepare and implement a sustainable groundwater~~  
18 ~~management plan that includes basin management objectives for~~  
19 ~~the groundwater basin that is subject to the plan. The plan shall~~  
20 ~~include components relating to the monitoring and management~~  
21 ~~of groundwater levels within the groundwater basin, groundwater~~  
22 ~~quality degradation, inelastic land surface subsidence, changes in~~  
23 ~~surface flow and surface water quality that directly affect~~  
24 ~~groundwater levels or quality or are caused by groundwater~~  
25 ~~pumping in the basin, and a description of how recharge areas~~  
26 ~~identified in the plan substantially contribute to the replenishment~~  
27 ~~of the groundwater basin. For purposes of implementing this~~  
28 ~~paragraph, all of the following shall apply:~~

29 ~~(A) The local agency shall prepare a plan to work cooperatively~~  
30 ~~with other public entities whose service area or boundary overlies~~  
31 ~~the groundwater basin.~~

32 ~~(B) The local agency shall prepare a map that details the area~~  
33 ~~of the groundwater basin, as defined in the department's Bulletin~~  
34 ~~No. 118, and the area of the local agency, that will be subject to~~  
35 ~~the plan, as well as the boundaries of other local agencies that~~  
36 ~~overlie the basin in which the agency is developing a groundwater~~  
37 ~~management plan.~~

38 ~~(C) The groundwater management plan shall include a map~~  
39 ~~identifying the recharge areas for the groundwater basin. The local~~  
40 ~~agency shall provide the map to the appropriate local planning~~

1 agencies after adoption of the groundwater management plan and  
2 shall notify the department and all persons on the list established  
3 and maintained pursuant to Section 10730.4. For purposes of this  
4 subparagraph, “map identifying the recharge areas” means a map  
5 that identifies, or maps that identify, the current recharge areas  
6 that substantially contribute to the replenishment of the  
7 groundwater basin.

8 ~~(2) Adopt monitoring protocols that are designed to detect~~  
9 ~~changes in groundwater levels, groundwater quality, inelastic~~  
10 ~~surface subsidence for basins for which subsidence has been~~  
11 ~~identified as a potential problem, and flow and quality of surface~~  
12 ~~water that directly affect groundwater levels or quality or are~~  
13 ~~caused by groundwater pumping in the basin. The monitoring~~  
14 ~~protocols shall be designed to generate information that promotes~~  
15 ~~efficient and effective groundwater management.~~

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

21 ~~10738. In addition to the elements required under Section~~  
22 ~~10737, a sustainable groundwater management plan shall include~~  
23 ~~provisions for the following components. If one or more elements~~  
24 ~~are not relevant to the specific basin or subbasin, the plan shall~~  
25 ~~explain why that element is unnecessary.~~

26 ~~(a) Controlling of saline water intrusion.~~

27 ~~(b) Identifying and managing wellhead protection areas and~~  
28 ~~recharge areas.~~

29 ~~(c) Regulating the migration of contaminated groundwater.~~

30 ~~(d) Administering a well abandonment and well destruction~~  
31 ~~program.~~

32 ~~(e) Mitigating or avoiding conditions of overdraft.~~

33 ~~(f) Replenishing groundwater extracted by water producers.~~

34 ~~(g) Regulating groundwater extractions.~~

35 ~~(h) Monitoring and reporting, including, but not limited to,~~  
36 ~~reasonable requirements for monitoring and reporting by persons~~  
37 ~~or entities that extract groundwater or divert water to underground~~  
38 ~~storage, of groundwater extractions, levels, and storage.~~

39 ~~(i) Facilitating conjunctive use operations.~~

40 ~~(j) Establishing well construction policies.~~

1 ~~(k) Constructing and operating by the local agency of~~  
2 ~~groundwater contamination cleanup, recharge, storage,~~  
3 ~~conservation, water recycling, and extraction projects.~~

4 ~~(l) Developing relationships with state and federal regulatory~~  
5 ~~agencies.~~

6 ~~(m) Reviewing land use plans and coordination with land use~~  
7 ~~planning agencies to assess activities that create a reasonable risk~~  
8 ~~of groundwater contamination.~~

9 ~~(n) Establishing and implementing a dispute resolution~~  
10 ~~processes.~~

11 10739. ~~Upon adoption of a plan, a copy of the plan shall be~~  
12 ~~provided to the following:~~

13 ~~(a) \_\_\_\_\_.~~

14  
15 ~~CHAPTER 5. GROUNDWATER MANAGEMENT AGENCY POWERS~~  
16 ~~AND AUTHORITIES~~

17  
18 10740. ~~In addition to other powers granted by law, a~~  
19 ~~groundwater management agency that meets the requirements of~~  
20 ~~Chapter 3 (commencing with Section 10730) may do all of the~~  
21 ~~following:~~

22 ~~(a) Develop a sustainable groundwater plan pursuant to this~~  
23 ~~part.~~

24 ~~(b) Establish a program for the monitoring, measuring, and~~  
25 ~~reporting on groundwater conditions.~~

26 ~~(c) Require reports on groundwater extraction.~~

27 ~~(d) Establish a system for allocating groundwater based on~~  
28 ~~sustainable yield of the basin and manage pumping with public~~  
29 ~~notice and sound technical studies.~~

30 ~~(e) Establish and collect fees for the management of~~  
31 ~~groundwater.~~

32 ~~(f) Establish a system for the approval of local voluntary~~  
33 ~~transfers within a basin or subbasin.~~

34 10741. ~~Commencing January 1, 2018, the groundwater~~  
35 ~~management agency shall prepare an annual report and provide~~  
36 ~~public notice of the annual report. The report shall include a~~  
37 ~~summary of the agency's characterization of the basin, water~~  
38 ~~budget, sustainable yield, and status of the groundwater~~  
39 ~~management plan development or implementation, and associated~~  
40 ~~data.~~

CHAPTER 6. ~~TECHNICAL ASSISTANCE~~

1  
2  
3 10742. ~~The department shall provide technical assistance to~~  
4 ~~groundwater management agencies and develop and manage~~  
5 ~~statewide groundwater information. This shall include, but is not~~  
6 ~~limited to, the following:~~

7 (a) ~~Developing of best management practices and guidelines to~~  
8 ~~assist groundwater agencies in the development and~~  
9 ~~implementation of sustainable groundwater management plans.~~

10 (b) ~~Reporting on statewide groundwater basin characterization.~~

11 (c) ~~Initiating a subsidence monitoring and assessment program~~  
12 ~~in coordination with the United States Geological Survey.~~

13  
14 CHAPTER 7. ~~ENFORCEMENT~~

15  
16 10745. ~~If, by January 1, 2018, a local agency or agencies has~~  
17 ~~not initiated a sustainable groundwater management plan for a~~  
18 ~~groundwater basin that the department has determined is a high-~~  
19 ~~or medium-priority basin pursuant to Section 10726, the department~~  
20 ~~shall:~~

21 (a) ~~Contact those local agencies that are authorized by law to~~  
22 ~~provide water service or whose land use jurisdiction overlays the~~  
23 ~~groundwater basin and offer to assist in the establishment of a local~~  
24 ~~groundwater management agency.~~

25 (b) ~~If, within 60 days of the department's initial notice pursuant~~  
26 ~~to subdivision (a), a local agency or agencies has not agreed to~~  
27 ~~establish a local groundwater management agency, the department~~  
28 ~~shall refer the matter to the board, indicating the priority the~~  
29 ~~department gives to the establishment of sustainable groundwater~~  
30 ~~management of the subbasin.~~

31 10746. (a) ~~Each groundwater agency that is required to~~  
32 ~~complete a groundwater management plan pursuant to paragraph~~  
33 ~~(1) of subdivision (c) of Section 10735 shall submit the plan to the~~  
34 ~~department for review by January 1, 2020, and shall a submit~~  
35 ~~progress report every 5 years thereafter.~~

36 (b) ~~Upon receipt of the plan on or before January 1, 2020, or~~  
37 ~~the progress report, the department shall provide a selected review~~  
38 ~~and analysis of the sustainable groundwater management plan, or~~  
39 ~~progress report, and shall submit a report of compliance to the~~  
40 ~~state board.~~

1 10747. (a) The board, after written notice and public hearing,  
2 may initiate a process to have a qualified third party develop a  
3 groundwater management plan for the basin or subbasin, including  
4 monitoring and reporting, restrictions on groundwater extraction,  
5 and the collection of fees, for a groundwater basin based on either  
6 of the following:

7 (1) The groundwater basin has been identified as a high- or  
8 medium-priority basin by the department and a local agency has  
9 not initiated the development of a sustainable groundwater  
10 management plan on or before January 1, 2018.

11 (2) The groundwater basin has been identified as a high- or  
12 medium-priority basin by the department and the board finds that  
13 the sustainable groundwater management plan submitted on or  
14 before January 1, 2020, fails to meet the standards and requirements  
15 of this part.

16 (b) The board may adopt and enforce the sustainable  
17 groundwater management plan developed pursuant to subdivision  
18 (a).

19 10748. The board, after written notice and public hearing, may  
20 initiate enforcement of a sustainable groundwater management  
21 plan adopted by the groundwater management agency, including  
22 monitoring and reporting, restrictions on groundwater extraction,  
23 and the collection of fees, for a groundwater basin if the  
24 groundwater basin has been identified as a high- or  
25 medium-priority basin by the department and the groundwater  
26 management agency has not made progress to meet its five-year  
27 milestone and measurable objectives identified in its plan.

28 10749. Before adoption or enforcement of a sustainable  
29 groundwater management plan pursuant to Section 10747 or 10748,  
30 respectively, the board shall identify the measures necessary to  
31 bring the plan or the plan's implementation into compliance with  
32 this part and allow the groundwater management agency to correct  
33 the deficiencies within a reasonable period of time. The department  
34 shall provide technical assistance as needed for this purpose.

35 10749.5. The board, in consultation with the department, shall  
36 make all reasonable efforts to transfer management of a  
37 groundwater basin back to local agencies in compliance with this  
38 part at the earliest feasible date.

39 SEC. 7. Section 10750.11 is added to the Water Code, to read:

1 10750.11.— Commencing January 1, 2015, a new plan shall not  
2 be adopted and an existing plan shall not be renewed pursuant to  
3 this part. A plan adopted before January 1, 2015, shall remain in  
4 effect until a sustainable groundwater management plan is adopted  
5 pursuant to Part 2.74 (commencing with Section 10720):

6 ~~SEC. 8.— Section 10927 of the Water Code is amended to read:~~

7 10927. Any of the following entities may assume responsibility  
8 for monitoring and reporting groundwater elevations in all or a  
9 part of a basin or subbasin in accordance with this part:

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

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

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

21 (3) A groundwater management agency with statutory authority  
22 to manage groundwater pursuant to Part 2.74 (commencing with  
23 Section 10720):

24 (e) A local agency that is managing all or part of a groundwater  
25 basin or subbasin pursuant to Part 2.75 (commencing with Section  
26 10750) and that was monitoring groundwater elevations in all or  
27 a part of a groundwater basin or subbasin on or before January 1,  
28 2010, or a local agency or county that is managing all or part of a  
29 groundwater basin or subbasin pursuant to any other legally  
30 enforceable groundwater management plan with provisions that  
31 are substantively similar to those described in that part and that  
32 was monitoring groundwater elevations in all or a part of a  
33 groundwater basin or subbasin on or before January 1, 2010.

34 (d) A local agency that is managing all or part of a groundwater  
35 basin or subbasin pursuant to an integrated regional water  
36 management plan prepared pursuant to Part 2.2 (commencing with  
37 Section 10530) that includes a groundwater management  
38 component that complies with the requirements of Section 10753.7.

39 (e) A local agency that has been collecting and reporting  
40 groundwater elevations and that does not have an adopted

1 ~~groundwater management plan, if the local agency adopts a~~  
2 ~~groundwater management plan in accordance with Part 2.75~~  
3 ~~(commencing with Section 10750) by January 1, 2014. The~~  
4 ~~department may authorize the local agency to conduct the~~  
5 ~~monitoring and reporting of groundwater elevations pursuant to~~  
6 ~~this part on an interim basis, until the local agency adopts a~~  
7 ~~groundwater management plan in accordance with Part 2.75~~  
8 ~~(commencing with Section 10750) or until January 1, 2014,~~  
9 ~~whichever occurs first.~~

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

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

16 ~~SEC. 9. Section 10933 of the Water Code is amended to read:~~

17 ~~10933. (a) On or before January 1, 2012, the department shall~~  
18 ~~commence to identify the extent of monitoring of groundwater~~  
19 ~~elevations that is being undertaken within each basin and subbasin.~~

20 ~~(b) The department shall prioritize groundwater basins and~~  
21 ~~subbasins for the purpose of implementing this section and Part~~  
22 ~~2.74 (commencing with Section 10720). The department shall~~  
23 ~~review available groundwater data and update the groundwater~~  
24 ~~basins and subbasins in 2020 and every five years thereafter. In~~  
25 ~~prioritizing the basins and subbasins, the department shall, to the~~  
26 ~~extent data are available, consider all of the following:~~

27 ~~(1) The population overlying the basin or subbasin.~~

28 ~~(2) The rate of current and projected growth of the population~~  
29 ~~overlying the basin or subbasin.~~

30 ~~(3) The number of public supply wells that draw from the basin~~  
31 ~~or subbasin.~~

32 ~~(4) The total number of wells that draw from the basin or~~  
33 ~~subbasin.~~

34 ~~(5) The irrigated acreage overlying the basin or subbasin.~~

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

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

- 1 ~~(8) Any other information determined to be relevant by the~~  
2 ~~department.~~
- 3 ~~(e) If the department determines that all or part of a basin or~~  
4 ~~subbasin is not being monitored pursuant to this part, the~~  
5 ~~department shall do all of the following:~~
- 6 ~~(1) Attempt to contact all well owners within the area not being~~  
7 ~~monitored.~~
- 8 ~~(2) Determine if there is an interest in establishing any of the~~  
9 ~~following:~~
- 10 ~~(A) A groundwater management plan pursuant to Part 2.75~~  
11 ~~(commencing with Section 10750).~~
- 12 ~~(B) An integrated regional water management plan pursuant to~~  
13 ~~Part 2.2 (commencing with Section 10530) that includes a~~  
14 ~~groundwater management component that complies with the~~  
15 ~~requirements of Section 10753.7.~~
- 16 ~~(C) A voluntary groundwater monitoring association pursuant~~  
17 ~~to Section 10935.~~
- 18 ~~(d) If the department determines that there is sufficient interest~~  
19 ~~in establishing a plan or association described in paragraph (2) of~~  
20 ~~subdivision (e), or if the county agrees to perform the groundwater~~  
21 ~~monitoring functions in accordance with this part, the department~~  
22 ~~shall work cooperatively with the interested parties to comply with~~  
23 ~~the requirements of this part within two years.~~
- 24 ~~(e) If the department determines, with regard to a basin or~~  
25 ~~subbasin, that there is insufficient interest in establishing a plan~~  
26 ~~or association described in paragraph (2) of subdivision (e), and~~  
27 ~~if the county decides not to perform the groundwater monitoring~~  
28 ~~and reporting functions of this part, the department shall do all of~~  
29 ~~the following:~~
- 30 ~~(1) Identify any existing monitoring wells that overlie the basin~~  
31 ~~or subbasin that are owned or operated by the department or any~~  
32 ~~other state or federal agency.~~
- 33 ~~(2) Determine whether the monitoring wells identified pursuant~~  
34 ~~to paragraph (1) provide sufficient information to demonstrate~~  
35 ~~seasonal and long-term trends in groundwater elevations.~~
- 36 ~~(3) If the department determines that the monitoring wells~~  
37 ~~identified pursuant to paragraph (1) provide sufficient information~~  
38 ~~to demonstrate seasonal and long-term trends in groundwater~~  
39 ~~elevations, the department shall not perform groundwater~~  
40 ~~monitoring functions pursuant to Section 10933.5.~~



1     ~~(4) If the department determines that the monitoring wells~~  
2 ~~identified pursuant to paragraph (1) provide insufficient~~  
3 ~~information to demonstrate seasonal and long-term trends in~~  
4 ~~groundwater elevations, the department shall perform groundwater~~  
5 ~~monitoring functions pursuant to Section 10933.5.~~  
6     ~~SEC. 10. If the Commission on State Mandates determines~~  
7 ~~that this act contains costs mandated by the state, reimbursement~~  
8 ~~to local agencies and school districts for those costs shall be made~~  
9 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
10 ~~4 of Title 2 of the Government Code.~~

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JUNE 17, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1739**

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**Introduced by Assembly Member Dickinson**  
(Principal coauthor: Senator Pavley)  
**(Coauthor: Assembly Member Rendon)**

February 14, 2014

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An act to amend Sections 65352 and 65352.5 of, and to add Section ~~65302.12~~ 65350.5 to, the Government Code, ~~and to add Section 1242.1~~ and to amend Sections 1120, 1831, 10927, 10933, and 12924 of, to add Sections 113, 1529.5, and 10750.1 to, ~~and~~ to add Part 5.2 (commencing with Section 5200) to Division 2 of, and to add Part 2.74 (commencing with Section 10720) to Division 6 of, the Water Code, relating to groundwater.

LEGISLATIVE COUNSEL'S DIGEST

AB 1739, as amended, Dickinson. Groundwater management.

*(1) The California Constitution requires the reasonable and beneficial use of water. Existing law establishes various state water policies, including the policy that the people of the state have a paramount interest in the use of all the water of the state and that the state is required to determine what water of the state, surface and underground, can be converted to public use or be controlled for public protection.*

*This bill would state the policy of the state that groundwater resources be managed sustainably for long-term water supply reliability and multiple economic, social, or environmental benefits for current and*

*future beneficial uses. This bill would state that sustainable groundwater management is best achieved locally through the development, implementation, and updating of plans and programs based on the best available science.*

*(2) Existing law requires the Department of Water Resources, in conjunction with other public agencies, to conduct an investigation of the state's groundwater basins and to report its findings to the Legislature not later than January 1, 2012, and thereafter in years ending in 5 and 0. Existing law requires the department to identify the extent of monitoring of groundwater elevations that is being undertaken within each basin or subbasin and to prioritize groundwater basins and subbasins.*

*This bill would require the department, in consultation with the Department of Fish and Wildlife, to identify and develop prioritization criteria for the purpose of identifying groundwater basins and subbasins that should be prioritized based on adverse impacts to habitat and surface water resources. This bill would require the department to categorize each basin as high-, medium-, low-, or very low priority and would require the initial priority for each basin to be established no later than January 1, 2017. This bill would authorize a local agency to request that the department revise the boundaries of a basin. This bill would require the department to provide a copy of its draft revision of a basin's boundaries to the California Water Commission and would require the commission to hear and comment on the draft revision.*

*(3) Existing law authorizes local agencies to adopt and implement a groundwater management plan. Existing law requires a groundwater management plan to contain specified components and requires a local agency seeking state funds administered by the Department of Water Resources for groundwater projects or groundwater quality projects to do certain things, including, but not limited to, preparing and implementing a groundwater management plan that includes basin management objectives for the groundwater basin.*

*This bill would prohibit, beginning January 1, 2015, a new groundwater management plan from being adopted or an existing groundwater management plan from being renewed, except for a low- or very low priority basin.*

*This bill would require, by January 31, 2020, all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans of a groundwater*

*sustainability agency, with specified exceptions. This bill would require a groundwater sustainability plan to be developed and implemented to meet the sustainability goal, established as prescribed, and would require the plan to include prescribed components. This bill would require a groundwater sustainability agency to certify to the department that its plan complies with the requirements of the act no later than January 31, 2020, and every 5 years thereafter. This bill would encourage and authorize basins designated as low- or very low priority basins to be managed under groundwater sustainability plans.*

*This bill would authorize any local agency, as defined, or combination of local agencies to elect to be a groundwater sustainability agency and would require, within 30 days of electing to be or forming a groundwater sustainability agency, the groundwater sustainability agency to inform the department of its election or formation and its intent to undertake sustainable groundwater management. This bill would provide that a county within which an area unmanaged by a groundwater sustainability agency lies is presumed to be the groundwater sustainability agency for that area and would require the county to provide a prescribed notification to the department. This bill would provide specific authority to a groundwater sustainability agency, including, but not limited to, the ability to require registration of a groundwater extraction facility, to require that a groundwater extraction facility be measured with a water-measuring device, to regulate groundwater pumping, and to impose certain fees.*

*This bill would authorize the department or a groundwater sustainability agency to provide technical assistance to entities that extract or use groundwater to promote water conservation and protect groundwater resources. This bill would require the department, by January 1, 2017, to publish on its Internet Web site best management practices for the sustainable management of groundwater.*

*This bill would require a groundwater sustainability agency to submit a groundwater sustainability plan to the department for review upon completion. This bill would require the department to periodically review groundwater sustainability plans, and by June 1, 2016, would require the department, in consultation with the State Water Resources Control Board, to develop guidelines for evaluating groundwater sustainability plans and groundwater sustainability programs. This bill would authorize a local agency to submit to the department for evaluation and assessment an alternative plan that is not a groundwater sustainability plan that the local agency believes satisfies the objectives*

*of these provisions as a functional equivalent. This bill would provide that a basin is in compliance with these provisions if a groundwater agency or other local agency submits to the department, no later than January 31, 2020, a copy of a governing final judgment or other judicial order or decree establishing a groundwater sustainability program for the basin or a prescribed report that shows that current management or operations activities have been consistent with the sustainable yield of the basin over a period of at least 10 years. This bill would require the department to review any of the above-described submissions at least every 5 years after initial submission to the department. This bill would require the department to adopt a schedule of fees to recover costs incurred.*

*This bill would authorize a groundwater sustainability agency and the board to conduct inspections and would authorize a groundwater sustainability agency or the board to obtain an inspection warrant. Because the willful refusal of an inspection lawfully authorized by an inspection warrant is a misdemeanor, this bill would impose a state-mandated local program by expanding the application of a crime.*

*This bill would authorize the board to designate a basin as a probationary basin, if the board makes a certain determination. This bill would authorize the board to develop an interim plan for a probationary basin if the board, in consultation with the department, determines that a local agency has not remedied a deficiency that resulted in designating the basin as a probationary basin within a certain timeframe. This bill would authorize the board to adopt an interim plan for a probationary basin after notice and a public hearing and would require state entities to comply with an interim plan. This bill would specifically authorize the board to rescind all or a portion of an interim plan if the board determines at the request of specified petitioners that a groundwater sustainability plan or 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. This bill would provide that the board has authority to stay its proceedings relating to an interim plan or to rescind or amend an interim plan based on the progress made by a groundwater sustainability agency or in an adjudication action.*

*Existing law establishes the Water Rights Fund, which consists of various fees and penalties. The moneys in the Water Rights Fund are available, upon appropriation by the Legislature, for the administration of the board's water rights program.*

*This bill would require the board to adopt a schedule of fees in an amount sufficient to recover all costs incurred and expended from the Water Rights Fund for the purpose of administering the above-described provisions.*

*Under existing law, a person who violates a cease and desist order of the board may be liable in an amount not to exceed \$1,000 for each day in which the violation occurs. Revenue generated from these penalties is deposited in the Water Rights Fund.*

*This bill would authorize the board to issue a cease and desist order in response to a violation or threatened violation of the above-described provisions.*

*(4) Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city with specified elements, including, among others, land use and conservation elements. Existing law requires a city or county, upon the adoption or revision of its general plan, on or after January 1, 1996, to utilize as a source document any urban water management plan submitted to the city or county by a water agency.*

*This bill would require, prior to the adoption or any substantial amendment of a general plan, the planning agency to review and consider a groundwater sustainability plan, groundwater management plan, groundwater management court order, judgment, or decree, adjudication of water rights, or a certain order of the State Water Resources Control Board. This bill would require the planning agency to refer a proposed action to adopt or substantially amend a general plan to any groundwater sustainability agency that has adopted a groundwater sustainability plan or local agency that otherwise manages groundwater and to the State Water Resources Control Board if it has adopted an interim plan that includes territory within the planning area.*

*Existing law requires a public water system to provide a planning agency with certain information upon receiving notification of a city's or a county's proposed action to adopt or substantially amend a general plan.*

*This bill would also require a public water system to provide a report on the anticipated effect of the proposed action on implementation of a groundwater sustainability plan. This bill would require a groundwater sustainability agency to provide the planning agency with certain information as is appropriate and relevant.*

*By imposing new duties on a city or county, this bill would impose a state-mandated local program.*

*(5) This bill would state the intent of the Legislature to subsequently amend this measure to adopt extraction reporting requirements for basins identified by the State Water Resources Control Board as probationary basins or basins without a groundwater sustainability agency.*

*(6) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

*(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*

*This bill would make legislative findings to that effect.*

~~(1) Existing law authorizes local agencies, as defined, to adopt and implement a groundwater management plan. Existing law requires a groundwater management plan to contain specified components and requires a local agency seeking state funds administered by the Department of Water Resources for groundwater projects or groundwater quality projects to do certain things, including, but not limited to, preparing and implementing a groundwater management plan that includes basin management objectives for the groundwater basin.~~

~~This bill would require all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans, with specified exceptions. This bill would require a groundwater sustainability agency to certify that its plan complies with the requirements of this bill no later than January 31, 2020, and every 5 years thereafter. This bill would encourage basins designated as low-priority basins by the department to be managed under groundwater sustainability plans as soon as possible. This bill,~~

to the extent practicable, would require a groundwater sustainability plan to be coterminous and augment a groundwater management plan.

This bill would provide specific authority to a groundwater sustainability agency including, but not limited to, the ability to require the registration of a groundwater extraction facility, to require that a groundwater extraction facility be measured with a water-measuring device, to regulate groundwater pumping, and to impose certain charges. This bill, after January 31, 2020, would prohibit a person from increasing groundwater extractions on a property within the basin, as specified, until a groundwater sustainability agency or the State Water Resources Control Board complies with the above-described requirements, unless the person submits to the county a specified report. This bill would authorize a groundwater sustainability agency to conduct inspections and would require the inspection to be made with any necessary consent or with an inspection warrant. Because the willful refusal of an inspection lawfully authorized by an inspection warrant is a misdemeanor, this bill would impose a state-mandated local program by expanding the application of a crime.

This bill would authorize the department to provide technical assistance to a groundwater sustainability agency upon the request of the agency and would require, by January 1, 2017, the department to submit to the Legislature and publish on its Internet Web site best management practices for the sustainable management of groundwater.

This bill would state the intent of the Legislature to amend this measure to provide that one or more state agencies act to ensure that all basins in California are on track to achieve the sustainability goal if local agencies are unable to adopt or implement groundwater sustainability plans that achieve that goal. This bill would state the intent of the Legislature to amend this measure to provide for expedited adjudications of rights to extract and store water from and in basins by enacting and directing the Judicial Council to develop innovative judicial procedures to manage those adjudications as quickly as reasonably feasible. This bill would state the intent of the Legislature to amend this measure to provide that the State Water Resources Control Board and the regional water quality control boards must weigh the value of surface water for groundwater replenishment and recharge to promote the state's interest in groundwater sustainability.

(2) The California Constitution requires the reasonable and beneficial use of water.



This bill would state the policy of the state to encourage conjunctive use of surface and groundwater.

~~(3) Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city with specified elements, including, among others, land use and conservation elements. Existing law requires a city or county, upon the adoption or revision of its general plan, on or after January 1, 1996, to utilize as a source document any urban water management plan submitted to the city or county by a water agency.~~

~~This bill would require, prior to the adoption or any substantial amendment of a general plan, the planning agency to review, and if necessary revise the land use, conservation, open space, or any other element of the general plan to address a groundwater sustainability plan, groundwater management plan, groundwater management court order, judgment, or decree, adjudication of water rights, or a certain order of the State Water Resources Control Board. This bill would require the planning agency to refer a proposed action to adopt or substantially amend a general plan to any local agency or joint powers authority that has adopted a groundwater sustainability plan or that otherwise manages groundwater and to the State Water Resources Control Board if it has adopted a groundwater sustainability plan that includes territory within the planning area.~~

~~Existing law requires a public water system to provide a planning agency with certain information upon receiving notification of a city's or a county's proposed action to adopt or substantially amend a general plan.~~

~~This bill would also require a public water system to provide a report on the anticipated effect of the proposed action on implementation of a groundwater sustainability plan. This bill would require a groundwater sustainability agency to provide the planning agency with certain information as is appropriate and relevant.~~

~~By imposing new duties on a city or county, this bill would impose a state-mandated local program.~~

~~(4) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs~~

so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~(5) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~This bill would make legislative findings to that effect.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) *The Legislature finds and declares as follows:*

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

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

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

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

20     (5) *Failure to manage groundwater to prevent long-term*  
21 *overdraft infringes on groundwater rights.*

22     (6) *Groundwater resources are most effectively managed at the*  
23 *local or regional level.*

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

- 1     (8) *Local and regional agencies need to have the necessary*  
 2 *support and authority to manage groundwater sustainably.*
- 3     (9) *In those circumstances where a local groundwater*  
 4 *management agency is not managing its groundwater sustainably,*  
 5 *the state needs to protect the resource until it is determined that*  
 6 *a local groundwater management agency can sustainably manage*  
 7 *the groundwater basin or subbasin.*
- 8     (10) *Information on the amount of groundwater extraction,*  
 9 *natural and artificial recharge, and groundwater evaluations are*  
 10 *critical for effective management of groundwater.*
- 11     (11) *Sustainable groundwater management in California*  
 12 *depends upon creating more opportunities for robust conjunctive*  
 13 *management of surface water resources. Climate change will*  
 14 *intensify the need to recalibrate and reconcile surface and*  
 15 *groundwater management strategies.*
- 16     (b) *It is therefore the intent of the Legislature to do all of the*  
 17 *following:*
- 18         (1) *To provide local and regional agencies the authority to*  
 19 *sustainably manage groundwater.*
- 20         (2) *To provide that if no local groundwater agency or agencies*  
 21 *provide sustainable groundwater management for a groundwater*  
 22 *basin or subbasin, the state has the authority to develop and*  
 23 *implement a groundwater sustainability plan until the time the*  
 24 *local groundwater management agency or agencies can assume*  
 25 *management of the basin or subbasin.*
- 26         (3) *To require the development and reporting of those data*  
 27 *necessary to support sustainable groundwater management,*  
 28 *including those data that help describe the basin’s geology, the*  
 29 *short- and long-term trends of the basin’s water balance, and other*  
 30 *measures of sustainability, and those data necessary to resolve*  
 31 *disputes regarding sustainable yield, beneficial uses, and water*  
 32 *rights.*
- 33         (4) *To respect overlying and other proprietary rights to*  
 34 *groundwater.*
- 35     SEC. 2. *Section 65350.5 is added to the Government Code, to*  
 36 *read:*
- 37         65350.5. *Before the adoption or any substantial amendment*  
 38 *of a city’s or county’s general plan, the planning agency shall*  
 39 *review and consider all of the following:*

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

6 (b) An adjudication of water rights.

7 (c) An order by the State Water Resources Control Board  
8 pursuant to Chapter 11 (commencing with Section 10735) of Part  
9 2.74 of Division 6 of the Water Code.

10 SEC. 3. Section 65352 of the Government Code is amended to  
11 read:

12 65352. (a) ~~Prior to action by~~ Before a legislative body takes  
13 action to adopt or substantially amend a general plan, the planning  
14 agency shall refer the proposed action to all of the following  
15 entities:

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

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

21 (3) The local agency formation commission.

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

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

28 (6) (A) The branches of the United States Armed Forces that  
29 have provided the Office of Planning and Research with a  
30 California mailing address pursuant to subdivision (d) of Section  
31 ~~65944 when 65944~~, if the proposed action is within 1,000 feet of  
32 a military installation, or lies within special use airspace, or beneath  
33 a low-level flight path, as defined in Section 21098 of the Public  
34 Resources Code, ~~provided that~~ and if the United States Department  
35 of Defense provides electronic maps of low-level flight paths,  
36 special use airspace, and military installations at a scale and in an  
37 electronic format that is acceptable to the Office of Planning and  
38 Research.

39 (B) Within 30 days of a determination by the Office of Planning  
40 and Research that the information provided by the Department of

1 Defense is sufficient and in an acceptable scale and format, the  
2 office shall notify cities, counties, and cities and counties of the  
3 availability of the information on the Internet. Cities, counties, and  
4 cities and counties shall comply with subparagraph (A) within 30  
5 days of receiving this notice from the office.

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

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

19 (9) *The State Water Resources Control Board, if it has adopted*  
20 *an interim plan pursuant to Part 2.74 (commencing with Section*  
21 *10720) of Division 6 of the Water Code that includes territory*  
22 *within the planning area of the proposed general plan.*

23 ~~(8)~~  
24 (10) The Bay Area Air Quality Management District for a  
25 proposed action within the boundaries of the district.

26 ~~(9) On and after March 1, 2005, a~~

27 (11) A California Native American tribe, that is on the contact  
28 list maintained by the Native American Heritage Commission,  
29 with Commission and that has traditional lands located within the  
30 city city’s or county’s jurisdiction.

31 ~~(10)~~

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

36 (b) ~~Each~~An entity receiving a proposed general plan or  
37 amendment of a general plan pursuant to this section shall have  
38 45 days from the date the referring agency mails it or delivers it  
39 in which to comment unless a longer period is specified by the  
40 planning agency.

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

4 (2) To the extent that the requirements of this section conflict  
5 with the requirements of Chapter 4.4 (commencing with Section  
6 65919), the requirements of Chapter 4.4 shall prevail.

7 *SEC. 4. Section 65352.5 of the Government Code is amended*  
8 *to read:*

9 65352.5. (a) The Legislature finds and declares that it is vital  
10 that there be close coordination and consultation between  
11 California's water supply *or management* agencies and California's  
12 land use approval agencies to ensure that proper water supply *and*  
13 *management* planning occurs ~~in order~~ to accommodate projects  
14 that will result in increased demands on water supplies *or impact*  
15 *water resource management*.

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

22 (c) Upon receiving, pursuant to Section 65352, notification of  
23 a city's or a county's proposed action to adopt or substantially  
24 amend a general plan, a public water system, as defined in Section  
25 116275 of the Health and Safety Code, with 3,000 or more service  
26 connections, shall provide the planning agency with the following  
27 information, as is appropriate and relevant:

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

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

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

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

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

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

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

8 (A) Agricultural users.

9 (B) Commercial users.

10 (C) Industrial users.

11 (D) Residential users.

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

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

20 *(10) A report on the anticipated effect of proposed action to*  
21 *adopt or substantially amend a general plan on implementation*  
22 *of a groundwater sustainability plan pursuant to Part 2.74*  
23 *(commencing with Section 10720) of Division 6 of the Water Code.*

24 *(d) Upon receiving, pursuant to Section 65352, notification of*  
25 *a city's or a county's proposed action to adopt or substantially*  
26 *amend a general plan, a groundwater sustainability agency, as*  
27 *defined in Section 10720.5 of the Water Code, shall provide the*  
28 *planning agency with the following information, as is appropriate*  
29 *and relevant:*

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

33 *(2) If the groundwater sustainability agency manages*  
34 *groundwater pursuant to a court order, judgment, decree, or*  
35 *agreement among affected water rights holders, or if the State*  
36 *Water Resources Control Board has adopted a groundwater*  
37 *sustainability plan pursuant to Part 2.74 (commencing with Section*  
38 *10720) of Division 6 of the Water Code, the groundwater*  
39 *sustainability agency shall provide the planning agency with maps*  
40 *of recharge basins and percolation ponds, extraction limitations,*

1 *and other relevant information, or the court order, judgment, or*  
2 *decree.*

3 *SEC. 5. Section 113 is added to the Water Code, to read:*

4 *113. It is the policy of the state that groundwater resources be*  
5 *managed sustainably for long-term water supply reliability and*  
6 *multiple economic, social, or environmental benefits for current*  
7 *and future beneficial uses. Sustainable groundwater management*  
8 *is best achieved locally through the development, implementation,*  
9 *and updating of plans and programs based on the best available*  
10 *science.*

11 *SEC. 6. Section 1120 of the Water Code is amended to read:*

12 *1120. This chapter applies to any decision or order issued under*  
13 *this part or Section 275, Part 2 (commencing with Section 1200),*  
14 *Part 2 (commencing with Section 10500) of Division 6, Chapter*  
15 *11 (commencing with Section 10735) of Part 2.74 of Division 6,*  
16 *Article 7 (commencing with Section 13550) of Chapter 7 of*  
17 *Division 7, or the public trust doctrine.*

18 *SEC. 7. Section 1529.5 is added to the Water Code, to read:*

19 *1529.5. (a) The board shall adopt a schedule of fees pursuant*  
20 *to Section 1530 to recover costs incurred in administering Chapter*  
21 *11 (commencing with Section 10735) of Part 2.74 of Division 6.*  
22 *Recoverable costs include, but are not limited to, costs incurred*  
23 *in connection with investigations, facilitation, monitoring, hearings,*  
24 *enforcement, and administrative costs in carrying out these actions.*

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

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

29 *(2) A fee for the filing of a report pursuant to Part 5.2*  
30 *(commencing with Section 5200) of Division 2 for extractions from*  
31 *a source within the boundaries of a probationary basin under*  
32 *Section 10735.2.*

33 *(c) Consistent with Section 3 of Article XIII A of the California*  
34 *Constitution, the board shall set the fees under this section in an*  
35 *amount sufficient to cover all costs incurred and expended from*  
36 *the Water Rights Fund for the purpose of Chapter 11 (commencing*  
37 *with Section 10735) of Part 2.74 of Division 6. In setting these*  
38 *fees, the board is not required to fully recover these costs in the*  
39 *year or the year immediately after the costs are incurred, but the*



1 board may provide for recovery of these costs over a period of  
2 years.

3 SEC. 8. Section 1831 of the Water Code is amended to read:

4 1831. (a) When the board determines that any person is  
5 violating, or threatening to violate, any requirement described in  
6 subdivision (d), the board may issue an order to that person to  
7 cease and desist from that violation.

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

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

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

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

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

18 (3) Any decision or order of the board issued under this part,  
19 Section 275, Chapter 11 (commencing with Section 10735) of Part  
20 2.74 of Division 6, or Article 7 (commencing with Section 13550)  
21 of Chapter 7 of Division 7, in which decision or order the person  
22 to whom the cease and desist order will be issued, or a predecessor  
23 in interest to that person, was named as a party directly affected  
24 by the decision or order.

25 (4) A regulation adopted under Section 1058.5.

26 (5) Any pumping restriction, limitation, order, or regulation  
27 adopted or issued under Chapter 11 (commencing with Section  
28 10735) of Part 2.74 of Division 6.

29 (e) This article ~~shall~~ does not authorize the board to regulate in  
30 any manner, the diversion or use of water not otherwise subject to  
31 regulation of the board under this ~~part~~ division or Section 275.

32 SEC. 9. Part 5.2 (commencing with Section 5200) is added to  
33 Division 2 of the Water Code, to read:

34

35 PART 5.2. GROUNDWATER EXTRACTION REPORTING FOR  
36 PROBATIONARY BASINS AND BASINS WITHOUT A  
37 GROUNDWATER SUSTAINABILITY AGENCY

38

39 5200. It is the intent of the Legislature to subsequently amend  
40 this measure to adopt extraction reporting requirements for basins

1 *identified as probationary basins pursuant to Section 10735.2, or*  
2 *as authorized by subdivision (b) of Section 10724, for basins*  
3 *without a groundwater sustainability agency.*

4 *SEC. 10. Part 2.74 (commencing with Section 10720) is added*  
5 *to Division 6 of the Water Code, to read:*

6  
7 **PART 2.74. SUSTAINABLE GROUNDWATER MANAGEMENT**

8  
9 **CHAPTER 1. GENERAL PROVISIONS**

10  
11 *10720. This part shall be known, and may be cited, as the*  
12 *“Sustainable Groundwater Management Act.”*

13 *10720.1. In enacting this part, it is the intent of the Legislature*  
14 *to do all of the following:*

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

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

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

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

28 *(e) To avoid or minimize subsidence.*

29 *(d) To improve data collection and understanding about*  
30 *groundwater.*

31 *(e) To increase groundwater storage and remove impediments*  
32 *to recharge.*

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

37 *10720.3. (a) This part applies to all groundwater basins in*  
38 *the state.*

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

4 10720.5. Groundwater management pursuant to this part shall  
5 be consistent with Section 2 of Article X of the California  
6 Constitution. Nothing in this part modifies rights or priorities to  
7 use or store groundwater consistent with Section 2 of Article X of  
8 the California Constitution, except that in basins designated  
9 medium- or high-priority basins by the department, no extraction  
10 of groundwater between January 1, 2015, and the date of adoption  
11 of a groundwater sustainability plan pursuant to this part,  
12 whichever is sooner, may be used as evidence of, or to establish  
13 or defend against, any claim of prescription.

14 10720.7. Subject to Chapter 6 (commencing with Section  
15 10725), by January 31, 2020, all basins designated as high- or  
16 medium-priority basins by the department shall be managed under  
17 a groundwater sustainability plan or coordinated groundwater  
18 sustainability plans pursuant to this part. The Legislature  
19 encourages and authorizes basins designated as low-and very low  
20 priority basins by the department to be managed under  
21 groundwater sustainability plans pursuant to this part.

22 10720.9. (a) Except as provided in Section 10733.6, this part  
23 does not apply to a local agency that conforms to the requirements  
24 of an adjudication of water rights in a groundwater basin or to  
25 that adjudicated basin. For purposes of this section, an  
26 adjudication includes an adjudication under Section 2101, an  
27 administrative adjudication, and an adjudication in state or federal  
28 court, including, but not limited to, the following adjudicated  
29 groundwater basins:

- 30 (1) Beaumont Basin.
- 31 (2) Brite Basin.
- 32 (3) Central Basin.
- 33 (4) Chino Basin.
- 34 (5) Cucamonga Basin.
- 35 (6) Cummings Basin.
- 36 (7) Goleta Basin.
- 37 (8) Main San Gabriel Basin: Puente Narrows.
- 38 (9) Mojave Basin Area.
- 39 (10) Puente Basin.
- 40 (11) Raymond Basin.

- 1 (12) *San Jacinto Basin.*
- 2 (13) *Santa Margarita River Watershed.*
- 3 (14) *Santa Maria Valley Basin.*
- 4 (15) *Santa Paula Basin.*
- 5 (16) *Scott River Stream System.*
- 6 (17) *Seaside Basin.*
- 7 (18) *Six Basins.*
- 8 (19) *Tehachapi Basin.*
- 9 (20) *Upper Los Angeles River Area.*
- 10 (21) *Warren Valley Basin.*
- 11 (22) *West Coast Basin.*
- 12 (23) *Western San Bernardino.*
- 13 (b) *The Antelope Valley basin at issue in the Antelope Valley*
- 14 *Groundwater Cases (Judicial Council Coordination Proceeding*
- 15 *Number 4408) shall be treated as an adjudicated basin pursuant*
- 16 *to this section if the superior court issues a final judgment, order,*
- 17 *or decree.*

18  
19 *CHAPTER 2. DEFINITIONS*

- 20
- 21 *10721. Unless the context otherwise requires, the following*
- 22 *definitions govern the construction of this part:*
- 23 (a) *“Adjudication action” means an action filed in the superior*
  - 24 *court to determine the rights to extract groundwater from a basin*
  - 25 *or store water within a basin, including, but not limited to, actions*
  - 26 *to quiet title respecting rights to extract or store groundwater or*
  - 27 *an action brought to impose a physical solution on a basin.*
  - 28 (b) *“Basin” means a groundwater basin or subbasin identified*
  - 29 *and defined in Bulletin 118 or as modified pursuant to Chapter 3*
  - 30 *(commencing with Section 10722).*
  - 31 (c) *“Bulletin 118” means the department’s report entitled*
  - 32 *“California’s Groundwater: Bulletin 118” updated in 2003, as it*
  - 33 *may be subsequently updated or revised in accordance with Section*
  - 34 *12924.*
  - 35 (d) *“Coordination agreement” means a legal agreement adopted*
  - 36 *between two or more groundwater sustainability agencies that*
  - 37 *provides the basis for coordinating multiple agencies or*
  - 38 *groundwater sustainability plans within a basin pursuant to this*
  - 39 *part.*

- 1 (e) “*De minimus extractor*” means a person who extracts, for  
2 domestic purposes, two acre-feet or less per year.
- 3 (f) “*Governing body*” means the legislative body of a  
4 groundwater sustainability agency.
- 5 (g) “*Groundwater*” means water beneath the surface of the  
6 earth within the zone below the water table in which the soil is  
7 completely saturated with water, but does not include water that  
8 flows in known and definite channels.
- 9 (h) “*Groundwater extraction facility*” means a device or method  
10 for extracting groundwater from within a basin.
- 11 (i) “*Groundwater recharge*” means the augmentation of  
12 groundwater, by natural or artificial means.
- 13 (j) “*Groundwater sustainability agency*” means one or more  
14 local agencies that implement the provisions of this part. For  
15 purposes of imposing fees pursuant to Chapter 8 (commencing  
16 with Section 10730) or taking action to enforce a groundwater  
17 sustainability plan, “*groundwater sustainability agency*” also  
18 means each local agency comprising the groundwater  
19 sustainability agency if the plan authorizes separate agency action.
- 20 (k) “*Groundwater sustainability plan*” or “*plan*” means a plan  
21 of a groundwater sustainability agency proposed or adopted  
22 pursuant to this part.
- 23 (l) “*Groundwater sustainability program*” means a coordinated  
24 and ongoing activity undertaken to benefit a basin, pursuant to a  
25 groundwater sustainability plan.
- 26 (m) “*Local agency*” means a local public agency that has water  
27 supply, water management, or land use responsibilities within a  
28 groundwater basin.
- 29 (n) “*Operator*” means a person operating a groundwater  
30 extraction facility. The owner of a groundwater extraction facility  
31 shall be conclusively presumed to be the operator unless a  
32 satisfactory showing is made to the governing body of the  
33 groundwater sustainability agency that the groundwater extraction  
34 facility actually is operated by some other person.
- 35 (o) “*Owner*” means a person owning a groundwater extraction  
36 facility or an interest in a groundwater extraction facility other  
37 than a lien to secure the payment of a debt or other obligation.
- 38 (p) “*Planning and implementation horizon*” means a 50-year  
39 time period over which a groundwater sustainability agency

1 *determines that plans and measures will be implemented in a basin*  
2 *to ensure that the basin is operated within its sustainable yield.*

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

5 *(r) “Recharge area” means the area that supplies water to an*  
6 *aquifer in a groundwater basin.*

7 *(s) “Sustainability goal” means the existence and*  
8 *implementation of one or more groundwater sustainability plans*  
9 *that achieve sustainable groundwater management by identifying*  
10 *and causing the implementation of measures targeted to ensure*  
11 *that the applicable basin is operated within its sustainable yield.*

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

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

21 *(v) “Undesirable result” means one or more of the following*  
22 *effects occurring after January 1, 2015, and caused by*  
23 *groundwater conditions occurring throughout the basin:*

24 *(1) Chronic lowering of groundwater levels indicating a*  
25 *significant and unreasonable depletion of supply if continued over*  
26 *the planning and implementation horizon, excluding lowering*  
27 *groundwater levels caused by a drought.*

28 *(2) Significant and unreasonable reduction of groundwater*  
29 *storage.*

30 *(3) Significant seawater intrusion.*

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

34 *(5) Significant land subsidence that substantially interferes with*  
35 *surface land uses.*

36 *(6) Surface water depletions that have significant adverse*  
37 *impacts on beneficial uses.*

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

- 1 (x) “Watermaster” means a watermaster appointed by a court
- 2 or pursuant to other law.
- 3 (y) “Water year” means the period from October 1 through the
- 4 following September 30, inclusive.
- 5 (z) “Wellhead protection area” means the surface and
- 6 subsurface area surrounding a water well or well field that supplies
- 7 a public water system through which contaminants are reasonably
- 8 likely to migrate toward the water well or well field.

9  
10 *CHAPTER 3. BASIN BOUNDARIES*

11  
12 *10722. Unless other basin boundaries are established pursuant*

13 *to this chapter, a basin’s boundaries shall be as identified in*

14 *Bulletin 118.*

15 *10722.2. (a) A local agency may request that the department*

16 *revise the boundaries of a basin, including the establishment of*

17 *new subbasins. A local agency’s request shall be supported by the*

18 *following information:*

19 *(1) Information demonstrating that the proposed adjusted basin*

20 *can be the subject of sustainable groundwater management.*

21 *(2) Technical information regarding the boundaries of, and*

22 *conditions in, the proposed adjusted basin.*

23 *(3) Information demonstrating that the entity proposing the*

24 *basin boundary adjustment consulted with interested local agencies*

25 *and public water systems in the affected basins before filing the*

26 *proposal with the department.*

27 *(4) Other information the department deems necessary to justify*

28 *revision of the basin’s boundary.*

29 *(b) By January 1, 2016, the department shall develop and*

30 *publish guidelines regarding the information required to comply*

31 *with subdivision (a). The guidelines required pursuant to this*

32 *subdivision are exempt from Chapter 3.5 (commencing with Section*

33 *11340) of Part 1 of Division 3 of Title 2 of the Government Code.*

34 *(c) The department shall provide a copy of its draft revision of*

35 *a basin’s boundaries to the California Water Commission. The*

36 *California Water Commission shall hear and comment on the draft*

37 *revision within 60 days after the department provides the draft*

38 *revision to the commission.*

1 10722.4. (a) Pursuant to Section 10933, for the purposes of  
2 this part the department shall categorize each basin as one of the  
3 following priorities:

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

8 (b) The initial priority for each basin shall be established by  
9 the department pursuant to Section 10933 no later than January  
10 1, 2017.

11  
12 *CHAPTER 4. ESTABLISHING GROUNDWATER SUSTAINABILITY*  
13 *AGENCIES*  
14

15 10723. (a) Any local agency or combination of local agencies  
16 may elect to be a groundwater sustainability agency.

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

21 10723.2. The groundwater sustainability agency shall consider  
22 the interests of all beneficial uses and users of groundwater, as  
23 well as those responsible for implementing groundwater  
24 sustainability plans. These interests include, but are not limited  
25 to, all of the following:

26 (a) Holders of overlying groundwater rights, including:

- 27 (1) Agricultural users.
- 28 (2) Domestic well owners.

29 (b) Municipal well operators.

30 (c) Public water systems.

31 (d) Local land use planning agencies.

32 (e) Environmental users of groundwater.

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

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

37 (h) Indian tribes.

38 10723.4. The groundwater sustainability agency shall establish  
39 and maintain a list of persons interested in receiving notices  
40 regarding plan preparation, meeting announcements, and



1 availability of draft plans, maps, and other relevant documents.  
2 Any person may request, in writing, to be placed on the list of  
3 interested persons.

4 10723.6. A combination of local agencies may form a  
5 groundwater sustainability agency by using any of the following  
6 methods:

7 (a) A joint powers agreement.

8 (b) A memorandum of agreement or other legal agreement.

9 10723.8. Within 30 days of electing to be or forming a  
10 groundwater sustainability agency, the groundwater sustainability  
11 agency shall inform the department of its election or formation  
12 and its intent to undertake sustainable groundwater management.  
13 The notification shall include the following information, as  
14 applicable:

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

18 (b) A copy of the resolution forming the new agency.

19 (c) A copy of the bylaws, ordinances, and new authorities.

20 10724. (a) In the event that there is an area within a basin  
21 that is not within the management area of a groundwater  
22 sustainability agency, the county within which that unmanaged  
23 area lies will be presumed to be the groundwater sustainability  
24 agency for that area.

25 (b) A county described in subdivision (a) shall provide  
26 notification to the department pursuant to Section 10723.8 unless  
27 the county notifies the department that it will not be the  
28 groundwater sustainability agency for the area. Extractions of  
29 groundwater made after 2016 in that area shall be subject to  
30 reporting in accordance with Part 5.2 (commencing with Section  
31 5200) of Division 2 if the county does either of the following:

32 (1) Notifies the department that it will not be the groundwater  
33 sustainability agency for an area.

34 (2) Fails to provide notification to the department pursuant to  
35 Section 10723.8 for an area on or before January 1, 2017.

36

37 *CHAPTER 5. POWERS AND AUTHORITIES*

38

39 10725. (a) A groundwater sustainability agency may exercise  
40 any of the powers described in this chapter in implementing this

1 part, in addition to, and not as a limitation on, any existing  
2 authority, if the groundwater sustainability agency adopts and  
3 submits to the department a groundwater sustainability plan or  
4 prescribed alternative documentation in accordance with Section  
5 10733.6.

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

10 10725.2. (a) A groundwater sustainability agency may perform  
11 any act necessary or proper to carry out the purposes of this part.

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

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

22 10725.4. (a) A groundwater sustainability agency may conduct  
23 an investigation for the purposes of this part, including, but not  
24 limited to, investigations for the following:

25 (1) To determine the need for groundwater management.

26 (2) To prepare and adopt a groundwater sustainability plan  
27 and implementing rules and regulations.

28 (3) To propose and update fees.

29 (4) To monitor compliance and enforcement.

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

32 (c) In connection with an investigation, a groundwater  
33 sustainability agency may inspect the property or facilities of a  
34 person or entity to ascertain whether the purposes of this part are  
35 being met and compliance with this part. The local agency may  
36 conduct an inspection pursuant to this section upon obtaining any  
37 necessary consent or obtaining an inspection warrant pursuant  
38 to the procedure set forth in Title 13 (commencing with Section  
39 1822.50) of Part 3 of the Code of Civil Procedure.

1 10725.6. A groundwater sustainability agency may require  
2 registration of a groundwater extraction facility within the  
3 management area of the groundwater sustainability agency.

4 10725.8. (a) A groundwater sustainability agency may require  
5 through its groundwater sustainability plan that the use of every  
6 groundwater extraction facility within the management area of  
7 the groundwater sustainability agency be measured by a  
8 water-measuring device satisfactory to the groundwater  
9 sustainability agency.

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

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

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

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

30 10726. An entity within the area of a groundwater sustainability  
31 plan shall only divert surface water to underground storage  
32 consistent with the plan and shall report the diversion to  
33 underground storage to the groundwater sustainability agency for  
34 the relevant portion of the basin.

35 10726.2. A groundwater sustainability agency may do the  
36 following:

37 (a) Acquire by grant, purchase, lease, gift, devise, contract,  
38 construction, or otherwise, and hold, use, enjoy, sell, let, and  
39 dispose of, real and personal property of every kind, including  
40 lands, water rights, structures, buildings, rights-of-way, easements,

1 *and privileges, and construct, maintain, alter, and operate any*  
2 *and all works or improvements, within or outside the agency,*  
3 *necessary or proper to carry out any of the purposes of this part.*

4 *(b) Appropriate and acquire surface water or groundwater and*  
5 *surface water or groundwater rights, import surface water or*  
6 *groundwater into the agency, and conserve and store within or*  
7 *outside the agency that water for any purpose necessary or proper*  
8 *to carry out the provisions of this part, including, but not limited*  
9 *to, the spreading, storing, retaining, or percolating into the soil*  
10 *of the waters for subsequent use or in a manner consistent with*  
11 *the provisions of Section 10727.2. As part of this authority, the*  
12 *agency may validate an existing groundwater conjunctive use or*  
13 *storage program upon a finding that the program would aid or*  
14 *assist the agency in developing or implementing a groundwater*  
15 *sustainability plan.*

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

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

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

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

34 *10726.4. (a) A groundwater sustainability agency shall have*  
35 *the following additional authority and may regulate groundwater*  
36 *pumping using that authority:*

37 *(1) To impose spacing requirements on new groundwater well*  
38 *construction to minimize well interference and impose reasonable*  
39 *operating regulations on existing groundwater wells to minimize*

1 well interference, including requiring pumpers to operate on a  
2 rotation basis.

3 (2) To control groundwater extractions by regulating, limiting,  
4 or suspending extractions from individual groundwater wells or  
5 extractions from groundwater wells in the aggregate, the  
6 construction of new groundwater wells, the enlarging of existing  
7 groundwater wells, the reactivation of abandoned groundwater  
8 wells, or otherwise establishing groundwater extraction  
9 allocations. A limitation on extractions by a groundwater  
10 sustainability agency shall not be construed to be a final  
11 determination of rights to extract groundwater from the basin or  
12 any portion of the basin.

13 (3) To authorize temporary and permanent transfers of  
14 groundwater extraction allocations within the agency's boundaries,  
15 if the total quantity of groundwater extracted in any water year is  
16 consistent with the provisions of the groundwater sustainability  
17 plan.

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

23 (b) Nothing in this section shall be construed to grant a  
24 groundwater sustainability agency the authority to issue permits  
25 for the construction, modification, or abandonment of groundwater  
26 wells. A county may authorize a groundwater sustainability agency  
27 to issue permits for the construction, modification, or abandonment  
28 of groundwater wells.

29 10726.6. (a) A groundwater sustainability agency that adopts  
30 a groundwater sustainability plan may file an action to determine  
31 the validity of the plan pursuant to Chapter 9 (commencing with  
32 Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

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

37 (c) Any judicial action or proceeding to attack, review, set aside,  
38 void, or annul the ordinance or resolution imposing a new, or  
39 increasing an existing, fee imposed pursuant to Section 10730,

1 10730.2, or 10730.4 shall be brought pursuant to Section 66022  
2 of the Government Code.

3 (d) Any person may pay a fee imposed pursuant to Section  
4 10730, 10730.2, or 10730.4 under protest and bring an action  
5 against the governing body in the superior court to recover any  
6 money that the governing body refuses to refund. Payments made  
7 and actions brought under this section shall be made and brought  
8 in the manner provided for the payment of taxes under protest and  
9 actions for refund of that payment in Article 2 (commencing with  
10 Section 5140) of Chapter 5 of Part 9 of Division 1 of the Revenue  
11 and Taxation Code, as applicable.

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

15 10726.8. (a) This part is in addition to, and not a limitation  
16 on, the authority granted to a local agency under any other law.  
17 The local agency may use the local agency's authority under any  
18 other law to apply and enforce any requirements of this part,  
19 including, but not limited to, the collection of fees.

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

22 (c) This part does not authorize a local agency to impose any  
23 requirement or impose any penalty or fee on the state or any  
24 agency, department, or officer of the state. State agencies and  
25 departments shall work cooperatively with a local agency on a  
26 voluntary basis.

27

28 *CHAPTER 6. GROUNDWATER SUSTAINABILITY PLANS*

29

30 10727. (a) A groundwater sustainability plan shall be  
31 developed and implemented for each medium- or high-priority  
32 basin by a groundwater sustainability agency to meet the  
33 sustainability goal established pursuant to this part. The  
34 groundwater sustainability plan may incorporate, extend, or be  
35 based on a plan adopted pursuant to Part 2.75 (commencing with  
36 Section 10750).

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

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

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

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

7 10727.2. A groundwater sustainability plan shall include all  
8 of the following:

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

11 (1) Historical data, to the extent available.

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

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

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

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

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

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

31 (3) Notwithstanding paragraph (1), at the request of the  
32 groundwater sustainability agency, the department may grant an  
33 extension of up to 10 years beyond the 20-year sustainability  
34 timeframe upon a showing of good cause.

35 (c) A planning and implementation horizon of 50 years.

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

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

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

6 (3) *Mitigation of overdraft.*

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

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

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

26 10727.4. *In addition to the requirements of Section 10727.2,*  
27 *a groundwater sustainability plan shall include, where appropriate*  
28 *and in collaboration with the appropriate local agencies, all of*  
29 *the following:*

30 (a) *Control of saline water intrusion.*

31 (b) *Wellhead protection areas and recharge areas.*

32 (c) *Migration of contaminated groundwater.*

33 (d) *A well abandonment and well destruction program.*

34 (e) *Replenishment of groundwater extractions.*

35 (f) *Activities implementing, opportunities for, and impediments*  
36 *to, conjunctive use.*

37 (g) *Well construction policies.*

38 (h) *Measures addressing groundwater contamination cleanup,*  
39 *recharge, diversions to storage, conservation, water recycling,*  
40 *conveyance, and extraction projects.*



1 (i) *Efficient water management practices, as defined in Section*  
2 *10902, for the delivery of water and water conservation methods*  
3 *to improve the efficiency of water use.*

4 (j) *Efforts to develop relationships with state and federal*  
5 *regulatory agencies.*

6 (k) *Processes to review land use plans and efforts to coordinate*  
7 *with land use planning agencies to assess activities that potentially*  
8 *create risks to groundwater quality or quantity.*

9 *10727.6. Groundwater sustainability agencies intending to*  
10 *develop and implement multiple groundwater sustainability plans*  
11 *pursuant to paragraph (3) of subdivision (b) of Section 10727 shall*  
12 *coordinate with other agencies preparing a groundwater*  
13 *sustainability plan within the basin to ensure that the plans utilize*  
14 *the same data for the following assumptions in developing the*  
15 *plan:*

16 (a) *Groundwater elevation data.*

17 (b) *Groundwater extraction data.*

18 (c) *Surface water supply.*

19 (d) *Total water use.*

20 (e) *Change in groundwater storage.*

21 (f) *Water budget.*

22 (g) *Sustainable yield.*

23 *10727.8. Prior to initiating the development of a groundwater*  
24 *sustainability plan, the groundwater sustainability agency shall*  
25 *make available to the public and the department a written statement*  
26 *describing the manner in which interested parties may participate*  
27 *in the development and implementation of the groundwater*  
28 *sustainability plan. The groundwater sustainability agency may*  
29 *appoint and consult with an advisory committee consisting of*  
30 *interested parties for the purposes of developing and implementing*  
31 *a groundwater sustainability plan. The groundwater sustainability*  
32 *agency shall encourage the active involvement of diverse social,*  
33 *cultural, and economic elements of the population within the*  
34 *groundwater basin prior to and during the development and*  
35 *implementation of the groundwater sustainability plan.*

36 *10728. (a) Except as provided in subdivision (b), a*  
37 *groundwater sustainability agency shall certify that its plan*  
38 *complies with this part no later than January 31, 2020, and every*  
39 *five years thereafter. A groundwater sustainability agency shall*

1 *submit this certification to the department within 30 days of the*  
2 *certification.*

3 *(b) (1) The department may review the submissions made*  
4 *pursuant to this section and Section 10733.6 and may request the*  
5 *supporting information on which the certification pursuant to*  
6 *subdivision (a) relied upon or the other documentation relied upon*  
7 *pursuant to subdivision (b) of Section 10733.6. The department*  
8 *may issue findings concerning the validity of the certification or*  
9 *other submission.*

10 *(2) Before issuing findings pursuant to paragraph (1), the*  
11 *department shall transmit a draft of its findings to the submitting*  
12 *agency and shall consult with that agency. The submitting agency*  
13 *may submit a response to the department within 60 days of*  
14 *receiving the department's draft findings.*

15 *(3) If the department's findings issued pursuant to paragraph*  
16 *(1) concern the compliance of a plan with requirements for*  
17 *sustainable groundwater management or the operation of a basin*  
18 *consistent with the basin's sustainable yield, the submitting agency,*  
19 *within 90 days of receipt, shall consider amendments to its plan*  
20 *or technical analysis to address the department's findings.*

21 *10728.2. A groundwater sustainability agency shall periodically*  
22 *evaluate its groundwater sustainability plan, assess changing*  
23 *conditions in the basin that may warrant modification of the plan*  
24 *or management objectives, and may adjust components in the plan.*  
25 *An evaluation of the plan shall focus on determining whether the*  
26 *actions under the plan are meeting the plan's management*  
27 *objectives and whether those objectives are meeting the*  
28 *sustainability goal in the basin.*

29 *10728.4. A groundwater sustainability agency may adopt or*  
30 *amend a groundwater sustainability plan if the groundwater*  
31 *sustainability agency holds a public hearing and more than 90*  
32 *days have passed since the groundwater sustainability agency*  
33 *provided notice to a city or county within the area of the proposed*  
34 *plan or amendment. The groundwater sustainability agency shall*  
35 *obtain comments from any city or county that receives notice*  
36 *pursuant to this section and shall consult with a city or county that*  
37 *requests consultation within 30 days of receipt of the notice.*  
38 *Nothing in this section is intended to preclude an agency and a*  
39 *city or county from otherwise consulting or commenting regarding*  
40 *the adoption or amendment of a plan.*

CHAPTER 7. TECHNICAL ASSISTANCE

1  
 2  
 3 10729. (a) The department or a groundwater sustainability  
 4 agency may provide technical assistance to entities that extract  
 5 or use groundwater to promote water conservation and protect  
 6 groundwater resources.  
 7 (b) The department may provide technical assistance to any  
 8 groundwater sustainability agency in response to that agency's  
 9 request for assistance in the development and implementation of  
 10 a groundwater sustainability plan. The department shall use its  
 11 best efforts to provide the requested assistance.  
 12 (c) (1) By January 1, 2017, the department shall publish on its  
 13 Internet Web site best management practices for the sustainable  
 14 management of groundwater.  
 15 (2) The department shall develop the best management practices  
 16 through a public process involving one public meeting conducted  
 17 at a location in northern California, one public meeting conducted  
 18 at a location in the San Joaquin Valley, one public meeting  
 19 conducted at a location in southern California, and one public  
 20 meeting of the California Water Commission.

CHAPTER 8. FINANCIAL AUTHORITY

21  
 22  
 23  
 24 10730. (a) A groundwater sustainability agency may impose  
 25 fees, including, but not limited to, permit fees and fees on  
 26 groundwater extraction or other regulated activity, to fund the  
 27 costs of a groundwater sustainability program, including, but not  
 28 limited to, preparation, adoption, and amendment of a groundwater  
 29 sustainability plan, and program administration, investigations,  
 30 inspections, compliance assistance, and enforcement. A  
 31 groundwater sustainability agency shall not impose a fee pursuant  
 32 to this subdivision on a de minimus extractor unless the agency  
 33 has regulated the users pursuant to this part.  
 34 (b) (1) Prior to imposing or increasing a fee, a groundwater  
 35 sustainability agency shall hold at least one open and public  
 36 meeting, at which oral or written presentations may be made as  
 37 part of the meeting.  
 38 (2) Notice of the time and place of the meeting shall include a  
 39 general explanation of the matter to be considered and a statement  
 40 that the data required by this section is available. The notice shall

1 *be mailed at least 14 days prior to the meeting to each record*  
2 *owner of property within the basin and to any interested party who*  
3 *files a written request with the agency for mailed notice of the*  
4 *meeting on new or increased fees. A written request for mailed*  
5 *notices shall be valid for one year from the date that the request*  
6 *is made and may be renewed by making a written request on or*  
7 *before April 1 of each year.*

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

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

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

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

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

26 *10730.2. (a) A groundwater sustainability agency that adopts*  
27 *a groundwater sustainability plan pursuant to this part may impose*  
28 *fees on the extraction of groundwater from the basin to fund costs*  
29 *of groundwater management, including, but not limited to, the*  
30 *costs of the following:*

31 *(1) Administration, operation, maintenance, and acquisition of*  
32 *lands or other property, facilities, and services.*

33 *(2) Supply, production, treatment, or distribution of water.*

34 *(3) Other activities necessary or convenient to implement the*  
35 *plan.*

36 *(b) Fees may be implemented pursuant to Part 2.75*  
37 *(commencing with Section 10750) in accordance with the*  
38 *procedures provided in this section.*

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

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

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

13 10730.4. A groundwater sustainability agency may fund  
14 activities pursuant to Part 2.75 (commencing with Section 10750)  
15 and may impose fees pursuant to Section 10732.5 to fund activities  
16 undertaken by the agency pursuant to Part 2.75 (commencing with  
17 Section 10750).

18 10730.6. (a) A groundwater fee levied pursuant to this chapter  
19 shall be due and payable to the groundwater sustainability agency  
20 by each owner or operator on a day established by the groundwater  
21 sustainability agency.

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

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

37 (d) In the alternative to bringing a suit pursuant to subdivision  
38 (c), a groundwater sustainability agency may collect any delinquent  
39 groundwater charge and any civil penalties and interest on the  
40 delinquent groundwater charge pursuant to the laws applicable

1 to the local agency or, if a joint powers authority, to the entity  
2 designated pursuant to Section 6509 of the Government Code. The  
3 collection shall be in the same manner as it would be applicable  
4 to the collection of delinquent assessments, water charges, or tolls.

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

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

14 10730.8. (a) Nothing in this chapter shall affect or interfere  
15 with the authority of a groundwater sustainability agency to levy  
16 and collect taxes, assessments, charges, and tolls as otherwise  
17 provided by law.

18 (b) For the purposes of Section 6254.16 of the Government  
19 Code, persons subject to payment of fees pursuant to this chapter  
20 are utility customers of a groundwater sustainability agency.

21 10731. (a) If there is reasonable cause to believe that the  
22 production of groundwater from any groundwater extraction  
23 facility is in excess of that disclosed by the statements covering  
24 the facility or if no statement is filed covering the facility, the  
25 governing body may cause an investigation and report to be made  
26 concerning the production of groundwater from that groundwater  
27 extraction facility that includes, but is not limited to, the accuracy  
28 of the water-measuring device. The governing body may make a  
29 determination fixing the amount of groundwater production from  
30 the groundwater extraction facility at an amount not to exceed the  
31 maximum production capacity of the facility for purposes of levying  
32 a groundwater charge. If a water-measuring device is permanently  
33 attached to the groundwater extraction facility, the record of  
34 production as disclosed by the water-measuring device shall be  
35 presumed to be accurate unless the contrary is established by the  
36 groundwater management agency after investigation.

37 (b) After the governing body makes a determination fixing the  
38 amount of groundwater production pursuant to subdivision (a), a  
39 written notice of the determination shall be mailed to the owner  
40 or operator of the groundwater extraction facility at the address

1 as shown by the groundwater management agency's records. A  
 2 determination made by the governing body shall be conclusive on  
 3 the owner or operator and the groundwater charges, based on the  
 4 determination together with any interest and penalties, shall be  
 5 payable immediately unless within 10 days after the mailing of the  
 6 notice the owner or operator files with the governing body a written  
 7 protest setting forth the ground for protesting the amount of  
 8 production or the groundwater charges, interest, and penalties. If  
 9 a protest is filed pursuant to this subdivision, the governing body  
 10 shall hold a hearing to determine the total amount of the  
 11 groundwater production and the groundwater charges, interest,  
 12 and penalties. The determination by the governing body at the  
 13 hearing shall be conclusive if based upon substantial evidence.  
 14 Notice of the hearing shall be mailed to each protestant at least  
 15 10 days before the date fixed for the hearing. Notice of the  
 16 determination of the governing body hearing shall be mailed to  
 17 each protestant. The owner or operator shall have 20 days from  
 18 the date of mailing of the determination to pay the groundwater  
 19 charges, interest, and penalties determined by the governing body.

20

21 *CHAPTER 9. GROUNDWATER SUSTAINABILITY AGENCY*  
 22 *ENFORCEMENT POWERS*

23

24 10732. (a) (1) A person who extracts groundwater in excess  
 25 of the amount that person is authorized to extract under a rule,  
 26 regulation, ordinance, or resolution adopted pursuant to Section  
 27 10725.2, shall be subject to a civil penalty not to exceed five  
 28 hundred dollars (\$500) per acre-foot extracted in excess of the  
 29 amount that person is authorized to extract. Liability under this  
 30 subdivision is in addition to any liability imposed under paragraph  
 31 (2) and any fee imposed for the extraction.

32 (2) A person who violates any rule, regulation, ordinance, or  
 33 resolution adopted pursuant to Section 10724.2 shall be liable for  
 34 a civil penalty not to exceed one thousand dollars (\$1,000) plus  
 35 one hundred dollars (\$100) for each additional day on which the  
 36 violation continues if the person fails to comply within 30 days  
 37 after the local agency has notified the person of the violation.

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

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

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

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

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

15  
16 *CHAPTER 10. STATE EVALUATION AND ASSESSMENT*

17  
18 10733. (a) The department shall periodically review the  
19 groundwater sustainability plans developed by groundwater  
20 sustainability agencies pursuant to this part to evaluate whether  
21 a plan conforms with Sections 10727.2 and 10727.4 and is likely  
22 to achieve the sustainability goal for the basin covered by the  
23 groundwater sustainability plan.

24 (b) If a groundwater sustainability agency develops multiple  
25 groundwater sustainability plans for a basin, the department shall  
26 evaluate whether the plans conform with Sections 10727.2,  
27 10727.4, and 10727.6 and are together likely to achieve the  
28 sustainability goal for the basin covered by the groundwater  
29 sustainability plans.

30 10733.2. (a) By June 1, 2016, the department, in consultation  
31 with the board, shall develop guidelines for evaluating  
32 groundwater sustainability plans and groundwater sustainability  
33 programs pursuant to this chapter.

34 (b) The guidelines shall identify the necessary plan components  
35 specified in Sections 10727.2 and 10727.4 and other information  
36 that will assist local agencies in developing and implementing  
37 groundwater sustainability plans and groundwater sustainability  
38 programs.



1 (c) The department may update the guidelines, including to  
2 incorporate the best management practices identified pursuant to  
3 Section 10729.

4 (d) The guidelines required pursuant to this section are exempt  
5 from Chapter 3.5 (commencing with Section 11340) of Part 1 of  
6 Division 3 of Title 2 of the Government Code. The establishment  
7 of guidelines pursuant to this section shall instead be accomplished  
8 by means of a public process reasonably calculated to give  
9 interested persons an opportunity to be heard.

10 10733.4. (a) Upon completion of a groundwater sustainability  
11 plan, a groundwater sustainability agency shall submit the  
12 groundwater sustainability plan to the department for review  
13 pursuant to this chapter.

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

21 (1) The groundwater sustainability plans.

22 (2) An explanation of how the groundwater sustainability plans  
23 implemented together satisfy Section 10729 for the entire basin.

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

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

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

37 10733.6. (a) If there is not a groundwater sustainability plan  
38 for a basin, but a local agency believes that an alternative plan,  
39 such as a plan developed pursuant to Part 2.75 (commencing with  
40 Section 10750), satisfies the objectives of this part, the local agency

1 *may submit the alternative plan to the department for evaluation*  
2 *and assessment of whether the plan is the functional equivalent of*  
3 *a groundwater sustainability plan pursuant to this part. In*  
4 *evaluating an alternative plan, the department shall, to the extent*  
5 *feasible, use the guidelines developed pursuant to Section 10733.2.*

6 *(b) A basin shall be in compliance with this part if a*  
7 *groundwater agency for a basin or other local agency submits to*  
8 *the department, no later than January 31, 2020, and every five*  
9 *years thereafter, any of the following documents:*

10 *(1) A copy of a governing final judgment or other judicial order*  
11 *or decree establishing a groundwater sustainability program for*  
12 *the basin.*

13 *(2) A report approved by a groundwater agency that shows that*  
14 *current management or operations activities have been consistent*  
15 *with the sustainable yield of the basin over a period of at least 10*  
16 *years. The report shall be prepared by a registered professional*  
17 *engineer or geologist who is licensed by the state and submitted*  
18 *under that engineer's or geologist's seal. The report may*  
19 *demonstrate compliance with the sustainability goal in the basin*  
20 *by presenting a balanced water budget for the basin, a technical*  
21 *analysis demonstrating stable groundwater levels over the relevant*  
22 *period, or other sufficient technical analyses.*

23 *10733.8. At least every five years after submission, the*  
24 *department, in consultation with the board, shall review any*  
25 *available groundwater sustainability plan, alternative plan*  
26 *submitted in accordance with Section 10729.6, and the*  
27 *implementation of the corresponding groundwater sustainability*  
28 *program for consistency with this part, including achieving the*  
29 *sustainability goal. The department shall issue an assessment for*  
30 *each basin for which a plan has been submitted in accordance*  
31 *with this chapter. The assessment may include recommended*  
32 *corrective actions to address any deficiencies identified by the*  
33 *department.*

34 *10734. (a) Consistent with Section 3 of Article XIII A of the*  
35 *California Constitution, the department shall adopt a schedule of*  
36 *fees to recover costs incurred in carrying out this chapter.*

37 *(b) It is the intent of the Legislature to amend this measure to*  
38 *adopt additional authority for the department to implement the*  
39 *fee authority provided by this section.*

## CHAPTER 11. STATE INTERVENTION

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*10735. 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 law, 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 this section.*

*(d) “Significant depletions of interconnected surface waters” means reductions in flow or levels of a surface water that is hydrologically connected to the basin such that the reduced surface water flow or level adversely affects beneficial uses of the surface water.*

*10735.2. (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 January 1, 2017, none of the following have occurred:*

*(A) No local agency has elected to be a groundwater sustainability agency that intends to develop a groundwater sustainability plan for the entire basin.*

*(B) No 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.*

1 (C) *There is no plan developed pursuant to Part 2.75*  
2 *(commencing with Section 10750) that satisfies the objectives of*  
3 *this part.*

4 (D) *There is no report approved by a groundwater agency that*  
5 *shows that current management or operations activities have been*  
6 *consistent with the sustainable yield of the basin over a period of*  
7 *at least 10 years, as described in paragraph (2) of subdivision (b)*  
8 *of Section 10733.6.*

9 (2) *After January 31, 2020, none of the following have occurred:*

10 (A) *No groundwater sustainability agency has adopted a*  
11 *groundwater sustainability plan for the entire basin.*

12 (B) *No collection of local agencies have adopted groundwater*  
13 *sustainability plans that collectively serve as a groundwater*  
14 *sustainability plan for the entire basin.*

15 (C) *The department has not determined that a local agency has*  
16 *a functional equivalent as described in Section 10733.6.*

17 (D) *There is no report approved by a groundwater agency that*  
18 *shows that current management or operations activities have been*  
19 *consistent with the sustainable yield of the basin over a period of*  
20 *at least 10 years, as described in paragraph (2) of subdivision (b)*  
21 *of Section 10733.6.*

22 (3) *After January 31, 2020, either of the following have*  
23 *occurred:*

24 (A) *The department has determined that a groundwater*  
25 *sustainability plan is inadequate or that the groundwater*  
26 *sustainability program is not being implemented in a manner that*  
27 *will likely achieve the sustainability goal.*

28 (B) *The basin is in a condition of long-term overdraft or in a*  
29 *condition where groundwater extractions result in significant*  
30 *depletions of interconnected surface waters.*

31 (b) (1) *In making the findings associated with subparagraph*  
32 *(A) of paragraph (3) of subdivision (a), the board may rely on*  
33 *periodic assessments the department has prepared pursuant to*  
34 *Chapter 10 (commencing with Section 10733). The board may*  
35 *request that the department conduct additional assessments*  
36 *utilizing the guidelines developed pursuant to Chapter 10*  
37 *(commencing with 10733) and make determinations pursuant to*  
38 *this section. The board shall post on its Internet Web site and*  
39 *provide at least 30 days for the public to comment on any*

1 *determinations provided by the department pursuant to this*  
 2 *subdivision.*

3 *(2) The board shall consult with the department in assessing*  
 4 *technical determinations pursuant to subparagraph (A) of*  
 5 *paragraph (3) of subdivision (a).*

6 *(c) The determination shall set an amount of groundwater*  
 7 *extractions, for purposes of establishing the amount for which*  
 8 *reports of groundwater extraction are required under Part 5.2*  
 9 *(commencing with Section 5200) of Division 2, and may include*  
 10 *exclusions for certain classes or categories of extractions that are*  
 11 *likely to have a minimal impact on basin withdrawals.*

12 *10735.4. (a) If the board designates a basin as a probationary*  
 13 *basin pursuant to paragraph (1) or (2) of subdivision (a) of Section*  
 14 *10735.2, a local agency or groundwater sustainability agency*  
 15 *shall have 180 days to remedy the deficiency. The board may*  
 16 *appoint a mediator or other facilitator, after consultation with*  
 17 *affected local agencies, to assist in resolving disputes, and*  
 18 *identifying and implementing actions that will remedy the*  
 19 *deficiency.*

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

24 *(c) The board may develop an interim plan pursuant to Section*  
 25 *10735.8 for the probationary basin at the end of the time period*  
 26 *provided by subdivision (a) or any extension provided pursuant*  
 27 *to subdivision (b), if the board, in consultation with the department,*  
 28 *determines that a local agency has not remedied the deficiency*  
 29 *that resulted in designating the basin as a probationary basin*  
 30 *pursuant to this section.*

31 *10735.6. (a) If the board designates a basin as a probationary*  
 32 *basin pursuant to paragraph (3) of subdivision (a) of Section*  
 33 *10735.2, the board shall identify the specific deficiencies and*  
 34 *identify potential actions to address the deficiencies. The board*  
 35 *may request the department to provide local agencies, within 90*  
 36 *days of the designation of a probationary basin, with technical*  
 37 *recommendations to remedy the deficiencies.*

38 *(b) The board may develop an interim plan pursuant to Section*  
 39 *10735.8 for the probationary basin one year after the designation*  
 40 *of the basin pursuant to paragraph (3) of subdivision (a) of Section*

1 10735.2, if the board, in consultation with the department,  
2 determines that a local agency has not remedied the deficiency  
3 that result in designating the basin a probationary basin.

4 10735.8. (a) The board, after notice and a public hearing,  
5 may adopt an interim plan for a probationary basin.

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

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

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

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

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

16 (1) Restrictions on groundwater pumping or extraction.

17 (2) A physical solution.

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

20 (d) To the extent feasible, consistent with Sections 100 and 275  
21 and subdivision (e), the interim plan shall be consistent with water  
22 right priorities.

23 (e) Where, in the judgment of the board, a groundwater  
24 sustainability plan, groundwater sustainability program, or an  
25 adjudication action can be relied on as part of the interim plan,  
26 either throughout the basin or in an area within the basin, the  
27 board may rely on, or incorporate elements of, that plan, program,  
28 or adjudication into the interim plan adopted by the board or allow  
29 local agencies to continue implementing those parts of a plan or  
30 program that the board determines are adequate.

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

36 (g) (1) After the board adopts an interim plan under this section,  
37 the board shall determine if a groundwater sustainability plan or  
38 an adjudication action is adequate to eliminate the condition of  
39 long-term overdraft or condition where groundwater extractions

1 result in significant depletions of interconnected surface waters,  
2 upon petition of either of the following:

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

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

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

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

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

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

29 10736. (a) The board shall adopt or amend a determination  
30 or interim plan under Section 10735.2 or 10735.8 in accordance  
31 with procedures for quasi-legislative action.

32 (b) The board shall provide notice of a hearing described in  
33 subdivision (a) of Section 10735.2 or subdivision (a) of Section  
34 10735.8 as follows:

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

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

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

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

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

19 (d) (1) Except as provided in paragraphs (2) and (3), Chapter  
20 3.5 (commencing with Section 11340) of Part 1 of Division 2 of  
21 Title 2 of the Government Code does not apply to any action  
22 authorized pursuant to Section 10735.2 or 10735.8.

23 (2) The board may adopt a regulation in accordance with  
24 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
25 2 of Title 2 of the Government Code setting procedures for  
26 adopting a determination or plan.

27 (3) The board may adopt a regulation applying or interpreting  
28 this part pursuant to Section 1530 if the board determines that the  
29 emergency regulation is reasonably necessary for the allocation,  
30 administration, or collection of fees authorized pursuant to Section  
31 1529.5.

32 10736.2. Division 13 (commencing with Section 21000) of the  
33 Public Resources Code does not apply to any action or failure to  
34 act by the board under this chapter, other than the adoption or  
35 amendment of an interim plan pursuant to Section 10735.8.

36 10736.4. The extraction or use of water extracted in violation  
37 of an interim plan under this part shall not be relied upon as a  
38 basis for establishing the extraction or use of water to support a  
39 claim in an action or proceeding for determination of water rights.



1     10736.6. (a) *The board may order a person that extracts or*  
2 *uses water from a basin that is subject to an investigation or*  
3 *proceeding under this chapter to prepare and submit to the board*  
4 *any technical or monitoring program reports related to that*  
5 *person's or entity's extraction or use of water as the board may*  
6 *specify. The costs incurred by the person in the preparation of*  
7 *those reports shall bear a reasonable relationship to the need for*  
8 *the report and the benefit to be obtained from the report. If the*  
9 *preparation of individual reports would result in a duplication of*  
10 *effort, or if the reports are necessary to evaluate the cumulative*  
11 *effect of several diversions or uses of water, the board may order*  
12 *any person subject to this subdivision to pay a reasonable share*  
13 *of the cost of preparing reports.*

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

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

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

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

1 *Code of Civil Procedure for the purposes of an inspection pursuant*  
2 *to this subdivision.*

3 *SEC. 11. Section 10750.1 is added to the Water Code, to read:*

4 *10750.1. (a) Beginning January 1, 2015, a new plan shall not*  
5 *be adopted and an existing plan shall not be renewed pursuant to*  
6 *this part, except as provided in subdivision (b). A plan adopted*  
7 *before January 1, 2015, shall remain in effect until a groundwater*  
8 *sustainability plan is adopted pursuant to Part 2.74 (commencing*  
9 *with Section 10720).*

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

13 *SEC. 12. Section 10927 of the Water Code is amended to read:*

14 *10927. Any of the following entities may assume responsibility*  
15 *for monitoring and reporting groundwater elevations in all or a*  
16 *part of a basin or subbasin in accordance with this part:*

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

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

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

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

31 *(c) A local agency that is managing all or part of a groundwater*  
32 *basin or subbasin pursuant to Part 2.75 (commencing with Section*  
33 *10750) and that was monitoring groundwater elevations in all or*  
34 *a part of a groundwater basin or subbasin on or before January 1,*  
35 *2010, or a local agency or county that is managing all or part of a*  
36 *groundwater basin or subbasin pursuant to any other legally*  
37 *enforceable groundwater management plan with provisions that*  
38 *are substantively similar to those described in that part and that*  
39 *was monitoring groundwater elevations in all or a part of a*  
40 *groundwater basin or subbasin on or before January 1, 2010.*

1 (d) A local agency that is managing all or part of a groundwater  
2 basin or subbasin pursuant to an integrated regional water  
3 management plan prepared pursuant to Part 2.2 (commencing with  
4 Section 10530) that includes a groundwater management  
5 component that complies with the requirements of Section 10753.7.

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

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

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

23 *SEC. 13. Section 10933 of the Water Code is amended to read:*

24 ~~10933. (a) On or before January 1, 2012, the~~ The department  
25 shall commence to identify the extent of monitoring of groundwater  
26 elevations that is being undertaken within each basin and subbasin.

27 (b) (1) The department shall prioritize groundwater basins and  
28 subbasins for the purpose of implementing this section. In  
29 prioritizing the basins and subbasins, the department shall, to the  
30 extent data are available, consider all of the following:

31 ~~(1)~~

32 (A) The population overlying the basin or subbasin.

33 ~~(2)~~

34 (B) The rate of current and projected growth of the population  
35 overlying the basin or subbasin.

36 ~~(3)~~

37 (C) The number of public supply wells that draw from the basin  
38 or subbasin.

39 ~~(4)~~

1 (D) The total number of wells that draw from the basin or  
2 subbasin.

3 ~~(5)~~

4 (E) The irrigated acreage overlying the basin or subbasin.

5 ~~(6)~~

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

8 ~~(7)~~

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

12 ~~(8)~~

13 (H) Any other information determined to be relevant by the  
14 department.

15 (2) *The department, in consultation with the Department of Fish  
16 and Wildlife, shall identify and develop prioritization criteria for  
17 the purpose of identifying groundwater basins and subbasins that  
18 should be prioritized based on adverse impacts to habitat and  
19 surface water resources. The criteria shall be incorporated into  
20 the determination of basin and subbasin prioritization at the  
21 department's next update of basin and subbasin prioritizations  
22 that occurs after January 1, 2017.*

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

26 (1) Attempt to contact all well owners within the area not being  
27 monitored.

28 (2) Determine if there is an interest in establishing any of the  
29 following:

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

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

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

38 (d) If the department determines that there is sufficient interest  
39 in establishing a plan or association described in paragraph (2) of  
40 subdivision (c), or if the county agrees to perform the groundwater

1 monitoring functions in accordance with this part, the department  
2 shall work cooperatively with the interested parties to comply with  
3 the requirements of this part within two years.

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

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

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

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

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

26 *SEC. 14. Section 12924 of the Water Code is amended to read:*

27 12924. (a) The department, in conjunction with other public  
28 agencies, shall conduct an investigation of the state’s groundwater  
29 basins. The department shall identify the state’s groundwater basins  
30 on the basis of geological and hydrological conditions and  
31 consideration of political boundary lines whenever practical. The  
32 department shall also investigate existing general patterns of  
33 groundwater pumping and groundwater recharge within those  
34 basins to the extent necessary to identify basins that are subject to  
35 critical conditions of overdraft.

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

39 (b)

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

4 *SEC. 15. The provisions of this act are severable. If any*  
5 *provision of this act or its application is held invalid, that invalidity*  
6 *shall not affect other provisions or applications that can be given*  
7 *effect without the invalid provision or application.*

8 *SEC. 16. No reimbursement is required by this act pursuant*  
9 *to Section 6 of Article XIII B of the California Constitution for*  
10 *certain costs that may be incurred by a local agency or school*  
11 *district because, in that regard, this act creates a new crime or*  
12 *infraction, eliminates a crime or infraction, or changes the penalty*  
13 *for a crime or infraction, within the meaning of Section 17556 of*  
14 *the Government Code, or changes the definition of a crime within*  
15 *the meaning of Section 6 of Article XIII B of the California*  
16 *Constitution.*

17 *However, if the Commission on State Mandates determines that*  
18 *this act contains other costs mandated by the state, reimbursement*  
19 *to local agencies and school districts for those costs shall be made*  
20 *pursuant to Part 7 (commencing with Section 17500) of Division*  
21 *4 of Title 2 of the Government Code.*

22 *SEC. 17. The Legislature finds and declares that Section 5 of*  
23 *this act, which adds Section 10730.8 to the Water Code, imposes*  
24 *a limitation on the public's right of access to the meetings of public*  
25 *bodies or the writings of public officials and agencies within the*  
26 *meaning of Section 3 of Article I of the California Constitution.*  
27 *Pursuant to that constitutional provision, the Legislature makes*  
28 *the following findings to demonstrate the interest protected by this*  
29 *limitation and the need for protecting that interest:*

30 *In order to allow this act to fully accomplish its goals, it is*  
31 *necessary to protect proprietary information submitted pursuant*  
32 *to this act as confidential. Therefore, it is in the state's interest to*  
33 *limit public access to this information.*

34 ~~SECTION 1. Section 65302.12 is added to the Government~~  
35 ~~Code, to read:~~

36 ~~65302.12. Prior to the adoption or any substantial amendment~~  
37 ~~of a city or county's general plan, the planning agency shall review,~~  
38 ~~and if necessary, revise the land use, conservation, open space, or~~  
39 ~~any other element of the general plan to address any of the~~  
40 ~~following:~~

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

6 (b) ~~An adjudication of water rights such as an adjudication~~  
7 ~~pursuant to Chapter 10 (commencing with Section 10742) of Part~~  
8 ~~2.74 of Division 6 of the Water Code.~~

9 (c) ~~An order by the State Water Resources Control Board~~  
10 ~~pursuant to Chapter 9 (commencing with Section 10738) of Part~~  
11 ~~2.74 of Division 6 of the Water Code.~~

12 ~~SEC. 2. Section 65352 of the Government Code is amended~~  
13 ~~to read:~~

14 ~~65352. (a) Prior to action by a legislative body to adopt or~~  
15 ~~substantially amend a general plan, the planning agency shall refer~~  
16 ~~the proposed action to all of the following entities:~~

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

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

22 (3) ~~The local agency formation commission.~~

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

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

29 (6) (A) ~~The branches of the United States Armed Forces that~~  
30 ~~have provided the Office of Planning and Research with a~~  
31 ~~California mailing address pursuant to subdivision (d) of Section~~  
32 ~~65944 when the proposed action is within 1,000 feet of a military~~  
33 ~~installation, or lies within special use airspace, or beneath a~~  
34 ~~low-level flight path, as defined in Section 21098 of the Public~~  
35 ~~Resources Code, provided that the United States Department of~~  
36 ~~Defense provides electronic maps of low-level flight paths, special~~  
37 ~~use airspace, and military installations at a scale and in an~~  
38 ~~electronic format that is acceptable to the Office of Planning and~~  
39 ~~Research.~~

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

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

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

21 ~~(9) The State Water Resources Control Board if it has adopted~~  
22 ~~a groundwater sustainability plan pursuant to Part 2.74~~  
23 ~~(commencing with Section 10720) of Division 6 of the Water Code~~  
24 ~~that includes territory within the planning area of the proposed~~  
25 ~~general plan.~~

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

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

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

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



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

4     ~~(2) To the extent that the requirements of this section conflict~~  
 5 ~~with the requirements of Chapter 4.4 (commencing with Section~~  
 6 ~~65919), the requirements of Chapter 4.4 shall prevail.~~

7     ~~SEC. 3.— Section 65352.5 of the Government Code is amended~~  
 8 ~~to read:~~

9     ~~65352.5. (a) The Legislature finds and declares that it is vital~~  
 10 ~~that there be close coordination and consultation between~~  
 11 ~~California’s water supply or management agencies and California’s~~  
 12 ~~land use approval agencies to ensure that proper water supply and~~  
 13 ~~management planning occurs in order to accommodate projects~~  
 14 ~~that will result in increased demands on water supplies or impact~~  
 15 ~~water resource management.~~

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

22     ~~(c) Upon receiving, pursuant to Section 65352, notification of~~  
 23 ~~a city’s or a county’s proposed action to adopt or substantially~~  
 24 ~~amend a general plan, a public water system, as defined in Section~~  
 25 ~~116275 of the Health and Safety Code, with 3,000 or more service~~  
 26 ~~connections, shall provide the planning agency with the following~~  
 27 ~~information, as is appropriate and relevant:~~

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

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

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

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

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

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

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

8 ~~(A) Agricultural users.~~

9 ~~(B) Commercial users.~~

10 ~~(C) Industrial users.~~

11 ~~(D) Residential users.~~

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

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

20 ~~(10) A report on the anticipated effect of proposed action to~~  
21 ~~adopt or substantially amend a general plan on implementation of~~  
22 ~~a groundwater sustainability plan pursuant to Part 2.74~~  
23 ~~(commencing with Section 10720) of Division 6 of the Water~~  
24 ~~Code.~~

25 ~~(d) Upon receiving, pursuant to Section 65352, notification of~~  
26 ~~a city's or county's proposed action to adopt or substantially amend~~  
27 ~~a general plan, a groundwater sustainability agency, as defined in~~  
28 ~~Section 10720.5 of the Water Code, shall provide the planning~~  
29 ~~agency with the following information, as is appropriate and~~  
30 ~~relevant:~~

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

34 ~~(2) If the groundwater sustainability agency manages~~  
35 ~~groundwater pursuant to a court order, judgment, decree, or~~  
36 ~~agreement among affected water rights holders, or if the State~~  
37 ~~Water Resources Control Board has adopted a groundwater~~  
38 ~~sustainability plan pursuant to Part 2.74 (commencing with Section~~  
39 ~~10720) of Division 6 of the Water Code, the groundwater~~  
40 ~~sustainability agency shall provide the planning agency with maps~~

1 of recharge basins and percolation ponds, extraction limitations,  
2 and other relevant information, or the court order, judgment, or  
3 decree.

4 (e) A groundwater sustainability agency that has given notice  
5 of intention to adopt a groundwater sustainability plan, but has not  
6 adopted a plan, shall provide a report to the planning agency on  
7 the anticipated effect of proposed action to adopt or substantially  
8 amend a general plan on adoption of the groundwater sustainability  
9 plan and on the impacts of the proposed action on sustainable  
10 management of groundwater.

11 SEC. 4. Section 1242.1 is added to the Water Code, to read:

12 1242.1. It is the policy of the state to encourage conjunctive  
13 use of surface and groundwater. To that end, the Legislature  
14 declares that the storage of water underneath the ground is a  
15 beneficial use of water.

16 SEC. 5. Part 2.74 (commencing with Section 10720) is added  
17 to Division 6 of the Water Code, to read:

18  
19 PART 2.74. GROUNDWATER SUSTAINABILITY PLANNING

20  
21 CHAPTER 1. TITLE AND POLICY

22  
23 10720. This part shall be known, and may be cited, as the  
24 “Sustainable Groundwater Management Act of 2014.”

25 10720.1. In enacting this part, it is the intent of the Legislature  
26 that all of the following occur:

27 (a) The enhancement of local management of groundwater  
28 consistent with rights to use or store groundwater and Section 2  
29 of Article X of the California Constitution. It is the intent of the  
30 Legislature to preserve and enhance the security of water rights in  
31 the state to the greatest extent possible consistent with the  
32 sustainable management of groundwater.

33 (b) The establishment of minimum standards for groundwater  
34 management together with the requisite authority and funding.

35 (c) The avoidance or minimization of subsidence.

36 (d) The improvement of data collection and understanding about  
37 groundwater.

38 (e) The increase in groundwater storage and removal of  
39 impediments to recharge.

40 (f) The provision of state technical and financial assistance.

1 (g) ~~The management of groundwater basins through the actions~~  
2 ~~of local governmental agencies to the greatest extent feasible, while~~  
3 ~~minimizing state intervention to only when necessary to ensure~~  
4 ~~that local agencies manage groundwater in a sustainable manner.~~

5 (h) ~~The intervention by the state when necessary to ensure that~~  
6 ~~local agencies manage groundwater in a sustainable manner.~~

7  
8 CHAPTER 2. DEFINITIONS  
9

10 10720.5. ~~Unless the context otherwise requires, the following~~  
11 ~~definitions govern the construction of this part:~~

12 (a) ~~“Adjudication action” means an action filed in the superior~~  
13 ~~court to determine the rights to extract groundwater from a basin~~  
14 ~~or store water within a basin, including, but not limited to, actions~~  
15 ~~to quiet title respecting rights to extract or store groundwater or~~  
16 ~~an action brought to impose a physical solution on a basin.~~

17 (b) ~~“Agricultural water supplier” has the same meaning as~~  
18 ~~defined in Section 10608.12.~~

19 (c) ~~“Basin” means a groundwater basin or subbasin identified~~  
20 ~~and defined in Bulletin 118 or as modified pursuant to Chapter 10~~  
21 ~~(commencing with Section 10742).~~

22 (d) ~~“Bulletin 118” means the department’s report entitled~~  
23 ~~“California’s Groundwater: Bulletin 118” updated in 2003, as it~~  
24 ~~may be subsequently updated or revised in accordance with Section~~  
25 ~~12924 or Chapter 4 (commencing with Section 10723).~~

26 (e) ~~“De minimus producer” means a person who extracts, for~~  
27 ~~domestic purposes, 2 acre feet or less per year.~~

28 (f) ~~“Governing body” means the legislative body of a~~  
29 ~~groundwater sustainability agency.~~

30 (g) ~~“Groundwater” means water beneath the natural surface of~~  
31 ~~the ground, in fully saturated pore spaces within the soil or rock,~~  
32 ~~excluding those waters that are flowing through natural known~~  
33 ~~and definite channels.~~

34 (h) ~~“Groundwater extraction facility” means a pump or other~~  
35 ~~mechanism for extracting groundwater from within a basin.~~

36 (i) ~~“Groundwater sustainability agency” means either a local~~  
37 ~~agency or a joint powers authority formed by local agencies that~~  
38 ~~implements the provisions of this part with respect to a groundwater~~  
39 ~~sustainability plan. For purposes of imposing fees pursuant to~~  
40 ~~Chapter 7 (commencing with Section 10732) or taking action to~~

1 enforce a groundwater management plan, “groundwater  
2 management agency” also means each local agency comprising  
3 the groundwater management agency if the plan authorizes separate  
4 agency action.

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

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

11 (l) “Local agency” means a local public agency, including, but  
12 not limited to, a city, county, irrigation district, county water  
13 district, municipal water district, California water district, water  
14 storage district, reclamation district, or other special district that  
15 provides water or water management service within a groundwater  
16 basin.

17 (m) “Monitoring entity” means an entity identified by the  
18 department pursuant to Section 10930.

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

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

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

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

34 (r) “Recharge” means the process by which a basin is  
35 replenished with water whether by natural or artificial means or  
36 in-lieu.

37 (s) “Sustainability goal” means the existence and implementation  
38 of one or more groundwater sustainability plans that achieve  
39 sustainable groundwater management by identifying and causing

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

3 (t) “Sustainable groundwater management” means the  
4 management and use of groundwater in a manner that can be  
5 maintained during the planning and implementation horizon  
6 without causing unreasonable adverse environmental, economic,  
7 or social consequences through the development, implementation,  
8 and updating of plans and programs based on the best available  
9 science, monitoring, forecasting, and use of technological  
10 resources, as determined by a groundwater sustainability agency.

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

16 (v) “Undesirable result” means one or more of the following  
17 effects occurring after January 1, 2015, and caused by groundwater  
18 conditions occurring throughout the basin:

19 (1) Chronic lowering of groundwater levels indicating a  
20 significant and unreasonable depletion of supply if continued over  
21 the planning and implementation horizon, excluding lowering  
22 groundwater levels caused by a drought.

23 (2) Significant and unreasonable reduction of groundwater  
24 storage.

25 (3) Significant seawater intrusion.

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

29 (5) Significant land subsidence that substantially interferes with  
30 surface land uses.

31 (6) Surface water depletions that have significant adverse  
32 impacts on species listed under the federal Endangered Species  
33 Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the California  
34 Endangered Species Act (Chapter 1.5 (commencing with Section  
35 2050) of Division 3 of the Fish and Game Code).

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

## CHAPTER 3. GENERAL PROVISIONS

1  
2  
3 ~~10721. Subject to Section 10736, by January 31, 2020, all~~  
4 ~~basins designated as high- or medium-priority basins by the~~  
5 ~~department pursuant to Section 10933 shall be managed under a~~  
6 ~~groundwater sustainability plan or coordinated groundwater~~  
7 ~~sustainability plans pursuant to this part. The Legislature~~  
8 ~~encourages basins designated as low priority basins by the~~  
9 ~~department pursuant to Section 10933 to be managed under~~  
10 ~~groundwater sustainability plans pursuant to this part as soon as~~  
11 ~~possible.~~

12 ~~10721.5. Groundwater management pursuant to this part shall~~  
13 ~~be consistent with Section 2 of Article X of the California~~  
14 ~~Constitution. Nothing in this part modifies rights or priorities to~~  
15 ~~use or store groundwater consistent with Section 2 of Article X of~~  
16 ~~the California Constitution, except that in medium- and~~  
17 ~~high-priority basins, no extraction of groundwater between January~~  
18 ~~1, 2015, and December 31, 2020, or the date of adoption of a~~  
19 ~~groundwater sustainability plan pursuant to this part, whichever~~  
20 ~~is sooner, may be used as evidence of, or to establish or defend~~  
21 ~~against, any claim of prescription.~~

22 ~~10722. (a) A groundwater sustainability agency that adopts a~~  
23 ~~groundwater sustainability plan may file an action to determine~~  
24 ~~the validity of the plan pursuant to Chapter 9 (commencing with~~  
25 ~~Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.~~

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

30 ~~(c) Any judicial action or proceeding to attack, review, set aside,~~  
31 ~~void, or annul the ordinance or resolution imposing a new, or~~  
32 ~~increasing an existing, fee imposed pursuant to Section 10732,~~  
33 ~~10732.5, or 10733 shall be brought pursuant to Section 66022 of~~  
34 ~~the Government Code.~~

35 ~~(d) Any person may pay a fee imposed pursuant to Section~~  
36 ~~10732, 10732.5, or 10733 under protest and bring an action against~~  
37 ~~the governing body in the superior court to recover any money~~  
38 ~~that the governing body refuses to refund. Payments made and~~  
39 ~~actions brought under this section shall be made and brought in~~  
40 ~~the manner provided for the payment of taxes under protest and~~

1 actions for refund of that payment in Article 2 (commencing with  
2 Section 5140) of Chapter 5 of Part 9 of Division 1 of the Revenue  
3 and Taxation Code, as applicable.

4 (e) Any action by a landowner or other water right holder to  
5 attach, review, set aside, void, or annul an extraction allocation  
6 established by a groundwater sustainability plan shall be brought  
7 pursuant to the expedited adjudication procedures of Chapter 10  
8 (commencing with Section 10742).

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

12 ~~10722.5.~~ Except for Chapter 10 (commencing with Section  
13 10742), this part does not apply to any of the following agencies  
14 that are implementing basin-specific management plans:

- 15 (a) ~~Desert Water Agency.~~
- 16 (b) ~~Fox Canyon Groundwater Management Agency.~~
- 17 (c) ~~Honey Lake Valley Groundwater Management District.~~
- 18 (d) ~~Long Valley Groundwater Management District.~~
- 19 (e) ~~Mendocino City Community Services District.~~
- 20 (f) ~~Mono County Tri-Valley Groundwater Management District.~~
- 21 (g) ~~Monterey Peninsula Water Management District.~~
- 22 (h) ~~Ojai Groundwater Management Agency.~~
- 23 (i) ~~Orange County Water District.~~
- 24 (j) ~~Pajaro Valley Water Management Agency.~~
- 25 (k) ~~Santa Clara Valley Water District.~~
- 26 (l) ~~Sierra Valley Water District.~~
- 27 (m) ~~Willow Creek Groundwater Management Agency.~~

28  
29 CHAPTER 4. BASIN BOUNDARIES  
30

31 ~~10723.~~ Unless other basin boundaries are established pursuant  
32 to this chapter, a basin's boundaries shall be as identified in  
33 Bulletin 118.

34 ~~10723.5.~~ (a) The department shall consider proposals to adjust  
35 the boundaries of a basin in accordance with the following:

- 36 (1) A proposal shall be supported by the following information:
- 37 (A) Information to demonstrate that the proposed adjusted basin
- 38 can be the subject of sustainable groundwater management. It shall
- 39 not be necessary that the information show that a proposed adjusted
- 40 basin currently is subject to sustainable groundwater management.



1 ~~(B) A technical report concerning the boundaries of, and~~  
2 ~~conditions in, the proposed adjusted basin that is stamped by a~~  
3 ~~registered civil engineer or certified hydrologist.~~

4 ~~(C) Information demonstrating that the entity proposing the~~  
5 ~~basin boundary adjustment consulted with interested local agencies~~  
6 ~~and public water systems in the basin before filing the proposal~~  
7 ~~with the department.~~

8 ~~(2) A proposal may be supported by information concerning~~  
9 ~~historic management of the proposed adjusted basin.~~

10 ~~(3) The department shall circulate a draft decision by the~~  
11 ~~department no fewer than 60 days before the department adopts~~  
12 ~~that decision.~~

13 ~~(b) The department shall require anyone who proposes a basin~~  
14 ~~boundary adjustment to serve the basin boundary adjustment~~  
15 ~~proposal on other interested parties and to submit responses to~~  
16 ~~proposals for basin boundary adjustments to the department.~~

17 ~~(e) (1) All proposals to adjust basin boundaries pursuant to this~~  
18 ~~section shall be filed with the department by July 1, 2016.~~

19 ~~(2) The department shall issue all decisions concerning~~  
20 ~~adjustments to basin boundaries pursuant to this section by January~~  
21 ~~1, 2018.~~

22 ~~(3) The department may provide for expedited processing to~~  
23 ~~consider proposals to adjust basin boundaries if necessary to~~  
24 ~~expedite consideration of the boundaries of a basin that is subject~~  
25 ~~to an adjudication action.~~

26 ~~(d) The adjustment of boundaries pursuant to this section~~  
27 ~~includes the subdivision of a basin.~~

28 ~~(e) (1) By January 1, 2016, the department shall adopt~~  
29 ~~emergency regulations to implement this section in an open and~~  
30 ~~public process that includes the following:~~

31 ~~(A) An opportunity for the public to submit proposals for the~~  
32 ~~regulations to the department by April 1, 2015.~~

33 ~~(B) Circulation of draft regulations by the department by August~~  
34 ~~1, 2015, for public review and comment.~~

35 ~~(2) The department shall adopt emergency regulations pursuant~~  
36 ~~to this section in accordance with Chapter 3.5 (commencing with~~  
37 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~  
38 ~~Code. The adoption of these regulations shall be deemed to be an~~  
39 ~~emergency and shall be considered by the Office of Administrative~~  
40 ~~Law as necessary for the immediate preservation of the public~~

1 peace, health, safety, and general welfare. Notwithstanding Chapter  
2 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
3 Title 2 of the Government Code, any emergency regulation adopted  
4 by the department pursuant to this section shall remain in effect  
5 until revised by the department.

6 ~~10724. (a) The department shall review all of the basin~~  
7 ~~boundaries identified in Bulletin 118 and publish any necessary~~  
8 ~~revisions to those boundaries by January 1, 2023, in an update of~~  
9 ~~Bulletin 118. As indicated by the best available technical~~  
10 ~~information, including the groundwater sustainability plans that~~  
11 ~~groundwater sustainability agencies submitted to the department~~  
12 ~~in 2020, the department shall adjust the boundaries of basins and~~  
13 ~~define any subdivisions of existing basins as new basins. In~~  
14 ~~adjusting a basin’s boundaries and defining any subdivisions of~~  
15 ~~an existing basin as a new basin, the department shall determine~~  
16 ~~whether those adjustments would result in a basin that would~~  
17 ~~support sustainable groundwater management. In revising basin~~  
18 ~~boundaries for an update of Bulletin 118, the department shall~~  
19 ~~favor definitions of basins that enable the most practical and~~  
20 ~~effective groundwater management.~~

21 ~~(b) In updating basin boundaries pursuant to this section, the~~  
22 ~~department shall comply with the procedures applicable to a formal~~  
23 ~~rulemaking under the Administrative Procedure Act (Chapter 3.5~~  
24 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~  
25 ~~2 of the Government Code).~~

26  
27 ~~CHAPTER 5. IDENTIFICATION OF GROUNDWATER~~  
28 ~~SUSTAINABILITY AGENCIES~~  
29

30 ~~10725. To the extent practicable, a groundwater sustainability~~  
31 ~~plan developed in accordance with this part shall be coterminous~~  
32 ~~and augment groundwater management plans developed pursuant~~  
33 ~~to Part 2.75 (commencing with Section 10750).~~

34 ~~10725.5. (a) A groundwater management agency that has~~  
35 ~~adopted a groundwater management plan that meets the~~  
36 ~~requirements of Part 2.75 (commencing with Section 10750) prior~~  
37 ~~to January 1, 2014, shall be presumed to be the groundwater~~  
38 ~~sustainability agency to develop a basin sustainability plan in~~  
39 ~~accordance with this part. The groundwater sustainability agency~~  
40 ~~may adopt a resolution of intent to prepare a groundwater~~

1 sustainability plan in accordance with this part no later than January  
 2 1, 2016. The groundwater sustainability agency shall submit an  
 3 adopted resolution of intent to the department within 30 days of  
 4 its adoption.

5 (b) ~~If a resolution of intent is not adopted and submitted as~~  
 6 ~~provided in subdivision (a), the county that the groundwater~~  
 7 ~~management plan area is located in may, by January 1, 2017, do~~  
 8 ~~either of the following:~~

9 (1) ~~Adopt and submit to the department a resolution of intent~~  
 10 ~~to adopt a groundwater sustainability plan for the area.~~

11 (2) ~~Request any other local agency or joint powers authority~~  
 12 ~~providing water or water management services within the~~  
 13 ~~groundwater management plan areas to adopt and submit to the~~  
 14 ~~department a resolution of intent to adopt a groundwater~~  
 15 ~~management plan for that area.~~

16 (c) ~~If a resolution of intent is not adopted and submitted as~~  
 17 ~~provided in subdivision (a) or (b), any local agency or joint powers~~  
 18 ~~authority in the basin may adopt and submit to the department a~~  
 19 ~~resolution of intent to adopt a groundwater sustainability plan for~~  
 20 ~~the basin.~~

21 (d) ~~If no resolution of intent is adopted and submitted as~~  
 22 ~~provided in subdivision (a), (b), or (c), subdivision (a) of Section~~  
 23 ~~10726 shall apply.~~

24 (e) ~~If a groundwater sustainability agency or other local agency~~  
 25 ~~submits prescribed alternative documentation in accordance with~~  
 26 ~~Section 10736, the agency also shall adopt a resolution of intent~~  
 27 ~~to comply with this part not later than January 1, 2016. The~~  
 28 ~~resolution of intent shall be provided to the department within 30~~  
 29 ~~days of adoption of the resolution.~~

30 ~~10726. If any portion of a basin is outside the jurisdictional~~  
 31 ~~boundary of any groundwater sustainability plan as adopted or as~~  
 32 ~~intended to be prepared according to a resolution of intent pursuant~~  
 33 ~~to Section 10725.5, that portion of the basin shall be coordinated~~  
 34 ~~with the nearest groundwater sustainability plan in any of the~~  
 35 ~~following ways:~~

36 (a) (1) ~~The landowners and other groundwater users in the~~  
 37 ~~unmanaged area may elect to form a new public agency or private~~  
 38 ~~corporation for the purpose of cooperating in the groundwater~~  
 39 ~~management plan or may petition to be annexed into an existing~~  
 40 ~~public agency.~~

1 ~~(2) If the landowners and other groundwater users choose to~~  
2 ~~form a new public agency or request to be annexed into an existing~~  
3 ~~agency, the local agency formation commission shall complete~~  
4 ~~proceedings on the formation of the agency or the annexation of~~  
5 ~~the area and serve as the conducting authority within six months~~  
6 ~~from the date the landowners and other groundwater users file a~~  
7 ~~formation or annexation application with the commission.~~

8 ~~(b) A groundwater sustainability agency may utilize existing~~  
9 ~~authority to annex or otherwise bring any unmanaged land into its~~  
10 ~~boundaries for purposes of the agency's plan or to otherwise extend~~  
11 ~~the geographic reach of the plan to include unmanaged areas of~~  
12 ~~the basin. In the event that a local agency seeks to annex lands for~~  
13 ~~the purpose of developing a groundwater sustainability plan, the~~  
14 ~~local agency formation commission shall complete proceedings~~  
15 ~~in accordance with the schedule set forth in paragraph (2) of~~  
16 ~~subdivision (a).~~

17 ~~(c) If a groundwater sustainability agency cannot or elects not~~  
18 ~~to annex or otherwise extend boundaries to include the unmanaged~~  
19 ~~areas, a county that overlies the basin may utilize existing authority~~  
20 ~~to cause the development of a groundwater sustainability plan for~~  
21 ~~the unmanaged areas. A county may, by resolution or ordinance,~~  
22 ~~delegate this authority to a local agency, in which case the local~~  
23 ~~agency formation commission shall take appropriate action to~~  
24 ~~ensure that all areas overlying a groundwater basin are within the~~  
25 ~~boundaries of one or more of the agencies developing the~~  
26 ~~groundwater sustainability plan. The local agency formation~~  
27 ~~commission shall complete actions pursuant to this subdivision~~  
28 ~~no later than January 1, 2017.~~

29 ~~(d) If by January 1, 2017, an area overlying a basin is not within~~  
30 ~~the jurisdiction of a local agency that is participating in the~~  
31 ~~development of a groundwater sustainability plan, the board may,~~  
32 ~~after notice and a hearing, order one or more local agencies~~  
33 ~~developing a groundwater sustainability plan to include the area~~  
34 ~~within the plan.~~

35 ~~10726.5. (a) If more than one groundwater sustainability plan~~  
36 ~~exists or is developed for a basin, the plans shall be coordinated~~  
37 ~~through a joint powers agreement, memorandum of understanding,~~  
38 ~~or similar agreement. The agreement or memorandum of~~  
39 ~~understanding shall ensure that multiple groundwater sustainability~~

1 plans advance sustainable groundwater management of the basin  
2 as a whole.

3 (b) If by July 1, 2017, the groundwater sustainability agencies  
4 within a basin cannot come to an agreement to coordinate  
5 groundwater sustainability plans, a groundwater sustainability  
6 agency may petition the board, no later than June 30, 2017, to do  
7 either of the following:

8 (1) Appoint a single groundwater sustainability agency to  
9 develop the groundwater sustainability plan for the basin.

10 (2) Impose an alternative governance structure with a governing  
11 board that is representative of the local agencies within the basin.

12 (c) If the board appoints a groundwater sustainability agency  
13 or imposes a governance structure pursuant to subdivision (b), the  
14 board may consider factors that will best foster sustainable  
15 groundwater management as a whole, including, but not limited to,  
16 the following:

17 (1) The geographic extent and governmental authorities of  
18 existing groundwater management agencies, local agencies, and  
19 any relevant county.

20 (2) The financial and technical resources available to the relevant  
21 public agencies to implement a groundwater sustainability plan.

22 (3) The technical groundwater information and data available  
23 to the relevant local agencies.

24 (4) The relevant local agencies' history of groundwater  
25 management.

26 (d) The board may utilize available processes and authorities  
27 to appoint the groundwater sustainability agency or impose a  
28 governance structure pursuant to subdivision (b), and may conduct  
29 hearings, workshops, and other information gathering processes  
30 to inform its determination.

31 (e) The board shall appoint a groundwater sustainability agency  
32 or impose a governance structure pursuant to subdivision (b) no  
33 later than June 30, 2018.

34 (f) If multiple groundwater sustainability plans cover different  
35 portions of a basin, each plan shall not conflict with or impede  
36 sustainable groundwater management relating to any other plan  
37 in the basin.

38 10727. A groundwater sustainability plan may include criteria  
39 to exempt small domestic pumping of groundwater for use on  
40 overlying lands in unmanaged areas of the basin if the groundwater

1 sustainability agency determines that the exclusion of the pumping  
2 will not otherwise affect sustainable management of the basin  
3 pursuant to this part.

4  
5 CHAPTER 6. MANAGEMENT TOOLS  
6

7 10728. (a) A groundwater sustainability agency may exercise  
8 any of the powers described in this chapter in implementing this  
9 part, in addition to, and not as a limitation on, any existing  
10 authority, if the groundwater sustainability agency adopts and  
11 submits to the department a groundwater sustainability plan or  
12 prescribed alternative documentation in accordance with Section  
13 10736.

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

18 10728.5. (a) A groundwater sustainability agency may perform  
19 any act necessary or proper to carry out the purposes of this part,  
20 including, but not limited to, the performance of an agreement,  
21 acting jointly or in cooperation with the United States, any state,  
22 county, city, district of any kind, public or private corporation,  
23 association, firm, or individual, or any combination of them.

24 (b) A groundwater sustainability agency may perform any acts  
25 necessary or proper for the performance of an agreement with the  
26 United States, any state, county, city, district of any kind, public  
27 or private corporation, association, firm, or individual, or any  
28 combination of them, for the joint acquisition, construction, leasing,  
29 ownership, disposition, use, management, maintenance, repair, or  
30 operation of any rights, works, or other property of a kind that may  
31 be useful in implementing the purposes of this part.

32 (c) A groundwater sustainability agency may adopt rules and  
33 regulations for the purpose of this part, in compliance with any  
34 procedural requirements applicable to the adoption of rules and  
35 regulations by the groundwater sustainability agency. In addition  
36 to any other applicable procedural requirements, the groundwater  
37 sustainability agency shall provide notice of the proposed adoption  
38 of the groundwater sustainability agency on its Internet Web site  
39 and provide for electronic notice to any person who requests  
40 electronic notification.

1 ~~(d) This part shall apply to the United States and an Indian tribe~~  
2 ~~to the extent authorized under federal or tribal law.~~

3 ~~(e) This part shall apply to the state and its agencies and~~  
4 ~~departments and to local agencies to the same extent as a person~~  
5 ~~regulated by a groundwater sustainability plan. A groundwater~~  
6 ~~sustainability agency shall not impose a penalty pursuant to this~~  
7 ~~part on the state or its agencies, departments, or officers.~~

8 ~~(f) Notwithstanding any other law, in any judicial action~~  
9 ~~authorized by this part, the court shall direct that a prevailing party~~  
10 ~~that is a groundwater sustainability agency, or owner or operator~~  
11 ~~of a groundwater extraction facility, shall be awarded the~~  
12 ~~reasonable attorney’s fees and costs relating to an action authorized~~  
13 ~~pursuant to this part.~~

14 ~~10729. (a) A groundwater sustainability agency may conduct~~  
15 ~~an investigation for the purposes of this part, including, but not~~  
16 ~~limited to, investigations for the following:~~

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

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

24 ~~(c) In connection with an investigation, a groundwater~~  
25 ~~sustainability agency may inspect the property or facilities of a~~  
26 ~~person or entity to ascertain whether the purposes of this part are~~  
27 ~~being met and compliance with this part. The local agency may~~  
28 ~~conduct an inspection pursuant to this section upon obtaining any~~  
29 ~~necessary consent or obtaining an inspection warrant pursuant to~~  
30 ~~the procedure set forth in Title 13 (commencing with Section~~  
31 ~~1822.50) of Part 3 of the Code of Civil Procedure.~~

32 ~~10729.5. (a) Each groundwater extraction facility within a~~  
33 ~~groundwater sustainability agency shall be registered with the~~  
34 ~~groundwater sustainability agency if the groundwater sustainability~~  
35 ~~plan provides for establishing a groundwater charge pursuant to~~  
36 ~~this part or for otherwise regulating groundwater extractions. The~~  
37 ~~groundwater sustainability agency may, by resolution or ordinance,~~  
38 ~~establish reasonable requirements for the registration of a~~  
39 ~~groundwater extraction facility.~~

1 (b) ~~Any form used to register a groundwater extraction facility~~  
2 ~~pursuant to this section shall not be made available for inspection~~  
3 ~~by the public. The groundwater sustainability agency may use~~  
4 ~~information from the form to develop or implement a groundwater~~  
5 ~~sustainability program or plan pursuant to this part.~~

6 (e) ~~An owner or operator of a groundwater extraction facility~~  
7 ~~that fails to register the facility within a time period provided for~~  
8 ~~in a groundwater sustainability plan shall become jointly and~~  
9 ~~severally liable to the groundwater sustainability agency for a~~  
10 ~~penalty of one thousand dollars (\$1,000) per unregistered~~  
11 ~~groundwater extraction facility.~~

12 10730. (a) ~~A groundwater sustainability agency may require~~  
13 ~~through its groundwater sustainability plan that the use of every~~  
14 ~~groundwater extraction facility within the groundwater~~  
15 ~~sustainability agency be measured no less than 60 days after~~  
16 ~~registration by a water-measuring device satisfactory to the~~  
17 ~~groundwater sustainability agency. If water-measuring devices are~~  
18 ~~required by the groundwater sustainability plan, an owner or~~  
19 ~~operator of a groundwater extraction facility that fails to install a~~  
20 ~~satisfactory water-measuring device within the 60-day time period~~  
21 ~~shall be jointly and severally liable to the groundwater~~  
22 ~~sustainability agency for a penalty of one thousand dollars (\$1,000)~~  
23 ~~per groundwater extraction facility lacking a water-measuring~~  
24 ~~device.~~

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

33 (e) ~~A groundwater sustainability agency may require, through~~  
34 ~~its groundwater sustainability plan, that the owner or operator of~~  
35 ~~a groundwater extraction facility within the groundwater~~  
36 ~~sustainability agency file an annual statement with the groundwater~~  
37 ~~sustainability agency setting forth the total extraction in acre-feet~~  
38 ~~of groundwater from the facility during the previous year. If filing~~  
39 ~~of groundwater extraction statements is required by the~~  
40 ~~groundwater sustainability plan, an owner or operator of a~~



1 ~~groundwater extraction facility that fails to file a timely~~  
2 ~~groundwater extraction statement shall be jointly and severally~~  
3 ~~liable to the groundwater sustainability agency for a penalty of~~  
4 ~~one thousand dollars (\$1,000) per groundwater extraction facility~~  
5 ~~without a filed groundwater extraction statement per each month~~  
6 ~~since the date the first penalty could have been imposed by the~~  
7 ~~groundwater sustainability agency.~~

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

12 (e) ~~This section does not apply to de minimus extractors.~~

13 ~~10730.5. An entity within the area of a groundwater~~  
14 ~~sustainability plan shall only divert surface water to underground~~  
15 ~~storage consistent with the plan and shall report the diversion to~~  
16 ~~underground storage to the groundwater sustainability agency for~~  
17 ~~the relevant portion of the basin.~~

18 ~~10731. A groundwater sustainability agency may do the~~  
19 ~~following:~~

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

27 (b) ~~Appropriate and acquire surface water or groundwater and~~  
28 ~~surface water or groundwater rights, import surface water or~~  
29 ~~groundwater into the agency, and conserve and store within or~~  
30 ~~outside the agency that water for any purpose necessary or proper~~  
31 ~~to carry out the provisions of this part, including, but not limited~~  
32 ~~to, the spreading, storing, retaining, or percolating into the soil of~~  
33 ~~the waters for subsequent use or in a manner consistent with the~~  
34 ~~provisions of Section 10735. As part of this authority, the agency~~  
35 ~~may validate an existing groundwater conjunctive use or storage~~  
36 ~~program upon a finding that the program would aid or assist the~~  
37 ~~agency in developing or implementing a groundwater sustainability~~  
38 ~~plan.~~

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

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

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

14 ~~(f) Whenever, in the opinion of the agency's governing board,~~  
15 ~~the public interest or convenience may require, it may order any~~  
16 ~~work or improvement that it is authorized to undertake to be done~~  
17 ~~in accordance with the procedures and pursuant to the provisions~~  
18 ~~of the Improvement Act of 1911 (Division 7 (commencing with~~  
19 ~~Section 5000) of the Streets and Highways Code), the Improvement~~  
20 ~~Bond Act of 1915 (Division 10 (commencing with Section 8500)~~  
21 ~~of the Streets and Highways Code), or the Municipal Improvement~~  
22 ~~Act of 1913 (Division 12 (commencing with Section 10000) of~~  
23 ~~the Streets and Highways Code).~~

24 ~~(g) Commence, maintain, intervene in, defend, compromise,~~  
25 ~~and assume the cost and expenses of any and all actions and~~  
26 ~~proceedings.~~

27 ~~10731.5. A groundwater sustainability agency shall have the~~  
28 ~~following additional authority and may regulate groundwater~~  
29 ~~pumping using that authority by means of ordinance or resolution:~~

30 ~~(a) To impose spacing requirements on new groundwater well~~  
31 ~~construction to minimize well interference and impose reasonable~~  
32 ~~operating regulations on existing groundwater wells to minimize~~  
33 ~~well interference, including requiring pumpers to operate on a~~  
34 ~~rotation basis.~~

35 ~~(b) To control groundwater extractions by regulating, limiting,~~  
36 ~~or suspending extractions from individual groundwater wells or~~  
37 ~~extractions from groundwater wells in the aggregate, the~~  
38 ~~construction of new groundwater wells, the enlarging of existing~~  
39 ~~groundwater wells, the reactivation of abandoned groundwater~~  
40 ~~wells, or otherwise establishing groundwater extraction allocations.~~

1 A limitation on extractions by a groundwater sustainability agency  
2 shall not be construed to be a final determination of rights to extract  
3 groundwater from the basin or any portion of the basin. A  
4 groundwater sustainability agency may use the expedited  
5 adjudication procedures in Chapter 10 (commencing with Section  
6 10742) in establishing groundwater extraction allocations.

7 (e) To authorize temporary and permanent transfers of  
8 groundwater extraction allocations within the agency's boundaries,  
9 if the total quantity of groundwater extracted in any year is  
10 consistent with the provisions of the groundwater sustainability  
11 plan.

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

17  
18 CHAPTER 7. FINANCIAL AUTHORITY

19  
20 10732. (a) A groundwater sustainability agency may impose  
21 fees, including, but not limited to, permit fees and fees on  
22 groundwater extraction or other regulated activity, to fund the costs  
23 of a groundwater sustainability program, including, but not limited  
24 to, preparation, adoption, and amendment of a groundwater  
25 sustainability plan, and program administration, investigations,  
26 inspections, compliance assistance, and enforcement. A  
27 groundwater sustainability agency shall not impose a fee pursuant  
28 to this subdivision on a de minimus producer unless the agency  
29 has regulated the users pursuant to this part.

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

34 (1) Notice of the time and place of the meeting shall include a  
35 general explanation of the matter to be considered and a statement  
36 that the data required by this section is available. The notice shall  
37 be mailed at least 14 days prior to the meeting to each record owner  
38 of property within the basin and to any interested party who files  
39 a written request with the agency for mailed notice of the meeting  
40 on new or increased fees. A written request for mailed notices shall

1 be valid for one year from the date that the request is made and  
2 may be renewed by making a written request on or before April 1  
3 of each year.

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

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

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

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

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

21 10732.5. (a) A groundwater sustainability agency that adopts  
22 a groundwater sustainability plan pursuant to this part may impose  
23 fees on the extraction of groundwater from the basin to fund costs  
24 of groundwater management, including, but not limited to, the  
25 costs of the following:

26 (1) Administration, operation, maintenance, and acquisition of  
27 lands or other property, facilities, and services.

28 (2) Supply, production, treatment, or distribution of water.

29 (3) Other activities necessary or convenient to implement the  
30 plan.

31 (b) Fees may be implemented pursuant to Part 2.75  
32 (commencing with Section 10750) in accordance with the  
33 procedures provided in this section.

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

37 (d) Fees imposed pursuant to this section may include fixed fees  
38 and fees charged on a volumetric basis, including, but not limited  
39 to, fees that increase based on the quantity of groundwater produced  
40 annually, the year in which the production of groundwater

1 commenced from a groundwater extraction facility, and impacts  
2 to the basin.

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

6 10733. A groundwater sustainability agency may fund activities  
7 pursuant to Part 2.75 (commencing with Section 10750) and may  
8 impose fees pursuant to Section 10732.5 to fund activities  
9 undertaken by the agency pursuant to Part 2.75 (commencing with  
10 Section 10750).

11 10733.5. (a) A groundwater fee levied pursuant to this chapter  
12 shall be due and payable to the groundwater sustainability agency  
13 by each owner or operator on a day established by the groundwater  
14 sustainability agency.

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

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

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

38 (e) As an additional remedy, a groundwater sustainability  
39 agency, after a public hearing, may order an owner or operator to  
40 cease extraction of groundwater until all delinquent fees are paid.

1 The groundwater sustainability agency shall give notice to the  
2 owner or operator by certified mail not less than 15 days in advance  
3 of the public hearing.

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

8 10734. (a) Nothing in this chapter shall affect or interfere with  
9 the authority of a groundwater sustainability agency to levy and  
10 collect taxes, assessments, charges, and tolls as otherwise provided  
11 by law.

12 (b) For the purposes of Section 6254.16 of the Government  
13 Code, persons subject to payment of fees pursuant to this chapter  
14 are utility customers of a groundwater sustainability agency.

15 10734.5. (a) If there is reasonable cause to believe that the  
16 production of groundwater from any groundwater extraction facility  
17 is in excess of that disclosed by the statements covering the facility  
18 or if no statement is filed covering the facility, then the governing  
19 body may cause an investigation and report to be made concerning  
20 the production of groundwater from that groundwater extraction  
21 facility that includes, but is not limited to, the accuracy of the  
22 water-measuring device. The governing body may make a  
23 determination fixing the amount of groundwater production from  
24 the groundwater extraction facility at an amount not to exceed the  
25 maximum production capacity of the facility for purposes of  
26 levying a groundwater charge. If a water-measuring device is  
27 permanently attached to the groundwater extraction facility, the  
28 record of production as disclosed by the water-measuring device  
29 shall be presumed to be accurate unless the contrary is established  
30 by the groundwater management agency after investigation.

31 (b) After the governing body makes a determination fixing the  
32 amount of groundwater production pursuant to subdivision (a), a  
33 written notice of the determination shall be mailed to the owner  
34 or operator of the groundwater extraction facility at the address as  
35 shown by the groundwater management agency's records. A  
36 determination made by the governing body shall be conclusive on  
37 the owner or operator and the groundwater charges, based on the  
38 determination together with any interest and penalties, shall be  
39 payable immediately unless within 10 days after the mailing of  
40 the notice the owner or operator files with the governing body a

1 written protest setting forth the ground for protesting the amount  
 2 of production or the groundwater charges, interest, and penalties.  
 3 If a protest is filed pursuant to this subdivision, the governing body  
 4 shall hold a hearing to determine the total amount of the  
 5 groundwater production and the groundwater charges, interest,  
 6 and penalties. The determination by the governing body at the  
 7 hearing shall be conclusive if based upon substantial evidence.  
 8 Notice of the hearing shall be mailed to each protestant at least 10  
 9 days before the date fixed for the hearing. Notice of the  
 10 determination of the governing body hearing shall be mailed to  
 11 each protestant. The owner or operator shall have 20 days from  
 12 the date of mailing of the determination to pay the groundwater  
 13 charges, interest, and penalties determined by the governing body.

14  
 15 CHAPTER 8. GROUNDWATER SUSTAINABILITY PLANS

16  
 17 10735. (a) A groundwater sustainability plan shall be adopted  
 18 for each medium or high priority basin by an overlying  
 19 groundwater sustainability agency. The plan may incorporate,  
 20 extend, or be based on a plan adopted pursuant to Part 2.75  
 21 (commencing with Section 10750) and shall include all of the  
 22 following:

- 23 (1) A description of the physical setting and characteristics of  
 24 the aquifer system underlying the basin that includes the following:
  - 25 (A) Historical data, to the extent available.
  - 26 (B) Groundwater levels, groundwater quality, subsidence, and  
 27 groundwater-surface water interaction.
  - 28 (C) Known issues of concern with respect to the data described  
 29 in this paragraph.
  - 30 (D) A general discussion of historical and projected water  
 31 demands and supplies.
  - 32 (E) A map that details the area of the basin and the boundaries  
 33 of the groundwater sustainability agencies that overlie the basin  
 34 that have or are developing groundwater sustainability plans.
  - 35 (F) A map identifying existing and potential recharge areas for  
 36 the basin. The map or maps shall identify the existing recharge  
 37 areas that substantially contribute to the replenishment of the  
 38 groundwater basin. The map or maps shall be provided to the  
 39 appropriate local planning agencies after adoption of the  
 40 groundwater sustainability plan.

1 ~~(2) Groundwater management objectives to achieve the~~  
2 ~~sustainability goal in the basin within 20 years of the~~  
3 ~~implementation of the plan. The plan shall include a description~~  
4 ~~of how the plan helps meet each objective and how each objective~~  
5 ~~is intended to achieve the sustainability goal for the basin for~~  
6 ~~long-term beneficial uses of groundwater. The department, at the~~  
7 ~~request of the groundwater management agency, may grant an~~  
8 ~~extension of up to 10 years beyond the 20 year sustainability time~~  
9 ~~frame if necessary based on groundwater basin circumstances.~~

10 ~~(3) A planning and implementation horizon of at least 50 years.~~

11 ~~(4) As applicable to the basin, components relating to the~~  
12 ~~following:~~

13 ~~(A) The monitoring and management of groundwater levels~~  
14 ~~within the basin.~~

15 ~~(B) The monitoring and management of groundwater quality,~~  
16 ~~groundwater quality degradation, inelastic land surface subsidence,~~  
17 ~~and changes in surface flow and surface water quality that directly~~  
18 ~~affect groundwater levels or quality or are caused by groundwater~~  
19 ~~pumping in the basin.~~

20 ~~(C) Mitigation of overdraft.~~

21 ~~(D) How recharge areas identified in the plan substantially~~  
22 ~~contribute to the replenishment of the basin.~~

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

32 ~~(6) Monitoring protocols that are designed to detect changes in~~  
33 ~~groundwater levels, groundwater quality, inelastic surface~~  
34 ~~subsidence for basins for which subsidence has been identified as~~  
35 ~~a potential problem, and flow and quality of surface water that~~  
36 ~~directly affect groundwater levels or quality or are caused by~~  
37 ~~groundwater pumping in the basin. The monitoring protocols shall~~  
38 ~~be designed to generate information that promotes efficient and~~  
39 ~~effective groundwater management.~~



- 1 ~~(b) A groundwater sustainability plan may include all of the~~
- 2 ~~following, where appropriate:~~
- 3 ~~(1) Control of saline water intrusion.~~
- 4 ~~(2) Wellhead protection areas and recharge areas.~~
- 5 ~~(3) Migration of contaminated groundwater.~~
- 6 ~~(4) A well abandonment and well destruction program.~~
- 7 ~~(5) Replenishment of groundwater extractions.~~
- 8 ~~(6) Activities implementing, opportunities for, and impediments~~
- 9 ~~to, conjunctive use:~~
- 10 ~~(7) Well construction policies.~~
- 11 ~~(8) Measures addressing groundwater contamination cleanup,~~
- 12 ~~recharge, diversions to storage, conservation, water recycling,~~
- 13 ~~conveyance, and extraction projects.~~
- 14 ~~(9) Efficient water management practices, as defined in Section~~
- 15 ~~10902, for the delivery of water and water conservation methods~~
- 16 ~~to improve the efficiency of water use.~~
- 17 ~~(10) Efforts to develop relationships with state and federal~~
- 18 ~~regulatory agencies.~~
- 19 ~~(11) Processes to review land use plans and efforts to coordinate~~
- 20 ~~with land use planning agencies to assess activities that potentially~~
- 21 ~~create risks to groundwater quality or quantity.~~
- 22 ~~10735.5. (a) Prior to initiating the development of a~~
- 23 ~~groundwater sustainability plan, the groundwater sustainability~~
- 24 ~~agency shall make available to the public and the department a~~
- 25 ~~written statement describing the manner in which interested parties~~
- 26 ~~may participate in the development and implementation of the~~
- 27 ~~groundwater sustainability plan. The groundwater sustainability~~
- 28 ~~agency may appoint and consult with an advisory committee~~
- 29 ~~consisting of interested parties for the purposes of developing and~~
- 30 ~~implementing a sustainable groundwater management plan. The~~
- 31 ~~groundwater management agency shall encourage the active~~
- 32 ~~involvement of diverse social, cultural, and economic elements of~~
- 33 ~~the population within the groundwater basin prior to and during~~
- 34 ~~the development and implementation of the groundwater~~
- 35 ~~management plan. The groundwater sustainability agency shall~~
- 36 ~~encourage the active involvement of diverse social, cultural, and~~
- 37 ~~economic elements of the population within the basin prior to and~~
- 38 ~~during the development and implementation of the groundwater~~
- 39 ~~sustainability plan.~~

1 ~~(b) The groundwater sustainability agency shall establish and~~  
2 ~~maintain a list of persons interested in receiving notices regarding~~  
3 ~~plan preparation, meeting announcements, and availability of draft~~  
4 ~~plans, maps, and other relevant documents. A person may request,~~  
5 ~~in writing, to be placed on the list of interested persons.~~

6 ~~10736. (a) Except as provided in subdivision (b), a~~  
7 ~~groundwater sustainability agency shall certify that its plan~~  
8 ~~complies with this part no later than January 31, 2020, and every~~  
9 ~~five years thereafter. A groundwater sustainability agency shall~~  
10 ~~submit this certification to the department within 30 days of the~~  
11 ~~certification.~~

12 ~~(b) A basin shall be in compliance with this part if a groundwater~~  
13 ~~sustainability agency for a basin or other local agency submits to~~  
14 ~~the department no later than January 31, 2020, and every five years~~  
15 ~~thereafter, any of the following documents:~~

16 ~~(1) A copy of a governing final judgment or other judicial order~~  
17 ~~or decree establishing a groundwater sustainability program for~~  
18 ~~the basin.~~

19 ~~(2) A report approved by a groundwater sustainability agency~~  
20 ~~that shows that current management or operations activities have~~  
21 ~~been consistent with the sustainable yield of the basin over a period~~  
22 ~~of at least 10 years. The report shall be prepared by a registered~~  
23 ~~professional engineer or geologist who is licensed by the state and~~  
24 ~~submitted under that engineer's or geologist's seal. The report may~~  
25 ~~demonstrate compliance with the sustainability goal in the basin~~  
26 ~~by presenting a balanced water budget for the basin, a technical~~  
27 ~~analysis demonstrating stable groundwater levels over the relevant~~  
28 ~~period, or other sufficient technical analyses.~~

29 ~~(c) (1) The department may review the submissions made~~  
30 ~~pursuant to this section and may request the supporting information~~  
31 ~~on which the certification pursuant to subdivision (a) or the other~~  
32 ~~documentation pursuant to subdivision (b) relied. The department~~  
33 ~~may issue findings concerning the validity of the certification or~~  
34 ~~other submission.~~

35 ~~(2) Before issuing findings pursuant to paragraph (1), the~~  
36 ~~department shall transmit a draft of its findings to the submitting~~  
37 ~~agency and shall consult with that agency. The submitting agency~~  
38 ~~may submit a response to the department within 60 days of~~  
39 ~~receiving the department's draft findings.~~

1 ~~(3) If the department's findings issued pursuant to paragraph~~  
2 ~~(1) concern the compliance of a plan with requirements for~~  
3 ~~sustainable groundwater management or the operation of a basin~~  
4 ~~consistent with the basin's sustainable yield, the submitting agency,~~  
5 ~~within 90 days of receipt, shall consider amendments to its plan~~  
6 ~~or technical analysis to address the department's findings.~~

7 ~~(d) The Antelope Valley basin at issue in the Antelope Valley~~  
8 ~~Groundwater Cases (Judicial Council Coordination Proceeding~~  
9 ~~Number 4408) shall be treated as an adjudicated basin pursuant to~~  
10 ~~this section if the superior court's final judgment, order, or decree~~  
11 ~~is submitted to the department consistent with this section.~~

12 ~~10736.5. A groundwater management agency shall periodically~~  
13 ~~evaluate its groundwater sustainability plan, assess changing~~  
14 ~~conditions in the basin that may warrant modification of the plan~~  
15 ~~or management objectives, and may adjust components in the plan.~~  
16 ~~An evaluation of the plan shall focus on determining whether the~~  
17 ~~actions under the plan are meeting the plan's management~~  
18 ~~objectives and whether those objectives are meeting the~~  
19 ~~sustainability goal in the basin.~~

20 ~~10737. A groundwater sustainability agency preparing a~~  
21 ~~groundwater sustainability plan or a plan amendment shall notify~~  
22 ~~any city or county within the area of the proposed plan or~~  
23 ~~amendment at least 90 days before a public hearing on the plan~~  
24 ~~where the agency will be reviewing the plan or amendment and~~  
25 ~~considering its adoption or amendment. The groundwater~~  
26 ~~sustainability agency shall obtain comments from any city or~~  
27 ~~county that receives notice pursuant to this section and shall consult~~  
28 ~~with a city or county that requests consultation within 30 days of~~  
29 ~~receipt of the notice. Nothing in this section is intended to preclude~~  
30 ~~an agency and a city or county from otherwise consulting or~~  
31 ~~commenting regarding the adoption or amendment of a plan.~~

32 ~~10737.5. (a) The department or a groundwater sustainability~~  
33 ~~agency may provide technical assistance to entities that extract or~~  
34 ~~use groundwater to promote water conservation and protect~~  
35 ~~groundwater resources.~~

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

1 ~~(e) (1) By January 1, 2017, the department shall submit to the~~  
2 ~~Legislature and publish on its Internet Web site best management~~  
3 ~~practices for the sustainable management of groundwater.~~

4 ~~(2) Best management practices to be submitted pursuant to~~  
5 ~~paragraph (1) shall be submitted in compliance with Section 9795~~  
6 ~~of the Government Code.~~

7 ~~(3) The department shall develop the best management practices~~  
8 ~~in consultation with a representative task force of interested entities.~~  
9 ~~The department shall ensure that the task force's members are~~  
10 ~~broadly representative of stakeholders who are interested in~~  
11 ~~groundwater. The task force shall have no more than 25 stakeholder~~  
12 ~~members. The task force also shall include at least three licensed~~  
13 ~~engineers who have extensive experience with groundwater issues.~~  
14 ~~The department shall convene the task force's first meeting by~~  
15 ~~July 1, 2015. All meetings of the task force shall be open to the~~  
16 ~~public.~~

17 ~~(4) A groundwater sustainability agency may consider the best~~  
18 ~~management practices developed by the department in preparing~~  
19 ~~a groundwater sustainability plan consistent with the requirements~~  
20 ~~of this chapter.~~

21  
22 ~~CHAPTER 9. STATE INTERVENTION~~  
23

24 ~~10738. It is the intent of the Legislature to amend this measure~~  
25 ~~to provide that one or more state agencies act to ensure that all~~  
26 ~~basins in California are on track to achieve the sustainability goal~~  
27 ~~if local agencies are unable to adopt or implement groundwater~~  
28 ~~sustainability plans that achieve that goal.~~

29  
30 ~~CHAPTER 10. EXPEDITED ADJUDICATION~~  
31

32 ~~10742. It is the intent of the Legislature to amend this measure~~  
33 ~~to provide for expedited adjudications of rights to extract and store~~  
34 ~~water from and in basins by enacting, and directing the Judicial~~  
35 ~~Council to develop, innovative judicial procedures to manage those~~  
36 ~~adjudications as quickly as reasonably feasible so as to enable the~~  
37 ~~sustainable management of groundwater in the state.~~

~~CHAPTER 11. LAND USE~~

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~~10745. (a) After January 31, 2020, until a groundwater sustainability agency or the board complies with this part for a basin, a person shall not increase groundwater extractions on a property within the basin from the average of the extractions on that property during the period of January 1, 2010, to December 31, 2014, inclusive, unless the person submits to the county a report that meets all of the following requirements:~~

~~(1) A registered professional engineer or geologist licensed by the state prepared the report and submitted it under the engineer's or geologist's seal.~~

~~(2) It includes a technical analysis demonstrating stable groundwater levels over the relevant period in the area where the increased extraction would occur.~~

~~(3) It demonstrates that the increased extractions would not cause undesirable results in the basin.~~

~~(b) A land use agency shall issue a well-drilling permit only if the extractions from the new or refurbished well satisfy the limit established pursuant to subdivision (a).~~

~~(c) This section does not apply to the following:~~

~~(1) Monitoring wells.~~

~~(2) Wells used for groundwater remediation under a cleanup or remedial action plan approved by a public agency with authority to oversee groundwater remediation or by a court of competent jurisdiction.~~

~~(3) A well that is subject to judicial oversight and control pursuant to a final judgment governing extractions from the groundwater basin.~~

~~(d) This section shall not be construed as an exemption from any adjudication of rights to use groundwater whether that adjudication occurs in a court of California, the United States, or under procedures provided in Chapter 10 (commencing with Section 10742).~~

~~CHAPTER 12. WATER SUPPLY RELIABILITY~~

~~10748. Sustainable groundwater management in California depends upon creating more opportunities for robust conjunctive management of surface water resources. Climate change will~~

1 intensify the need to recalibrate and reconcile surface and  
 2 groundwater management strategies. It is the intent of the  
 3 Legislature to amend this measure to provide that the State Water  
 4 Resources Control Board and the regional water quality control  
 5 boards weigh the value of surface water for groundwater  
 6 replenishment and recharge to promote the state's interest in  
 7 groundwater sustainability.

8 SEC. 6. The provisions of this act are severable. If any  
 9 provision of this act or its application is held invalid, that invalidity  
 10 shall not affect other provisions or applications that can be given  
 11 effect without the invalid provision or application.

12 SEC. 7. No reimbursement is required by this act pursuant to  
 13 Section 6 of Article XIII B of the California Constitution for certain  
 14 costs that may be incurred by a local agency or school district  
 15 because, in that regard, this act creates a new crime or infraction,  
 16 eliminates a crime or infraction, or changes the penalty for a crime  
 17 or infraction, within the meaning of Section 17556 of the  
 18 Government Code, or changes the definition of a crime within the  
 19 meaning of Section 6 of Article XIII B of the California  
 20 Constitution.

21 However, if the Commission on State Mandates determines that  
 22 this act contains other costs mandated by the state, reimbursement  
 23 to local agencies and school districts for those costs shall be made  
 24 pursuant to Part 7 (commencing with Section 17500) of Division  
 25 4 of Title 2 of the Government Code.

26 SEC. 8. The Legislature finds and declares that Section 5 of  
 27 this act, which adds Sections 10729.5 and 10734 to the Water  
 28 Code, imposes a limitation on the public's right of access to the  
 29 meetings of public bodies or the writings of public officials and  
 30 agencies within the meaning of Section 3 of Article I of the  
 31 California Constitution. Pursuant to that constitutional provision,  
 32 the Legislature makes the following findings to demonstrate the  
 33 interest protected by this limitation and the need for protecting  
 34 that interest:

35 In order to allow this act to fully accomplish its goals, it is  
 36 necessary to protect proprietary information submitted pursuant  
 37 to this act as confidential. Therefore, it is in the state's interest to  
 38 limit public access to this information.

O

AMENDED IN SENATE MAY 28, 2014

AMENDED IN SENATE MAY 20, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN SENATE APRIL 3, 2014

**SENATE BILL**

**No. 1199**

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**Introduced by Senator Hancock**

February 20, 2014

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An act to amend Sections 5093.54 and 5093.545 of the Public Resources Code, relating to wild and scenic rivers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1199, as amended, Hancock. Wild and scenic rivers: Mokelumne River.

The California Wild and Scenic Rivers Act includes specified rivers and segments thereof within the California Wild and Scenic ~~River~~ *Rivers* system, which are subject to various protections under the act. Existing law requires the Natural Resources Agency to coordinate the activities of state agencies whose activities affect the rivers in the system, as specified, and to study and submit to the Governor and the Legislature reports on the suitability or nonsuitability of designated potential additions to the system.

This bill would include within the system specified segments of the Mokelumne River, and would designate those segments as wild, scenic, or recreational.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares both of the  
2 following:

3 (a) The Mokelumne River contains extraordinary scenic,  
4 recreational, historical, cultural, and water quality values of  
5 statewide significance that deserve to be preserved in their  
6 free-flowing state for the benefit and enjoyment of the people of  
7 the state.

8 (b) In designating the Mokelumne River as a component of the  
9 California Wild and Scenic River System, it is the intent of the  
10 Legislature that this act will accomplish the preservation of those  
11 values.

12 SEC. 2. Section 5093.54 of the Public Resources Code is  
13 amended to read:

14 5093.54. The following rivers and segments thereof are  
15 designated as components of the system:

16 (a) Klamath River. The main stem from 100 yards below Iron  
17 Gate Dam to the Pacific Ocean; the Scott River from the mouth  
18 of Shackelford Creek west of Fort Jones to the river mouth near  
19 Hamburg; the Salmon River from Cecilville Bridge to the river  
20 mouth near Somes Bar; the North Fork of the Salmon River from  
21 the intersection of the river with the south boundary of the Marble  
22 Mountain Wilderness area to the river mouth; Wooley Creek from  
23 the western boundary of the Marble Mountain Wilderness area to  
24 its confluence with the Salmon River.

25 (b) Trinity River. The main stem from 100 yards below Lewiston  
26 Dam to the river mouth at Weitchpec; the North Fork of the Trinity  
27 from the intersection of the river with the southern boundary of  
28 the Salmon-Trinity Primitive Area downstream to the river mouth  
29 at Helena; New River from the intersection of the river with the  
30 southern boundary of the Salmon-Trinity Primitive Area  
31 downstream to the river mouth near Burnt Ranch; South Fork of  
32 the Trinity from the junction of the river with State Highway Route  
33 36 to the river mouth near Salyer.

34 (c) Smith River. The main stem from the confluence of the  
35 Middle and South Forks to its mouth at the Pacific Ocean; the  
36 Middle Fork from its source about three miles south of Sanger  
37 Lake as depicted on 1956 USGS 15' "Preston Peak" topographic  
38 map to the middle of Section 7 T17N R5E; the Middle Fork from



1 the middle of Section 7 T17N R5E to the middle of Section 6 T17N  
2 R5E; the Middle Fork from the middle of Section 6 T17N R5E to  
3 one-half mile upstream from the confluence with Knopki Creek;  
4 the Middle Fork from one-half mile upstream from the confluence  
5 with Knopki Creek to the confluence with the South Fork; Myrtle  
6 Creek from its source in Section 9 T17N R1E as depicted on 1952  
7 USGS 15' "Crescent City" topographic map to the middle of  
8 Section 28 T17N R1E; Myrtle Creek, from the middle of Section  
9 28 T17N R1E to the confluence with the Middle Fork; Shelly  
10 Creek from its source in Section 1 T18N R3E as depicted on 1951  
11 USGS 15' "Gasquet" topographic map to the confluence with  
12 Patrick Creek; Kelly Creek from its source in Section 32 T17N  
13 R3E as depicted on 1951 USGS 15' "Gasquet" topographic map  
14 to the confluence with the Middle Fork; Packsaddle Creek from  
15 its source about 0.8 miles southwest of Broken Rib Mountain as  
16 depicted on 1956 USGS 15' "Preston Peak" topographic map to  
17 the eastern boundary of Section 3 T17N R1E; Packsaddle Creek  
18 from the eastern boundary of Section 3 T17N R4E to the northern  
19 boundary of Section 3 T17N R4E; Packsaddle Creek from the  
20 northern boundary of Section 3 T17N R4E to the confluence with  
21 the Middle Fork; East Fork Patrick Creek from its source in Section  
22 10 T18N R3E as depicted on 1951 USGS 15' "Gasquet"  
23 topographic map to the confluence with West Fork Patrick Creek;  
24 West Fork Patrick Creek from its source in Section 18 T18N R3E  
25 as depicted on 1951 15' "Gasquet" topographic map to the  
26 confluence with East Fork Patrick Creek; Griffin Creek from its  
27 source about 0.2 miles southwest of Hazel View Summit as  
28 depicted on 1956 USGS 15' "Preston Peak" topographic map to  
29 the confluence with the Middle Fork; Knopki Creek from its source  
30 about 0.4 miles west of Sanger Peak as depicted on 1956 USGS  
31 15' "Preston Peak" topographic map to the confluence with Middle  
32 Fork; Monkey Creek from its source in the northeast quadrant of  
33 Section 12 T18N R3E as depicted on 1951 USGS 15' "Gasquet"  
34 topographic map to the northern boundary of Section 26 T18N  
35 R3E; Monkey Creek from the northern boundary of Section 26  
36 T18N R3E to the confluence with the Middle Fork; Patrick Creek  
37 from the junction of the East and West Forks of Patrick Creek to  
38 the confluence with Middle Fork; the North Fork from the  
39 California-Oregon boundary to the confluence with an unnamed  
40 tributary in the northern quarter Section 5 T18N R2E as depicted

1 on 1951 USGS 15' "Gasquet" topographic map; the North Fork  
2 from the confluence with an unnamed tributary in northern quarter  
3 of Section 5 T18N R2E to the southernmost intersection of eastern  
4 boundary Section 5 T18N R2E as depicted on 1951 USGS 15'  
5 "Gasquet" topographic map; the North Fork from the southernmost  
6 intersection of the eastern boundary Section 5 T18N R2E as  
7 depicted on 1951 USGS 15' "Gasquet" topographic map to the  
8 confluence with Stony Creek; the North Fork from the confluence  
9 with Stony Creek to the confluence with the Middle Fork; Diamond  
10 Creek from the California-Oregon state boundary to the confluence  
11 with High Plateau Creek; Diamond Creek from the confluence  
12 with High Plateau Creek to the confluence with the North Fork;  
13 Bear Creek from its source in Section 24 T18N R2E as depicted  
14 on 1951 USGS 15' "Gasquet" topographic map to the confluence  
15 with Diamond Creek; Still Creek from its source in Section 11  
16 T18N R1E as depicted on 1952 USGS 15' "Crescent City"  
17 topographic map to the confluence with the North Fork Smith  
18 River; North Fork Diamond Creek from the California-Oregon  
19 state boundary to the confluence with Diamond Creek; High  
20 Plateau Creek from its source in Section 26 T18N R2E as depicted  
21 on 1951 USGS 15' "Gasquet" topographic map to northern  
22 boundary Section 23 T18N R2E; High Plateau Creek from the  
23 northern boundary Section 23 T18N R2E to the confluence with  
24 Diamond Creek; the Siskiyou Fork from its source about 0.7 miles  
25 southeast of Broken Rib Mountain as depicted on 1956 USGS 15'  
26 "Preston Peak" topographic map to the confluence with the South  
27 Siskiyou Fork; the Siskiyou Fork from its confluence with the  
28 South Siskiyou Fork to the confluence with the Middle Fork; the  
29 South Siskiyou Fork from its source about 0.6 miles southwest of  
30 Buck Lake as depicted on 1956 USGS 15' "Preston Peak"  
31 topographic map to the confluence with the Siskiyou Fork; the  
32 South Fork from its source about 0.5 miles southwest of Bear  
33 Mountain as depicted on 1956 USGS 15' "Preston Peak"  
34 topographic map to Blackhawk Bar; the South Fork from  
35 Blackhawk Bar to the confluence with the Middle Fork; Williams  
36 Creek from its source in Section 31 T14N R4E as depicted on 1952  
37 USGS 15' "Ship Mountain" topographic map to the confluence  
38 with Eight Mile Creek; Eight Mile Creek from its source in Section  
39 29 T14N R4E as depicted on 1955 USGS 15' "Dillon Mountain"  
40 topographic map to the confluence with the South Fork; the

1 Prescott Fork from its source about 0.5 miles southeast of Island  
2 Lake as depicted on 1955 USGS 15' "Dillon Mountain"  
3 topographic map to the confluence with the South Fork; Quartz  
4 Creek from its source in Section 31 T16N R4E as depicted on 1952  
5 USGS 15' "Ship Mountain" topographic map to the confluence  
6 with the South Fork; Jones Creek from its source in Section 36  
7 T16N R3E as depicted on 1952 USGS 15' "Ship Mountain"  
8 topographic map to the middle of Section 5 T15N R3E; Jones  
9 Creek from the middle of Section 5 T15N R3E to the confluence  
10 with the South Fork; Hurdygurdy Creek from its source about 0.4  
11 miles southwest of Bear Basin Butte as depicted on 1956 USGS  
12 15' "Preston Peak" topographic map to the confluence with the  
13 South Fork; Gordon Creek from its source in Section 18 T16N  
14 R3E as depicted on 1951 USGS 15' "Gasquet" topographic map  
15 to the confluence with the South Fork; Coon Creek from the  
16 junction of the two-source tributaries in the southwest quadrant of  
17 Section 31 T17N R3E as depicted on 1951 USGS 15' "Gasquet"  
18 topographic map to the western boundary Section 14 T16N R2E;  
19 Coon Creek from the western boundary Section 14 T16N R2E to  
20 the confluence with the South Fork; Craigs Creek from its source  
21 in Section 36 T17N R2E as depicted on 1951 USGS 15' "Gasquet"  
22 topographic map to the confluence with the South Fork; Buck  
23 Creek from its source at Cedar Camp Spring as depicted on 1952  
24 USGS 15' "Ship Mountain" topographic map to the confluence  
25 with the South Fork; Muzzleloader Creek from its source in Section  
26 2 T15N R3E as depicted on 1952 USGS 15' "Ship Mountain"  
27 topographic map to the confluence with Jones Creek; Canthook  
28 Creek from its source in Section 2 T15N R2E as depicted on 1952  
29 USGS 15' "Ship Mountain" topographic map to the confluence  
30 with South Fork.

31 (d) Eel River. The main stem from 100 yards below Van Arsdale  
32 Dam to the Pacific Ocean; the South Fork of the Eel from the  
33 mouth of Section Four Creek near Branscomb to the river mouth  
34 below Weott; Middle Fork of the Eel from the intersection of the  
35 river with the southern boundary of the Middle Eel-Yolla Bolly  
36 Wilderness Area to the river mouth at Dos Rios; North Fork of the  
37 Eel from the Old Gilman Ranch downstream to the river mouth  
38 near Ramsey; Van Duzen River from Dinsmores Bridge  
39 downstream to the river mouth near Fortuna.

1 (e) American River. The North Fork from its source to the Iowa  
2 Hill Bridge; the Lower American from Nimbus Dam to its junction  
3 with the Sacramento River.

4 (f) (1) West Walker River. The main stem from its source to  
5 the confluence with Rock Creek near the town of Walker; Leavitt  
6 Creek from Leavitt Falls to the confluence with the main stem of  
7 the West Walker River.

8 (2) Carson River. The East Fork from the Hangman's Bridge  
9 crossing of State Highway Route 89 to the California-Nevada  
10 border.

11 (3) The Legislature finds and declares that, because the East  
12 Fork Carson River and West Walker River are interstate streams,  
13 and a source of agricultural water and domestic water for  
14 communities within the Counties of Alpine and Mono where they  
15 originate, it is necessary that the following special provisions apply:

16 (A) Nothing in this subdivision shall be construed to prohibit  
17 the replacement of diversions or changes in the purpose of use,  
18 place of use, or point of diversion under existing water rights,  
19 except that (i) no replacement or change shall operate to increase  
20 the adverse effect, if any, of the preexisting diversion facility or  
21 place or purpose of use, upon the free-flowing condition and natural  
22 character of the stream, and (ii) after January 1, 1990, no new  
23 diversion shall be constructed unless and until the secretary  
24 determines that the facility is needed to supply domestic water to  
25 the residents of any county through which the river or segment  
26 flows and that the facility will not adversely affect the free-flowing  
27 condition and natural character of the stream.

28 (B) Nothing in this chapter shall be construed as quantifying or  
29 otherwise affecting any equitable apportionment, or as establishing  
30 any upper limit, between the State of California and the State of  
31 Nevada of the waters of these streams.

32 (g) (1) The South Yuba River: From Lang Crossing to its  
33 confluence with Kentucky Creek below Bridgeport.

34 (2) Nothing in this subdivision shall prejudice, alter, delay,  
35 interfere with, or affect in any way, the existing rights of the Placer  
36 County Water Agency; the implementation of those rights; any  
37 historic water use practices; the replacement, maintenance, repair,  
38 operation, or future expansion of existing diversions, storage,  
39 powerhouses, or conveyance facilities or other works by the Placer  
40 County Water Agency; or changes in the purpose of use, places

1 of use, points of diversion, or ownership of those existing water  
2 rights; nor shall anything in this subdivision preclude the issuance  
3 of any governmental authorization needed for utilization of those  
4 rights, except that no changes shall operate to increase the adverse  
5 effect, if any, of the preexisting facilities or places, or the purposes  
6 of use upon the free-flowing and natural character of the river  
7 segment designated in this subdivision.

8 (h) Albion River. The Albion River from one-fourth mile  
9 upstream of its confluence with Deadman Gulch downstream to  
10 its mouth at the Pacific Ocean.

11 (i) Gualala River. The main stem Gualala River from the  
12 confluence of the North and South Forks to the Pacific Ocean.

13 (j) (1) Cache Creek from one-fourth mile below Cache Creek  
14 Dam to Camp Haswell.

15 (2) North Fork Cache Creek from the Highway 20 bridge to the  
16 confluence with the main stem.

17 (3) The designation of Cache Creek under paragraphs (1) and  
18 (2) shall not prejudice, alter, delay, interfere with, or affect in any  
19 way, the existing water rights of the Yolo County Flood Control  
20 and Water Conservation District, or public water agencies within  
21 the Cache Creek watershed lying in the County of Lake, including  
22 the range of operations permitted under these existing water rights;  
23 any historic water use practices within existing water rights; or the  
24 replacement, maintenance, repair, or future expansion within  
25 existing water rights of existing diversion, storage, powerhouse,  
26 or conveyance facilities or other works by the Yolo County Flood  
27 Control and Water Conservation District or public water agencies  
28 within the Cache Creek watershed lying in the County of Lake.

29 (4) The designation of Cache Creek under paragraphs (1) and  
30 (2) shall not prejudice, alter, delay, interfere with, or affect any  
31 changes to the existing water rights of the Yolo County Flood  
32 Control and Water Conservation District, including changes to the  
33 purpose of use, place of use, points of diversion, quantity of water  
34 diverted, or ownership, or applications by the district for new water  
35 rights; provided, that the changes or applications do not involve  
36 the construction of a dam, reservoir, diversion, or other water  
37 impoundment facility within the segments of Cache Creek  
38 designated in paragraphs (1) and (2). Any such change or  
39 application shall be subject to all applicable constitutional,

1 statutory, and judicial requirements, including the public trust  
2 doctrine.

3 (5) As the waters of the Cache Creek watershed are the sole  
4 source of supply within that watershed for the County of Lake, the  
5 designation of Cache Creek under paragraphs (1) and (2) shall not  
6 prejudice, alter, delay, interfere with, or affect any changes to the  
7 existing water rights of the public water agencies within the Cache  
8 Creek watershed lying in the County of Lake, including changes  
9 to the purpose of use, place of use, points of diversion, quantity  
10 of water diverted, or ownership, or applications by these agencies  
11 for new water rights; provided, that the changes or applications  
12 do not involve the construction of a dam, reservoir, diversion, or  
13 other water impoundment facility within the segments of Cache  
14 Creek designated in paragraphs (1) and (2). Any such change or  
15 application shall be subject to all applicable constitutional,  
16 statutory, and judicial requirements, including the public trust  
17 doctrine.

18 (6) (A) The designation of Cache Creek under paragraphs (1)  
19 and (2) shall not impair or affect in any way activities to manage  
20 or remove invasive or nonnative plants and animal species.

21 (B) The designation of Cache Creek under paragraphs (1) and  
22 (2) shall not impair or affect in any way activities to remediate  
23 mercury pollution; provided, that this activity does not involve the  
24 construction of a dam, reservoir, diversion, or other water  
25 impoundment facility within the segments of Cache Creek  
26 designated in paragraphs (1) and (2).

27 (7) (A) Neither the Governor nor an employee of a state agency  
28 or department shall apply to a secretary, department, agency, or  
29 other entity of the federal government for the designation of any  
30 portion of Cache Creek as a component of the national wild and  
31 scenic rivers system under the federal Wild and Scenic Rivers Act  
32 (16 U.S.C. Sec. 1271 et seq.).

33 (B) Neither the Governor nor an employee of a state agency or  
34 department shall expend funds preparing, filing, or otherwise  
35 submitting an application to a secretary, department, or other entity  
36 of the federal government for the designation of any portion of  
37 Cache Creek as a component of the national wild and scenic rivers  
38 system under the federal Wild and Scenic Rivers Act (16 U.S.C.  
39 Sec. 1271 et seq.).

- 1 (8) To the extent that this subdivision conflicts with other  
2 provisions of this chapter, this subdivision shall control.
- 3 (k) (1) North Fork Mokelumne River from ~~0.25~~ 0.50 miles  
4 downstream of the Salt Springs 97-066 Dam to the national forest  
5 boundary. 0.50 miles upstream of the Tiger Creek Powerhouse.
- 6 (2) North Fork Mokelumne River from ~~300~~ 1,000 feet below  
7 downstream of the Tiger Creek Afterbay 97-105 Dam to 300 feet  
8 upstream of the Electra Diversion 97-114 Dam and West Point  
9 Power House. State Highway Route 26.
- 10 (3) North Fork Mokelumne River from ~~300~~ 400 feet downstream  
11 of the small reregulating dam at the outlet of the West Point Power  
12 House to the Middle Fork Mokelumne River confluence.
- 13 (4) The main stem of the Mokelumne River from the confluence  
14 of the North and Middle Forks to 300 feet upstream of the Electra  
15 Powerhouse.
- 16 (5) The main stem of the Mokelumne River from 300 feet  
17 downstream of the small reregulating dam downstream of the  
18 Electra Powerhouse to the ~~upper extent~~ of Pardee Reservoir  
19 ~~downstream of Highway 49~~. flood surcharge pool at 580 feet  
20 elevation above mean sea level.
- 21 (6) *Nothing in this chapter shall prejudice, alter, delay, interfere*  
22 *with, or affect in any way, the installation, operation, maintenance,*  
23 *repair, and replacement of river flow and water quality monitoring*  
24 *stations and equipment in and along the designated segments of*  
25 *the Mokelumne River; or the construction, operation, maintenance,*  
26 *repair, and replacement of recreational facilities along the*  
27 *Mokelumne River on East Bay Municipal Utility District lands,*  
28 *including scenic trails and rafting facilities, such as take outs,*  
29 *parking lots, and similar recreational facilities.*
- 30 (7) *Nothing in this subdivision shall prejudice, alter, delay,*  
31 *interfere with, or affect in any way, the existing rights of the*  
32 *Amador Water Agency, the Jackson Valley Irrigation District, the*  
33 *Calaveras Public Utility District, and the Calaveras County Water*  
34 *District; the implementation of those rights; any historic water*  
35 *use practices; the replacement, maintenance, repair, operation,*  
36 *or future expansion of existing diversions, storage, powerhouses,*  
37 *conveyance facilities, power lines, or other works by those*  
38 *agencies; or changes in the purpose of use, places of use, points*  
39 *of diversion, or ownership of those existing water rights; nor shall*  
40 *anything in this subdivision preclude the issuance of any*

1 governmental authorization needed for utilization of those rights.  
 2 However, no exercise of rights or practices specified in this  
 3 paragraph shall operate to increase the adverse effect, if any, of  
 4 the preexisting facilities or places, or the purposes of use upon the  
 5 free-flowing and natural character of the river segments designated  
 6 herein.

7 (8) Nothing in this subdivision shall prejudice, delay, interfere  
 8 with, or affect in any way, a water rights application by the Amador  
 9 Water Agency, the Jackson Valley Irrigation District, the Calaveras  
 10 Public Utility District, and the Calaveras County Water District  
 11 and consideration by the State Water Resources Control Board of  
 12 a water rights application for new water supply projects upstream  
 13 of Mokelumne River segments protected in this subdivision or on  
 14 tributaries to the North Fork and main stem Mokelumne River,  
 15 provided that the application and approval of water rights, and  
 16 the construction and operation of facilities to access those rights,  
 17 shall avoid an adverse effect on the free-flowing condition and  
 18 natural character of the river segments designated in this section  
 19 as components of the system.

20 (9) Nothing in this subdivision shall prejudice, alter, delay,  
 21 interfere with, or affect in any way, Amador Water Agency's water  
 22 rights application 5647X03 pending before the State Water  
 23 Resources Control Board.

24 (l) Rivers that qualify for inclusion in the system may be  
 25 recommended to the Legislature by the secretary.

26 SEC. 3. Section 5093.545 of the Public Resources Code is  
 27 amended to read:

28 5093.545. The classifications heretofore established by the  
 29 secretary for the rivers or segments of rivers included in the system  
 30 are revised and adopted as follows:

	Rivers	Classification
31		
32		
33	(a) Klamath River: The Klamath River from the	
34	FERC Project 2082 downstream boundary	
35	in Section 17 T47N R5W as shown on	
36	Exhibit K-7 sheet 1 dated May 25, 1962, to	
37	the river mouth at the Pacific Ocean	Recreational
38	(b) Scott River:	
39	(1) The Scott River from Shackleford Creek to	
40	McCarthy Creek	Recreational



1	(2)	The Scott River from McCarthy Creek to	
2		Scott Bar	Scenic
3	(3)	The Scott River from Scott Bar to the	
4		confluence with the Klamath River	Recreational
5	(c)	Salmon River:	
6	(1)	The Salmon River from the Forks of	
7		Salmon to the Lewis Creek confluence	Recreational
8	(2)	The Salmon River from the Lewis Creek	
9		confluence to the Wooley Creek confluence	Scenic
10	(3)	The Salmon River from the Wooley Creek	
11		confluence to the confluence with the	
12		Klamath River	Recreational
13	(4)	The South Fork of the Salmon River from	
14		Cecilville to the St. Claire Creek confluence	Recreational
15	(5)	The South Fork from the St. Claire Creek	
16		confluence to the Matthews Creek	
17		confluence	Scenic
18	(6)	The South Fork from the Matthews Creek	
19		confluence to the Forks of Salmon	Recreational
20	(7)	The North Fork of the Salmon River from	
21		Marble Mountain Wilderness boundary to	
22		Mule Bridge Campground in Section 35	
23		T12N R11W and Section 12 T11N R11W	Wild
24	(8)	The North Fork from Mule Bridge	
25		Campground to the Forks of Salmon	Recreational
26	(9)	Wooley Creek from the Marble Mountain	
27		Wilderness area boundary to the ½ mile	
28		upstream of the confluence with Salmon	
29		River	Wild
30	(10)	Wooley Creek downstream ½ mile above	
31		the confluence with the Salmon River	Recreational
32	(d)	Trinity River:	
33	(1)	The Trinity River from 100 yards below	
34		Lewiston Dam to Cedar Flat Creek	
35		confluence	Recreational
36	(2)	The Trinity River from the Cedar Flat Creek	
37		confluence to Gray Falls	Scenic
38	(3)	The Trinity River from Gray Falls to the	
39		west boundary of Section 2 T8N R4E	Recreational

- |    |      |   |              |
|----|------|---|--------------|
| 1  | (4)  | The Trinity River from the west boundary    |              |
| 2  |      | of Section 2 T8N R4E to the confluence      |              |
| 3  |      | with the Klamath River at Weitchpec         | Scenic       |
| 4  | (5)  | The North Fork of the Trinity River from    |              |
| 5  |      | the Trinity Alps Primitive Area boundary to |              |
| 6  |      | north boundary Section 20 T34N R11W         | Wild         |
| 7  | (6)  | The North Fork from the north boundary      |              |
| 8  |      | Section 20 T34N R11W to mouth               | Recreational |
| 9  | (7)  | The South Fork Trinity River from Forest    |              |
| 10 |      | Glen to Hidden Valley Ranch                 | Wild         |
| 11 | (8)  | The South Fork from Hidden Valley Ranch     |              |
| 12 |      | to the Naufus Creek confluence in Section 8 |              |
| 13 |      | T1N R7E                                     | Scenic       |
| 14 | (9)  | The South Fork from the Naufus Creek        |              |
| 15 |      | confluence in Section 8 T1N R7E to the      |              |
| 16 |      | Johnson Creek confluence near the           |              |
| 17 |      | boundary of Sections 13 and 14 T2N R6E      | Wild         |
| 18 | (10) | The South Fork from the Johnson Creek       |              |
| 19 |      | confluence near the boundary of Sections 13 |              |
| 20 |      | and 14 T2N R6E to the boundary of           |              |
| 21 |      | Sections 25 and 36 T2N R6E                  | Scenic       |
| 22 | (11) | The South Fork from the boundary of         |              |
| 23 |      | Sections 25 and 36 T2N R6E to the           |              |
| 24 |      | footbridge near the mouth of Underwood      |              |
| 25 |      | Creek in Section 17 T4N R6E Humboldt        |              |
| 26 |      | Base and Meridian                           | Recreational |
| 27 | (12) | The South Fork from the footbridge near the |              |
| 28 |      | mouth of Underwood Creek in Section 17      |              |
| 29 |      | T4N R6E to Todd Ranch in Section 18 T5N     |              |
| 30 |      | R5E   | Wild         |
| 31 | (13) | The South Fork from Todd Ranch in Section   |              |
| 32 |      | 18 T5N R5E to the confluence with Main      |              |
| 33 |      | Trinity                                     | Scenic       |
| 34 | (14) | New River from the Salmon Trinity           |              |
| 35 |      | Primitive Area boundary to the junction     |              |
| 36 |      | with the East Fork New River in Section 23  |              |
| 37 |      | T7N R7E                                     | Wild         |

- 1 (15) New River from the junction with the East  
2 Fork New River in Section 23 T7N R7E to  
3 100 yards below Panther Creek  
4 Campground in Section 18 T6N R7E           Recreational
- 5 (16) New River from 100 yards below Panther  
6 Creek Campground in Section 18 T6N R7E  
7 to the Dyer Creek confluence in Section 25  
8 T26N R6E                                       Scenic
- 9 (17) New River from the Dyer Creek confluence in  
10 Section 25 T26N R6E to the confluence  
11 with Trinity River                           Wild
- 12 (e) Smith River:
- 13 (1) Smith River from the confluence of the  
14 Middle and South Forks to its mouth at the  
15 Pacific Ocean                               Recreational
- 16 (2) Middle Fork Smith River from its source  
17 about 3 miles south of Sanger Lake as  
18 depicted on 1956 USGS 15' "Preston Peak"  
19 topographic map to the middle of Section 7  
20 T17N R5E                                     Wild
- 21 (3) Middle Fork Smith River from the middle  
22 of Section 7 T17N R5E to the middle of  
23 Section 6 T17N R5E                       Scenic
- 24 (4) Middle Fork Smith River from middle of  
25 Section 6 T17N R5E to one-half mile  
26 upstream from the confluence with Knopki  
27 Creek                                       Wild
- 28 (5) Middle Fork Smith River from one-half  
29 mile upstream from the confluence with  
30 Knopki Creek to the confluence with South  
31 Fork Smith River                         Recreational
- 32 (6) Myrtle Creek from its source in Section 9  
33 T17N R1E as depicted on 1952 USGS 15'  
34 "Crescent City" topographic map to the  
35 middle of Section 28 T17N R1E           Recreational
- 36 (7) Myrtle Creek from the middle of Section 28  
37 T17N R1E to the confluence with the  
38 Middle Fork Smith River                 Recreational

- 1           (8)   Shelly Creek from its source in Section 1
- 2                T18N R3E as depicted on 1951 USGS 15’
- 3                “Gasquet” topographic map to the
- 4                confluence with Patrick Creek                   Recreational
- 5           (9)   Kelly Creek from its source in Section 32
- 6                T17N R3E as depicted on 1951 USGS 15’
- 7                “Gasquet” topographic map to the
- 8                confluence with the Middle Fork Smith
- 9                River   Recreational
- 10          (10)  Packsaddle Creek from its source about 0.8
- 11                miles southwest of Broken Rib Mountain as
- 12                depicted on 1956 USGS 15’ “Preston Peak”
- 13                topographic map to the eastern boundary of
- 14                Section 3 T17N R1E                               Recreational
- 15          (11)  Packsaddle Creek from the eastern
- 16                boundary of Section 3 T17N R4E to the
- 17                northern boundary of Section 3 T17N R4E       Recreational
- 18          (12)  Packsaddle Creek from the northern
- 19                boundary of Section 3 T17N R4E to the
- 20                confluence with the Middle Fork of Smith
- 21                River   Recreational
- 22          (13)  East Fork Patrick Creek from its source in
- 23                Section 10 T18N R3E as depicted on 1951
- 24                USGS 15’ “Gasquet” topographic map to
- 25                the confluence with the West Fork Patrick
- 26                Creek   Recreational
- 27          (14)  West Fork Patrick Creek from its source in
- 28                Section 18 T18N R3E as depicted on 1951
- 29                USGS 15’ “Gasquet” topographic map to
- 30                the confluence with the East Fork Patrick
- 31                Creek   Recreational
- 32          (15)  Griffin Creek from its source about 0.2
- 33                miles southwest of Hazel View Summit as
- 34                depicted on 1956 USGS 15’ “Preston Peak”
- 35                topographic map to the confluence with the
- 36                Middle Fork Smith River                       Recreational

- 1 (16) Knopki Creek from its source about 0.4  
2 miles west of Sanger Peak as depicted on  
3 1956 USGS 15' "Preston Peak" topographic  
4 map to the confluence with the Middle Fork  
5 Smith River Recreational
- 6 (17) Monkey Creek from its source in the  
7 northeast quadrant of Section 12 T18N R3E  
8 as depicted on 1951 USGS 15' "Gasquet"  
9 topographic map to the northern boundary  
10 of Section 26 T18N R3E Recreational
- 11 (18) Monkey Creek from the northern boundary  
12 of Section 26 T18N R3E to the confluence  
13 with the Middle Fork of Smith River Recreational
- 14 (19) Patrick Creek from the junction of East and  
15 West Forks of Patrick Creek to the  
16 confluence with the Middle Fork Smith  
17 River Recreational
- 18 (20) North Fork Smith River from the  
19 California-Oregon boundary to the  
20 confluence with an unnamed tributary in the  
21 northern quarter Section 5 T18N R2E as  
22 depicted on 1951 USGS 15' "Gasquet"  
23 topographic map Wild
- 24 (21) North Fork Smith River from the  
25 confluence with an unnamed tributary in the  
26 northern quarter of Section 5 T18N R2E to  
27 the southernmost intersection of the  
28 eastern boundary of Section 5 T18N R2E  
29 as depicted on 1951 USGS 15' "Gasquet"  
30 topographic map Scenic
- 31 (22) North Fork Smith River from the  
32 southernmost intersection of the eastern  
33 boundary Section 5 T18N R2E as depicted  
34 on 1951 USGS 15' "Gasquet" topographic  
35 map to the confluence with Stony Creek Wild
- 36 (23) North Fork Smith River from the  
37 confluence with Stony Creek to the  
38 confluence with the Middle Fork of the  
39 Smith River Recreational

1	(24)	Diamond Creek from the California-Oregon	
2		state boundary to the confluence with High	
3		Plateau Creek	Recreational
4	(25)	Diamond Creek from the confluence with	
5		High Plateau Creek to the confluence with	
6		the North Fork Smith River	Recreational
7	(26)	Bear Creek from its source in Section 24	
8		T18N R2E as depicted on 1951 USGS 15'	
9		"Gasquet" topographic map to the	
10		confluence with Diamond Creek	Recreational
11	(27)	Still Creek from its source in Section 11	
12		T18N R1E as depicted on 1952 USGS 15'	
13		"Crescent City" topographic map to the	
14		confluence with the North Fork Smith River	Recreational
15	(28)	North Fork Diamond Creek from the	
16		California-Oregon state boundary to the	
17		confluence with Diamond Creek	Recreational
18	(29)	High Plateau Creek from its source in	
19		Section 26 T18N R2E as depicted on 1951	
20		USGS 15' "Gasquet" topographic map to	
21		the northern boundary Section 23 T18N	
22		R2E	Recreational
23	(30)	High Plateau Creek from the northern	
24		boundary Section 23 T18N R2E to the	
25		confluence with Diamond Creek	Recreational
26	(31)	Siskiyou Fork of Smith River from its	
27		source about 0.7 miles southeast of Broken	
28		Rib Mountain as depicted on 1956 USGS	
29		15' "Preston Peak" topographic map to the	
30		confluence with the South Siskiyou Fork of	
31		the Smith River	Wild
32	(32)	Siskiyou Fork of the Smith River from the	
33		confluence with the South Siskiyou Fork of	
34		the Smith River to the confluence with the	
35		Middle Fork of the Smith River	Recreational

- 1       (33) South Siskiyou Fork of the Smith River
- 2             from its source about 0.6 miles southwest of
- 3             Buck Lake as depicted on 1956 USGS 15’
- 4             “Preston Peak” topographic map to the
- 5             confluence with the Siskiyou Fork of the
- 6             Smith River   Wild
- 7       (34) South Fork Smith River from its source
- 8             about 0.5 miles southwest of Bear Mountain
- 9             as depicted on 1956 USGS 15’ “Preston
- 10            Peak” topographic map to Blackhawk Bar             Wild
- 11       (35) South Fork Smith River from Blackhawk
- 12            Bar to the confluence with the Middle Fork
- 13            Smith River   Recreational
- 14       (36) Williams Creek from its source in Section
- 15            31 T14N R4E as depicted on 1952 USGS
- 16            15’ “Ship Mountain” topographic map to
- 17            the confluence with Eight Mile Creek             Recreational
- 18       (37) Eight Mile Creek from its source in Section
- 19            29 T14N R4E as depicted on 1955 USGS
- 20            15’ “Dillon Mountain” topographic map to the
- 21            confluence with the South Fork Smith River       Recreational
- 22       (38) Prescott Fork of the Smith River from its
- 23            source about 0.5 miles southeast of Island
- 24            Lake as depicted on 1955 USGS 15’
- 25            “Dillon Mountain” topographic map to the
- 26            confluence with the South Fork Smith River       Recreational
- 27       (39) Quartz Creek from its source in Section 31
- 28            T16N R4E as depicted on 1952 USGS 15’
- 29            “Ship Mountain” topographic map to the
- 30            confluence with the South Fork Smith River       Recreational
- 31       (40) Jones Creek from its source in Section 36
- 32            T16N R3E as depicted on 1952 USGS 15’
- 33            “Ship Mountain” topographic map to the
- 34            middle of Section 5 T15N R3E                         Recreational
- 35       (41) Jones Creek from the middle of Section 5
- 36            T15N R3E to the confluence with the South
- 37            Fork of the Smith River                               Recreational

- 1 (42) Hurdygurdy Creek from its source about 0.4
- 2 miles southwest of Bear Basin Butte as
- 3 depicted on 1956 USGS 15' "Preston Peak"
- 4 topographic map to the confluence with the
- 5 South Fork Smith River Recreational
- 6 (43) Gordon Creek from its source in Section 18
- 7 T16N R3E as depicted on 1951 USGS 15'
- 8 "Gasquet" topographic map to the
- 9 confluence with the South Fork Smith River Recreational
- 10 (44) Coon Creek from the junction of the two
- 11 source tributaries in the southwest quadrant
- 12 of Section 31 T17N R3E as depicted on
- 13 1951 USGS 15' "Gasquet" topographic
- 14 map to the western boundary of Section 14
- 15 T16N R2E Recreational
- 16 (45) Coon Creek from the western boundary of
- 17 Section 14 T16N R2E to the confluence
- 18 with the South Fork Smith River Recreational
- 19 (46) Craigs Creek from its source in Section 36
- 20 T17N R2E as depicted on 1951 USGS 15'
- 21 "Gasquet" topographic map to the
- 22 confluence with the South Fork Smith River Recreational
- 23 (47) Buck Creek from its source at Cedar Camp
- 24 Spring as depicted on 1952 USGS 15'
- 25 "Ship Mountain" topographic map to the
- 26 confluence with the South Fork Smith River Recreational
- 27 (48) Muzzleloader Creek from its source in
- 28 Section 2 T15N R3E as depicted on 1952
- 29 USGS 15' "Ship Mountain" topographic
- 30 map to the confluence with Jones Creek Recreational
- 31 (49) Canthook Creek from its source in Section 2
- 32 T15N R2E as depicted on 1952 USGS 15'
- 33 "Ship Mountain" topographic map to the
- 34 confluence with the South Fork Smith River Recreational
- 35 (f) Eel River:
- 36 (1) The Eel River from 100 yards below Van
- 37 Arsdale Dam to the confluence with Tomki
- 38 Creek Recreational



- |    |      |  |              |
|----|------|--|--------------|
| 1  | (2)  | The Eel River from the confluence with       |              |
| 2  |      | Tomki Creek to the middle of Section 22      |              |
| 3  |      | T19N R12W                                    | Scenic       |
| 4  | (3)  | The Eel River from the middle of Section     |              |
| 5  |      | 22 T19N R12W to the boundary between         |              |
| 6  |      | Sections 7 and 8 T19N R12W                   | Recreational |
| 7  | (4)  | The Eel River from the boundary between      |              |
| 8  |      | Sections 7 and 8 T19N R12W to the            |              |
| 9  |      | confluence with Outlet Creek                 | Wild         |
| 10 | (5)  | The Eel River from the confluence with       |              |
| 11 |      | Outlet Creek to the mouth at the Pacific     |              |
| 12 |      | Ocean  | Recreational |
| 13 | (6)  | The South Fork of the Eel River from the     |              |
| 14 |      | mouth of Section Four Creek near             |              |
| 15 |      | Branscomb                                    | Recreational |
| 16 | (7)  | The South Fork of the Eel River from         |              |
| 17 |      | Horseshoe Bend to the middle of Section 29   |              |
| 18 |      | T23N R16W                                    | Wild         |
| 19 | (8)  | The South Fork of the Eel River from the     |              |
| 20 |      | middle of Section 29 T23N R16W to the        |              |
| 21 |      | confluence with the main Eel near Weott      | Recreational |
| 22 | (9)  | Middle Fork of the Eel River from the        |              |
| 23 |      | intersection of the river with the southern  |              |
| 24 |      | boundary of the Middle Eel-Yolla Bolly       |              |
| 25 |      | Wilderness Area to the Eel River Ranger      |              |
| 26 |      | Station                                      | Wild         |
| 27 | (10) | The Middle Fork of the Eel River from Eel    |              |
| 28 |      | River Ranger Station to Williams Creek       | Recreational |
| 29 | (11) | The Middle Fork of the Eel River from        |              |
| 30 |      | Williams Creek to the southern boundary of   |              |
| 31 |      | the northern quarter of Section 25 T22N      |              |
| 32 |      | R12W   | Scenic       |
| 33 | (12) | The Middle Fork of the Eel River from the    |              |
| 34 |      | southern boundary of the northern quarter of |              |
| 35 |      | Section 25 T22N R12W to the boundary         |              |
| 36 |      | between Sections 4 and 5 T21N R13W           | Wild         |
| 37 | (13) | The Middle Fork of the Eel River from the    |              |
| 38 |      | boundary between Sections 4 and 5 T21N       |              |
| 39 |      | R13W to the confluence with main Eel at      |              |
| 40 |      | Dos Rios                                     | Recreational |

1	(14)	The North Fork of the Eel River from the	
2		Old Gilman Ranch to the middle of Section	
3		8 T24N R13W	Wild
4	(15)	The North Fork of the Eel River from the	
5		middle of Section 8 T24N R13W to the	
6		boundary between Sections 12 and 13 T24N	
7		R14W	Recreational
8	(16)	The North Fork of the Eel River from the	
9		boundary between Sections 12 and 13 T24N	
10		R14W to the confluence with main Eel	Wild
11	(g)	Van Duzen River:	
12	(1)	The Van Duzen River from the	
13		Dinsmore Bridge to the powerline crossing	
14		above Little Larrabee Creek	Scenic
15	(2)	The Van Duzen River from the powerline	
16		crossing above Little Larrabee Creek to the	
17		confluence with the Eel River	Recreational
18	(h)	Lower American River: The Lower American	
19		River from Nimbus Dam to its junction	
20		with the Sacramento River	Recreational
21	(i)	North Fork American River:	
22	(1)	The North Fork from the source of the	
23		North Fork American River to two and	
24		one-half miles above the Forest Hill-Soda	
25		Springs Road	Wild
26	(2)	The North Fork from two and one-half	
27		miles above the Forest Hill-Soda Springs	
28		Road to one-half mile below the Forest	
29		Hill-Soda Springs Road	Scenic
30	(3)	The North Fork from one-half mile below	
31		the Forest Hill-Soda Springs Road to	
32		one-quarter mile above the Iowa Hill	
33		Bridge	Wild
34	(4)	The North Fork from one-quarter mile	
35		above the Iowa Hill Bridge to the Iowa Hill	
36		Bridge	Scenic
37	(j)	West Walker River:	
38	(1)	West Walker River from Tower Lake to the	
39		northern boundary of Section 10 T5N R22E	Wild

- 1 (2) West Walker River from northern boundary  
2 of Section 10 T5N R22E to the eastern boundary  
3 of Section 23 T6N R22E Scenic
- 4 (3) West Walker River from the eastern  
5 boundary of Section 23 T6N R22E to the eastern  
6 boundary of Section 24 T6N R22E Recreational
- 7 (4) West Walker River from the eastern  
8 boundary of Section 24 T6N R22E to the  
9 confluence with Little Walker River Scenic
- 10 (5) West Walker River from the confluence  
11 with Little Walker River to the confluence  
12 with Rock Creek Recreational
- 13 (6) Leavitt Creek from Leavitt Falls to the  
14 confluence with West Walker River Scenic
- 15 (k) East Fork Carson River: East Fork  
16 Carson River from Hangman's Bridge  
17 crossing of State Highway 89 to the  
18 California-Nevada border Scenic
- 19 (l) (1) The South Yuba River:  
20 (A) The South Yuba River from Lang  
21 Crossing to the confluence with  
22 Fall Creek Scenic
- 23 (B) The South Yuba River from the  
24 confluence with Fall Creek to the  
25 confluence with Jefferson Creek  
26 below the Town of Washington Recreational
- 27 (C) The South Yuba River from the  
28 confluence with Jefferson Creek  
29 to Edwards Crossing Scenic
- 30 (D) The South Yuba River from  
31 Edwards Crossing to its  
32 confluence with Kentucky Creek  
33 below Bridgeport Scenic
- 34 (2) This subdivision shall become operative  
35 January 1, 2001.
- 36 (m) Albion River: The Albion River from one-fourth  
37 mile upstream of its confluence with  
38 Deadman Gulch downstream to its mouth at  
39 the Pacific Ocean Recreational
- 40 (n) Gualala River: The main stem Gualala

- 1 River from the confluence of the North and
- 2 South Forks to the Pacific Ocean Recreational
- 3 (o) Cache Creek:
- 4 (1) North Fork Section:
- 5 From Highway 20 two miles downstream to
- 6 the confluence of Cache Creek and the North
- 7 Fork Cache Creek Scenic
- 8 (2) Main stem Section:
- 9 (A) ¼ mile downstream of Cache Creek
- 10 Dam to the confluence with Davis Creek Wild
- 11 (B) The Davis Creek confluence to 1 mile
- 12 downstream of the Davis Creek confluence Scenic
- 13 (C) 1 mile downstream of the Davis Creek
- 14 confluence to western boundary of
- 15 Section 6 T12N R4W Wild
- 16 (D) Western boundary of Section 6
- 17 to the confluence with Bear Creek Scenic
- 18 (E) The Bear Creek confluence to Camp
- 19 Haswell Recreational
- 20 (p) Mokelumne River:
- 21 (1) North Fork Segments:
- 22 (A) From ~~0.25~~ 0.50 miles downstream of the
- 23 Salt Springs Reservoir ~~97-066 Dam~~ to 0.50 miles
- 24 downstream of the Bear River confluence Recreational
- 25 (B) From 0.50 miles downstream of
- 26 the Bear River confluence to
- 27 ~~the national forest boundary~~ 0.50 miles upstream
- 28 of the Tiger Creek Powerhouse Wild
- 29 (C) From ~~300~~ 1,000 feet ~~below~~ downstream of
- 30 the Tiger Creek
- 31 Afterbay ~~97-105 Dam~~ to ~~300 feet upstream of~~
- 32 the Electra Diversion Dam and West Point
- 33 Power House State Highway Route 26 Recreational
- 34 (D) From ~~300~~ 400 feet downstream of the
- 35 small reregulating dam at the outlet of the
- 36 West Point Power House to the southern
- 37 boundary of Section 12 T6N R12E Wild
- 38 (E) From the southern boundary of
- 39 Section 12 T6N R12E to the Middle Fork
- 40 Mokelumne River confluence Recreational

- 1           (2) Main Stem Segment:
- 2           (A) From the Middle Fork Mokelumne River
- 3           confluence to 300 feet upstream of *the*
- 4           Ponderosa Way Bridge                                 Wild
- 5           (B) From 300 feet upstream of the Ponderosa
- 6           Way Bridge to 300 feet upstream of the Electra
- 7           Powerhouse   Scenic
- 8           (C) From 300 feet downstream of the
- 9           small reregulating dam downstream of the
- 10          Electra Powerhouse to the upper extent of
- 11          Pardee Reservoir ~~downstream of~~
- 12          ~~Highway 49~~ *flood surcharge pool at 580 feet*
- 13          *above mean sea level*                                 Recreational
- 14

O

113TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To establish a WaterSense program, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

Mrs. BOXER (for herself and Mrs. FEINSTEIN) introduced the following bill;  
which was read twice and referred to the Committee on

---

**A BILL**

To establish a WaterSense program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Water in the 21st Century Act” or “W21”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Administrator.

**TITLE I—CONSERVATION AND EFFICIENCY**

Sec. 101. Water efficiency, conservation, and adaptation.

**TITLE II—RECYCLING, STORAGE, AND INTEGRATED WATER  
MANAGEMENT**

## 2

Sec. 201. Definitions.

Subtitle A—Innovative Financing

Sec. 211. Purposes.

Sec. 212. Authority to provide assistance.

Sec. 213. Applications.

Sec. 214. Eligibility for assistance.

Sec. 215. Determination of eligibility and project selection.

Sec. 216. Secured loans.

Sec. 217. Program administration.

Sec. 218. State and local permits.

Sec. 219. Regulations.

Sec. 220. Funding.

Sec. 221. Report to Congress.

Subtitle B—Integrated Regional Water Management, Reclamation, and  
Recycling Projects

Sec. 231. Water storage projects.

Sec. 232. Authorization of appropriations.

Subtitle C—Title Transfers

Sec. 241. Authorization to transfer title.

TITLE III—INNOVATION THROUGH RESEARCH, DATA, AND  
TECHNOLOGY

Sec. 301. Open water data system.

Sec. 302. Water Resources Research Act amendments.

Sec. 303. Reauthorization of Water Desalination Act of 1996.

Sec. 304. Review of reservoir operations.

TITLE IV—DROUGHT PREPAREDNESS AND RESILIENCE

Sec. 401. National drought resilience guidelines.

Sec. 402. Drought preparedness for fisheries.

1 **SEC. 2. DEFINITION OF ADMINISTRATOR.**

2 In this Act, the term “Administrator” means the Ad-  
3 ministrator of the Environmental Protection Agency.

4 **TITLE I—CONSERVATION AND**  
5 **EFFICIENCY**

6 **SEC. 101. WATER EFFICIENCY, CONSERVATION, AND ADAP-**  
7 **TATION.**

8 (a) **WATERSENSE.—**

1           (1) IN GENERAL.—There is established within  
2 the Environmental Protection Agency a WaterSense  
3 program to identify and promote water efficient  
4 products, buildings, landscapes, facilities, processes,  
5 and services so as—

6                   (A) to reduce water use;

7                   (B) to reduce the strain on water, waste-  
8 water, and stormwater infrastructure;

9                   (C) to conserve energy used to pump, heat,  
10 transport, and treat water; and

11                   (D) to preserve water resources for future  
12 generations, through voluntary labeling of, or  
13 other forms of communications about, products,  
14 buildings, landscapes, facilities, processes, and  
15 services that meet the highest water efficiency  
16 and performance criteria.

17           (2) DUTIES.—The Administrator shall—

18                   (A) establish—

19                           (i) a WaterSense label to be used for  
20 certain items; and

21                           (ii) the procedure by which an item  
22 may be certified to display the WaterSense  
23 label;

24                   (B) promote WaterSense-labeled products,  
25 buildings, landscapes, facilities, processes, and



1 services in the marketplace as the preferred  
2 technologies and services for—

3 (i) reducing water use; and

4 (ii) ensuring product and service per-  
5 formance;

6 (C) work to enhance public awareness of  
7 the WaterSense label through public outreach,  
8 education, and other means;

9 (D) preserve the integrity of the  
10 WaterSense label by—

11 (i) establishing and maintaining per-  
12 formance criteria so that products, build-  
13 ings, landscapes, facilities, processes, and  
14 services labeled with the WaterSense label  
15 perform as well or better than less water-  
16 efficient counterparts;

17 (ii) overseeing WaterSense certifi-  
18 cations made by third parties;

19 (iii) conducting reviews of the use of  
20 the WaterSense label in the marketplace  
21 and taking corrective action in any case in  
22 which misuse of the label is identified; and

23 (iv) carrying out such other measures  
24 as the Administrator determines to be ap-  
25 propriate;

1 (E) regularly review and, if appropriate,  
2 update WaterSense criteria for categories of  
3 products, buildings, landscapes, facilities, proc-  
4 esses, and services, at least once every 6 years;

5 (F) to the maximum extent practicable,  
6 regularly estimate and make available to the  
7 public the production and relative market  
8 shares of, and the savings of water, energy, and  
9 capital costs of water, wastewater, and  
10 stormwater infrastructure attributable to the  
11 use of WaterSense-labeled products, buildings,  
12 landscapes, facilities, processes, and services, at  
13 least annually;

14 (G) solicit comments from interested par-  
15 ties and the public prior to establishing or re-  
16 vising a WaterSense category, specification, in-  
17 stallation criterion, or other criterion;

18 (H) provide reasonable notice to interested  
19 parties and the public of any changes (including  
20 effective dates), on the adoption of a new or re-  
21 vised category, specification, installation cri-  
22 terion, or other criterion, along with—

23 (i) an explanation of the changes; and

1 (ii) as appropriate, responses to com-  
2 ments submitted by interested parties and  
3 the public;

4 (I) provide appropriate lead time (as deter-  
5 mined by the Administrator) prior to the appli-  
6 cable effective date for a new or significant revi-  
7 sion to a category, specification, installation cri-  
8 terion, or other criterion, taking into account  
9 the timing requirements of the manufacturing,  
10 marketing, training, and distribution process  
11 for the specific product, building and landscape,  
12 or service category addressed;

13 (J) identify and, if appropriate, implement  
14 other voluntary approaches in commercial, insti-  
15 tutional, residential, industrial, and municipal  
16 sectors to encourage recycling and reuse tech-  
17 nologies to improve water efficiency or lower  
18 water use; and

19 (K) if appropriate, authorize the  
20 WaterSense label for use on products that are  
21 labeled by the Energy Star program imple-  
22 mented by the Administrator and the Secretary  
23 of Energy.

1           (3) AUTHORIZATION OF APPROPRIATIONS.—

2           There are authorized to be appropriated to carry out  
3           this section—

4                   (A) \$5,000,000 for fiscal year 2015;

5                   (B) \$10,000,000 for fiscal year 2016;

6                   (C) \$15,000,000 for fiscal year 2017;

7                   (D) \$20,000,000 for fiscal year 2018; and

8                   (E) for each subsequent fiscal year, the ap-  
9           plicable amount for the preceding fiscal year, as  
10          adjusted to reflect changes for the 12-month  
11          period ending the preceding November 30 in  
12          the Consumer Price Index for All Urban Con-  
13          sumers published by the Bureau of Labor Sta-  
14          tistics of the Department of Labor.

15          (b) STATE RESIDENTIAL WATER EFFICIENCY AND  
16          CONSERVATION INCENTIVES PROGRAM.—

17               (1) DEFINITIONS.—In this subsection:

18                   (A) ELIGIBLE ENTITY.—The term “eligible  
19           entity” means a State government, local or  
20           county government, tribal government, waste-  
21           water or sewerage utility, municipal water au-  
22           thority, energy utility, water utility, or non-  
23           profit organization that meets the requirements  
24           of paragraph (2).

1 (B) INCENTIVE PROGRAM.—The term “in-  
2 centive program” means a program for admin-  
3 istering financial incentives for consumer pur-  
4 chase and installation of water-efficient prod-  
5 ucts, buildings (including new water-efficient  
6 homes), landscapes, processes, or services de-  
7 scribed in paragraph (2)(A).

8 (C) RESIDENTIAL WATER-EFFICIENT  
9 PRODUCT, BUILDING, LANDSCAPE, PROCESS, OR  
10 SERVICE.—

11 (i) IN GENERAL.—The term “residen-  
12 tial water-efficient product, building, land-  
13 scape, process, or service” means a prod-  
14 uct, building, landscape, process, or service  
15 for a residence or its landscape that is  
16 rated for water efficiency and perform-  
17 ance—

18 (I) by the WaterSense program;

19 or

20 (II) if a WaterSense specification  
21 does not exist, by the Energy Star  
22 program or an incentive program ap-  
23 proved by the Administrator.

- 1 (ii) INCLUSIONS.—The term “residen-  
2 tial water-efficient product, building, land-  
3 scape, process, or service” includes—
- 4 (I) faucets;
  - 5 (II) irrigation technologies and  
6 services;
  - 7 (III) point-of-use water treat-  
8 ment devices;
  - 9 (IV) reuse and recycling tech-  
10 nologies;
  - 11 (V) toilets;
  - 12 (VI) clothes washers;
  - 13 (VII) dishwashers;
  - 14 (VIII) showerheads;
  - 15 (IX) xeriscaping and other land-  
16 scape conversions that replace irri-  
17 gated turf;
  - 18 (X) new water efficient homes  
19 certified under the WaterSense pro-  
20 gram;
  - 21 (XI) green stormwater installa-  
22 tions such as permeable pavement,  
23 rain gardens, rain barrels, and green  
24 roofs;

1 (XII) composting solutions com-  
2 plementary to water use and water  
3 quality; and

4 (XIII) other water-efficient prod-  
5 ucts, services, processes, or behavioral  
6 water efficiency solutions that address  
7 the objectives of the WaterSense pro-  
8 gram.

9 (D) WATERSENSE PROGRAM.—The term  
10 “WaterSense program” means the program es-  
11 tablished by subsection (a).

12 (2) ELIGIBLE ENTITIES.—An entity shall be eli-  
13 gible to receive an allocation under paragraph (3) if  
14 the entity—

15 (A) establishes (or has established) an in-  
16 centive program to provide financial incentives  
17 to residential consumers for the purchase of  
18 residential water-efficient products, buildings,  
19 landscapes, processes, or services;

20 (B) submits an application for the alloca-  
21 tion at such time, in such form, and containing  
22 such information as the Administrator may re-  
23 quire; and

24 (C) provides assurances satisfactory to the  
25 Administrator that the entity will use the allo-

1 cation to supplement, but not supplant, non-  
2 Federal funds made available to carry out the  
3 incentive program.

4 (3) AMOUNT OF ALLOCATIONS.—For each fiscal  
5 year, the Administrator shall determine the amount  
6 to allocate to each eligible entity to carry out para-  
7 graph (4), taking into consideration—

8 (A) the population served by the eligible  
9 entity during the most recent calendar year for  
10 which data are available;

11 (B) the targeted population of the incen-  
12 tive program of the eligible entity, such as gen-  
13 eral households, low-income households, or first-  
14 time homeowners, and the probable effective-  
15 ness of the incentive program for that popu-  
16 lation;

17 (C) for existing programs, the effectiveness  
18 of the program in encouraging the adoption of  
19 water-efficient products, buildings, landscapes,  
20 facilities, processes, and services;

21 (D) any allocation to the eligible entity for  
22 a preceding fiscal year that remains unused and

23 (E) the per capita water demand of the  
24 population served by the eligible entity during  
25 the most recent calendar year for which data



1           are available and the availability or reliability of  
2           water supplies to the eligible entity.

3           (4) USE OF ALLOCATED FUNDS.—Funds allo-  
4           cated to an eligible entity under paragraph (3) may  
5           be used to pay up to 50 percent of the cost of estab-  
6           lishing and carrying out an incentive program.

7           (5) ISSUANCE OF INCENTIVES.—

8           (A) IN GENERAL.—Financial incentives  
9           may be provided to residential consumers that  
10          meet the requirements of the applicable incen-  
11          tive program.

12          (B) MANNER OF ISSUANCE.—An eligible  
13          entity may—

14               (i) issue all financial incentives di-  
15               rectly to residential consumers; or

16               (ii) with approval of the Adminis-  
17               trator, delegate all or part of financial in-  
18               centive administration to other organiza-  
19               tions, including local governments, munic-  
20               ipal water authorities, water utilities, and  
21               nonprofit organizations.

22          (C) AMOUNT.—The amount of a financial  
23          incentive shall be determined by the eligible en-  
24          tity, taking into consideration—

1 (i) the amount of any Federal or  
2 State tax incentive available for the pur-  
3 chase of the residential water-efficient  
4 product or service;

5 (ii) the amount necessary to change  
6 consumer behavior to purchase water-effi-  
7 cient products and services; and

8 (iii) the consumer expenditures for on-  
9 site preparation, assembly, and original in-  
10 stallation of the product.

11 (6) AUTHORIZATION OF APPROPRIATIONS.—

12 There are authorized to be appropriated to the Ad-  
13 ministrator to carry out this subsection—

14 (A) \$100,000,000 for fiscal year 2015;

15 (B) \$150,000,000 for fiscal year 2016;

16 (C) \$200,000,000 for fiscal year 2017;

17 (D) \$150,000,000 for fiscal year 2018;

18 (E) \$100,000,000 for fiscal year 2019; and

19 (F) for each subsequent fiscal year, the ap-  
20 plicable amount for the preceding fiscal year, as  
21 adjusted to reflect changes for the 12-month  
22 period ending the preceding November 30 in  
23 the Consumer Price Index for All Urban Con-  
24 sumers published by the Bureau of Labor Sta-  
25 tistics of the Department of Labor.

1 (c) WATER SYSTEM MITIGATION AND ADAPTATION  
2 GRANTS.—

3 (1) DEFINITIONS.—In this subsection:

4 (A) OWNER OR OPERATOR.—

5 (i) IN GENERAL.—The term “owner  
6 or operator” means a person (including a  
7 regional, State, local, municipal, or private  
8 entity) that owns or operates a water sys-  
9 tem.

10 (ii) INCLUSION.—The term “owner or  
11 operator” includes a non-Federal entity  
12 that has operational responsibilities for a  
13 federally owned water system.

14 (B) WATER SYSTEM.—The term “water  
15 system” means—

16 (i) a community water system (as de-  
17 fined in section 1401 of the Safe Drinking  
18 Water Act (42 U.S.C. 300f));

19 (ii) a publicly owned treatment works  
20 (as defined in section 212 of the Federal  
21 Water Pollution Control Act (33 U.S.C.  
22 1292)), including a municipal separate  
23 storm sewer system;

24 (iii) a decentralized wastewater treat-  
25 ment system for domestic sewage;

1 (iv) a groundwater storage and re-  
2 plenishment system; or

3 (v) a system for transport and deliv-  
4 ery of water for irrigation or conservation.

5 (2) GRANTS.—Beginning in fiscal year 2015,  
6 the Administrator shall make grants to owners or  
7 operators of water systems to address any ongoing  
8 or forecasted (based on the best available research  
9 and data) climate-related impact on the water qual-  
10 ity or quantity of a region of the United States, for  
11 the purposes of mitigating or adapting to the im-  
12 pacts of climate change.

13 (3) ELIGIBLE USES.—In carrying out this sub-  
14 section, the Administrator shall make grants to as-  
15 sist in the planning, design, construction, implemen-  
16 tation, or maintenance of any program or project to  
17 increase the resilience of a water system to climate  
18 change by—

19 (A) conserving water or enhancing water  
20 use efficiency, including through the use of  
21 water metering to measure the effectiveness of  
22 a water efficiency program;

23 (B) modifying or relocating existing water  
24 system infrastructure made or projected to be  
25 made inoperable by climate change impacts;

1 (C) preserving or improving water quality,  
2 including through measures to manage, reduce,  
3 treat, or reuse municipal stormwater, waste-  
4 water, or drinking water;

5 (D) investigating, designing, or con-  
6 structing groundwater remediation, recycled  
7 water, or desalination facilities or systems;

8 (E) enhancing water management by in-  
9 creasing watershed preservation and protection,  
10 such as through the use of natural or engi-  
11 neered green infrastructure in the management,  
12 conveyance, or treatment of water, wastewater,  
13 or stormwater;

14 (F) enhancing energy efficiency or the use  
15 and generation of renewable energy in the man-  
16 agement, conveyance, or treatment of water,  
17 wastewater, or stormwater;

18 (G) supporting the adoption and use of ad-  
19 vanced water treatment, water supply manage-  
20 ment (such as reservoir reoperation), or water  
21 demand management technologies, projects, or  
22 processes (such as water reuse and recycling or  
23 adaptive conservation pricing) that maintain or  
24 increase water supply or improve water quality;

1 (II) modifying or replacing existing sys-  
2 tems or constructing new systems for existing  
3 communities or land currently in agricultural  
4 production to improve water availability, stor-  
5 age, or conveyance in a manner that—

6 (i) promotes more efficient use of  
7 available water supplies; and

8 (ii) does not further exacerbate  
9 stresses on ecosystems;

10 (I) supporting practices and projects, such  
11 as improved irrigation systems, water banking  
12 and other forms of water transactions, ground-  
13 water recharge, stormwater capture, and reuse  
14 or recycling of drainage water, to improve water  
15 quality or promote more efficient water use, in-  
16 cluding on land currently in agricultural pro-  
17 duction;

18 (J) conducting and completing studies or  
19 assessments to project how climate change may  
20 impact the future operations and sustainability  
21 of water systems;

22 (K) developing and implementing mitiga-  
23 tion measures to rapidly address impacts on  
24 water systems most susceptible to abrupt cli-  
25 mate change, including those in the Colorado

1 River Basin and coastal regions at risk from  
2 rising sea levels; or

3 (L) funding of transactions costs and cred-  
4 it enhancement for pay-for-performance-based  
5 public-private initiatives intended to advance  
6 the eligible uses of the program or project.

7 (4) APPLICATION.—To be eligible to receive a  
8 grant from the Administrator under paragraph (2),  
9 the owner or operator of a water system shall submit  
10 to the Administrator an application that—

11 (A) includes a proposal of the program,  
12 strategy, or infrastructure improvement to be  
13 planned, designed, constructed, implemented, or  
14 maintained by the water system;

15 (B) cites the best available research or  
16 data that demonstrates—

17 (i) the risk to the water resources or  
18 infrastructure of the water system as a re-  
19 sult of ongoing or forecasted changes to  
20 the hydrological system brought about by  
21 factors arising from climate change, in-  
22 cluding rising sea levels and changes in  
23 precipitation levels; and

24 (ii) how the proposed program, strat-  
25 egy, or infrastructure improvement would

1 perform under the anticipated climate con-  
2 ditions;

3 (C) explains how the proposed program,  
4 strategy, or infrastructure improvement is ex-  
5 pected to enhance the resiliency of the water  
6 system, including source water protection for  
7 community water systems, to these risks or re-  
8 duce the direct or indirect greenhouse gas emis-  
9 sions of the water system; and

10 (D) demonstrates that the program, strat-  
11 egy, or infrastructure improvement is—

12 (i) consistent with any approved State  
13 and tribal climate adaptation plan; and

14 (ii) not inconsistent with any ap-  
15 proved natural resources plan.

16 (5) COMPETITIVE PROCESS.—

17 (A) IN GENERAL.—Each calendar year, the  
18 Administrator shall conduct a competitive proc-  
19 ess to select and fund applications under this  
20 subsection.

21 (B) PRIORITY REQUIREMENTS AND  
22 WEIGHTING.—In carrying out the process, the  
23 Administrator shall—

24 (i) prioritize funding of applications  
25 that are submitted by the owners or opera-



1           tors of water systems that are, based on  
2           the best available research and data, at the  
3           greatest and most immediate risk of facing  
4           significant climate-related negative impacts  
5           on water quality or quantity;

6           (ii) in selecting among the priority ap-  
7           plications determined under clause (i), en-  
8           sure that the final list of applications fund-  
9           ed for each year includes a substantial  
10          number that, to the maximum extent prac-  
11          ticable, includes each eligible use described  
12          in paragraph (3);

13          (iii) solicit applications from water  
14          systems that are—

15                (I) located in all regions of the  
16                United States; and

17                (II) facing varying risks as a re-  
18                sult of climate change; and

19                (iv) provide for solicitation and con-  
20                sideration of public input in the develop-  
21                ment of criteria used in evaluating applica-  
22                tions.

23          (6) COST SHARING.—

24                (A) FEDERAL SHARE.—The Federal share  
25                of the cost of any program, strategy, or infra-

1 structure improvement that is the subject of a  
2 grant awarded by the Administrator to a water  
3 system under paragraph (2) shall not exceed 50  
4 percent of the cost of the program, strategy,  
5 and infrastructure improvement.

6 (B) CALCULATION OF NON-FEDERAL  
7 SHARE.—In calculating the non-Federal share  
8 of the cost of a program, strategy, or infra-  
9 structure improvement proposed by a water sys-  
10 tem through an application submitted by the  
11 water system under paragraph (4), the Admin-  
12 istrator shall—

13 (i) include the value of any in-kind  
14 services that are integral to the completion  
15 of the program, strategy, or infrastructure  
16 improvement, as determined by the Admin-  
17 istrator; and

18 (ii) not include any other amount that  
19 the water system receives from a Federal  
20 agency.

21 (7) LABOR STANDARDS.—

22 (A) IN GENERAL.—All laborers and me-  
23 chanics employed on infrastructure improve-  
24 ments funded directly by or assisted in whole or  
25 in part by this subsection shall be paid wages

1 at rates not less than those prevailing for the  
2 same type of work on similar construction in  
3 the immediate locality, as determined by the  
4 Secretary of Labor in accordance with sub-  
5 chapter IV of chapter 31 of part A of subtitle  
6 II of title 40, United States Code.

7 (B) AUTHORITY AND FUNCTIONS.—With  
8 respect to the labor standards in this para-  
9 graph, the Secretary of Labor shall have the  
10 authority and functions set forth in Reorganiza-  
11 tion Plan Numbered 14 of 1950 (64 Stat.  
12 1267; 5 U.S.C. App.) and section 3145 of title  
13 40, United States Code.

14 (8) LOCAL HIRING.—

15 (A) IN GENERAL.—The recipient of assist-  
16 ance may advertise and award a contract for  
17 construction containing requirements for the  
18 employment of individuals residing in or adja-  
19 cent to any of the areas in which the work is  
20 to be performed under the contract, if—

21 (i) all or part of the construction work  
22 performed under the contract occurs in an  
23 area that has—

## 23

1 (I) a per capita income of 80 per-  
2 cent or less of the national average  
3 per capita income; or

4 (II) an unemployment rate that  
5 is, for the most recent 24-month pe-  
6 riod for which data are available, at  
7 least 1 percent greater than the na-  
8 tional average unemployment rate;

9 (ii) the estimated cost of the project  
10 of which the contract is a part is greater  
11 than \$1,000,000; and

12 (iii) the recipient does not hire indi-  
13 viduals who do not have the necessary  
14 skills to perform work in the applicable  
15 craft or trade, except for individuals who  
16 are subject to an apprenticeship program  
17 or other training program meeting, as de-  
18 termined by the Secretary;.

19 (B) ADVERTISEMENT.—In advertising and  
20 awarding a contract under this subsection, the  
21 Secretary or recipient of assistance shall ensure  
22 that the requirements contained in the adver-  
23 tisement would not—

24 (i) compromise the quality of the  
25 project;

1 (ii) unreasonably delay the completion  
2 of the project; or

3 (iii) unreasonably increase the cost of  
4 the project.

5 (9) EFFICIENT, INTEGRATED PROCUREMENT  
6 FOR PROGRAMS JOINTLY FUNDED WITH THE DE-  
7 PARTMENT OF HOUSING AND URBAN DEVELOP-  
8 MENT.—

9 (A) DEFINITION OF ELIGIBLE PROJECT.—

10 In this paragraph, the term “eligible project”  
11 means a project for which the amount of fund-  
12 ing provided by the Department of Housing and  
13 Urban Development is 10 percent or more of  
14 the amount of funding provided under this sub-  
15 section.

16 (B) PREFERENCES.—Notwithstanding the  
17 competitive bidding requirements of this section  
18 (including regulations), in the case of an eligible  
19 project funded jointly with funding provided by  
20 the Department of Housing and Urban Devel-  
21 opment that is covered by section 3 of the  
22 Housing and Urban Development Act of 1968  
23 (82 Stat. 846; 12 U.S.C. 1701u), a contracting  
24 agency may apply the preferences required for  
25 the funding by the Department of Housing and

1 Urban Development under section 3 of that Act  
2 (including regulations) with respect to the fund-  
3 ing, to the elements of the project funded in  
4 any part under this subsection.

5 (C) PERMISSIBLE RESTRICTIONS.—A State  
6 or local law governing contracting practices that  
7 prohibits the awarding of contracts to busi-  
8 nesses that have solicited or made contributions  
9 to political candidates, political parties, and  
10 holders of public office shall not be considered  
11 a violation of this section.

12 (10) REGULATIONS.—

13 (A) IN GENERAL.—Not later than 1 year  
14 after the date of enactment of this Act, the Ad-  
15 ministrator shall promulgate final regulations to  
16 carry out this subsection.

17 (B) SPECIAL RULE FOR THE CONSTRUC-  
18 TION OF TREATMENT WORKS.—In carrying out  
19 this paragraph, the Administrator shall incor-  
20 porate all relevant and appropriate require-  
21 ments of title VI of the Federal Water Pollution  
22 Control Act (33 U.S.C. 1381 et seq.) applicable  
23 to the construction of treatment works that are  
24 carried out under this subsection.

1           (11) REPORT TO CONGRESS.—Not later than 3  
2 years after the date of enactment of this Act, and  
3 every 3 years thereafter, the Administrator shall  
4 submit to Congress a report on progress in imple-  
5 menting this subsection, including information on  
6 project applications received and funded annually.

7           (12) AUTHORIZATION OF APPROPRIATIONS.—  
8 There are authorized to be appropriated to carry out  
9 this subsection such sums as are necessary.

10 **TITLE II—RECYCLING, STORAGE,**  
11 **AND INTEGRATED WATER**  
12 **MANAGEMENT**

13 **SEC. 201. DEFINITIONS.**

14 In this title:

15           (1) ELIGIBLE ENTITY.—The term “eligible enti-  
16 ty” means—

17                   (A) a corporation;

18                   (B) a partnership;

19                   (C) a joint venture;

20                   (D) a trust;

21                   (E) a Federal, State, or local governmental  
22 entity, agency, or instrumentality; and

23                   (F) a conservancy district, irrigation dis-  
24 trict, canal company, mutual water company,  
25 water users’ association, Indian tribe, agency

1           created by interstate compact, or any other en-  
2           tity that has the capacity to contract with the  
3           United States under Federal reclamation law.

4           (2) FEDERAL CREDIT INSTRUMENT.—The term  
5           “Federal credit instrument” means a secured loan,  
6           loan guarantee, or other credit enhancement author-  
7           ized to be made available under this title with re-  
8           spect to a project.

9           (3) INVESTMENT-GRADE RATING.—The term  
10          “investment-grade rating” means a rating of BBB  
11          minus, Baa3, bbb minus, BBB (low), or higher as  
12          assigned by a rating agency to project obligations.

13          (4) LENDER.—

14               (A) IN GENERAL.—The term “lender”  
15               means any non-Federal qualified institutional  
16               buyer (as defined in section 230.144A(a) of  
17               title 17, Code of Federal Regulations (or a suc-  
18               cessor regulation) (commonly known as “Rule  
19               144A(a) of the Securities and Exchange Com-  
20               mission” and issued under the Securities Act of  
21               1933 (15 U.S.C. 77a et seq.))).

22               (B) INCLUSIONS.—The term “lender” in-  
23               cludes—

24                       (i) a qualified retirement plan (as de-  
25                       fined in section 4974 of the Internal Rev-



1            enue Code of 1986) that is a qualified in-  
2            stitutional buyer; and

3            (ii) a governmental plan (as defined in  
4            section 414 of the Internal Revenue Code  
5            of 1986) that is a qualified institutional  
6            buyer.

7            (5) LOAN GUARANTEE.—The term “loan guar-  
8            antee” means any guarantee or other pledge by the  
9            Secretary to pay all or part of the principal of, and  
10          interest on, a loan or other debt obligation issued by  
11          an obligor and funded by a lender.

12          (6) OBLIGOR.—The term “obligor” means an  
13          eligible entity that is primarily liable for payment of  
14          the principal of, or interest on, a Federal credit in-  
15          strument.

16          (7) PROJECT OBLIGATION.—

17            (A) IN GENERAL.—The term “project obli-  
18            gation” means any note, bond, debenture, or  
19            other debt obligation issued by an obligor in  
20            connection with the financing of a project.

21            (B) EXCLUSION.—The term “project obli-  
22            gation” does not include a Federal credit in-  
23            strument.

24          (8) RATING AGENCY.—The term “rating agen-  
25          cy” means a credit rating agency registered with the

1 Securities and Exchange Commission as a nationally  
2 recognized statistical rating organization (as defined  
3 in section 3(a) of the Securities Exchange Act of  
4 1934 (15 U.S.C. 78e(a)).

5 (9) RECLAMATION STATE.—The term “Rec-  
6 lamation State” means any of the States of—

- 7 (A) Arizona;
- 8 (B) California;
- 9 (C) Colorado;
- 10 (D) Idaho;
- 11 (E) Kansas;
- 12 (F) Montana;
- 13 (G) Nebraska;
- 14 (H) Nevada;
- 15 (I) New Mexico;
- 16 (J) North Dakota;
- 17 (K) Oklahoma;
- 18 (L) Oregon;
- 19 (M) South Dakota;
- 20 (N) Texas;
- 21 (O) Utah;
- 22 (P) Washington; and
- 23 (Q) Wyoming.

24 (10) SECRETARY.—The term “Secretary”  
25 means the Secretary of the Interior.

1           (11) SECURED LOAN.—The term “secured  
2 loan” means a direct loan or other debt obligation  
3 issued by an obligor and funded by the Secretary in  
4 connection with the financing of a project under sub-  
5 title A.

6           (12) SUBSIDY AMOUNT.—The term “subsidy  
7 amount” means the amount of budget authority suf-  
8 ficient to cover the estimated long-term cost to the  
9 Federal Government of a Federal credit instrument,  
10 as calculated on a net present value basis, excluding  
11 administrative costs and any incidental effects on  
12 Governmental receipts or outlays in accordance with  
13 the Federal Credit Reform Act of 1990 (2 U.S.C.  
14 661 et seq.).

15           (13) SUBSTANTIAL COMPLETION.—The term  
16 “substantial completion”, with respect to a project,  
17 means the earliest date on which a project is consid-  
18 ered to perform the functions for which the project  
19 is designed.

## 20 **Subtitle A—Innovative Financing**

### 21 **SEC. 211. PURPOSES.**

22           The purposes of this subtitle are—

23           (1) to promote increased development of critical  
24 water resources infrastructure by establishing addi-

1 tional opportunities for financing water resources  
2 projects;

3 (2) to attract new investment capital to infra-  
4 structure projects that are capable of generating rev-  
5 enue streams through user fees or other dedicated  
6 funding sources;

7 (3) to complement existing Federal funding  
8 sources and address budgetary constraints on Bu-  
9 reau of Reclamation programs; and

10 (4) to leverage private investment in water re-  
11 sources infrastructure.

12 **SEC. 212. AUTHORITY TO PROVIDE ASSISTANCE.**

13 (a) IN GENERAL.—The Secretary may provide finan-  
14 cial assistance under this subtitle to carry out projects  
15 within—

16 (1) any Reclamation State;

17 (2) any other State in which the Bureau of  
18 Reclamation is authorized to provide project assist-  
19 ance; and

20 (3) the States of Alaska and Hawaii.

21 (b) SELECTION.—In selecting projects to receive fi-  
22 nancial assistance under subsection (a), the Secretary  
23 shall ensure diversity with respect to—

24 (1) project types; and

25 (2) geographical locations.

1 **SEC. 213. APPLICATIONS.**

2 To be eligible to receive assistance under this subtitle,  
3 an eligible entity shall submit to the Secretary an applica-  
4 tion at such time, in such manner, and containing such  
5 information as the Secretary may require.

6 **SEC. 214. ELIGIBILITY FOR ASSISTANCE.**

7 (a) **ELIGIBLE PROJECTS.**—The following projects  
8 may be carried out using assistance made available under  
9 this subtitle:

10 (1) A project for the reclamation and reuse of  
11 municipal, industrial, domestic, and agricultural  
12 wastewater, and naturally impaired ground and sur-  
13 face waters, which the Secretary, acting through the  
14 Commissioner of Reclamation, is authorized to un-  
15 dertake.

16 (2) Any water infrastructure project not specifi-  
17 cally authorized by law that—

18 (A) the Secretary determines, through the  
19 completion of an appraisal investigation and  
20 feasibility study, would contribute to a safe,  
21 adequate water supply for domestic, agricul-  
22 tural, environmental, or municipal and indus-  
23 trial use; and

24 (B) is otherwise eligible for assistance  
25 under this title.

1           (3) A project for enhanced energy efficiency in  
2 the operation of a water system.

3           (4) A project for accelerated repair and replace-  
4 ment of an aging water distribution facility.

5           (5) A brackish or sea water desalination  
6 project.

7           (6) Acquisition of real property or an interest  
8 in real property for water storage, reclaimed or recy-  
9 cled water, or wastewater, if the acquisition is inte-  
10 gral to a project described in paragraphs (1)  
11 through (5).

12           (7) A combination of projects, each of which is  
13 eligible under paragraphs (1) through (6), for which  
14 an eligible entity submits a single application.

15       (b) **ACTIVITIES ELIGIBLE FOR ASSISTANCE.**—For  
16 purposes of this subtitle, an eligible activity with respect  
17 to an eligible project under subsection (a) includes the cost  
18 of—

19           (1) development-phase activities, including plan-  
20 ning, feasibility analysis, revenue forecasting, envi-  
21 ronmental review, permitting, transaction costs, pre-  
22 liminary engineering and design work, and other  
23 preconstruction activities;

24           (2) construction, reconstruction, rehabilitation,  
25 and replacement activities;

1           (3) the acquisition of real property (including  
2 water rights, land relating to the project, and im-  
3 provements to land), environmental mitigation, con-  
4 struction contingencies, and acquisition of equip-  
5 ment;

6           (4) capitalized interest necessary to meet mar-  
7 ket requirements, reasonably required reserve funds,  
8 capital issuance expenses, and other carrying costs  
9 during construction;

10          (5) refinancing interim construction funding,  
11 long-term project obligations, or a secured loan, loan  
12 guarantee, or other credit enhancement made under  
13 this subtitle;

14          (6) reimbursement or success payments to any  
15 public or private entity that achieves predetermined  
16 outcomes on a pay-for-performance or pay-for suc-  
17 cess basis; and

18          (7) grants, loans, or credit enhancement for  
19 community development financial institutions, green  
20 banks, and other financial intermediaries providing  
21 ongoing finance for projects that meet the purposes  
22 of this subtitle.

1 **SEC. 215. DETERMINATION OF ELIGIBILITY AND PROJECT**  
2 **SELECTION.**

3 (a) **ELIGIBILITY REQUIREMENTS.**—To be eligible to  
4 receive financial assistance under this subtitle, a project  
5 shall meet the following criteria, as determined by the Sec-  
6 retary:

7 (1) **CREDITWORTHINESS.**—

8 (A) **IN GENERAL.**—Subject to subpara-  
9 graph (B), the project shall be creditworthy, as  
10 determined by the Secretary, who shall ensure  
11 that any financing for the project has appro-  
12 priate security features, such as a rate cov-  
13 enant, to ensure repayment.

14 (B) **PRELIMINARY RATING OPINION LET-**  
15 **TER.**—The Secretary shall require each appli-  
16 cant to provide a preliminary rating opinion let-  
17 ter from at least 1 rating agency indicating that  
18 the senior obligations of the project (which may  
19 be the Federal credit instrument) have the po-  
20 tential to achieve an investment-grade rating.

21 (2) **ELIGIBLE PROJECT COSTS.**—The eligible  
22 project costs of a project and other projects in a wa-  
23 tershed shall be reasonably anticipated to be not less  
24 than \$10,000,000.

25 (3) **DEDICATED REVENUE SOURCES.**—The Fed-  
26 eral credit instrument for the project shall be repay-



1       able, in whole or in part, from dedicated revenue  
2       sources that also secure the project obligations.

3               (4) PUBLIC SPONSORSHIP OF PRIVATE ENTI-  
4       TIES.—In the case of a project carried out by an en-  
5       tity that is not a State or local government or an  
6       agency or instrumentality of a State or local govern-  
7       ment, the project shall be publicly sponsored.

8       (b) SELECTION CRITERIA.—

9               (1) ESTABLISHMENT.—The Secretary shall es-  
10       tablish criteria for the selection of projects that meet  
11       the eligibility requirements of subsection (a), in ac-  
12       cordance with paragraph (2).

13              (2) CRITERIA.—The selection criteria shall in-  
14       clude the following:

15              (A) The extent to which the project is na-  
16       tionally or regionally significant.

17              (B) The extent to which assistance under  
18       this section would foster innovative public-pri-  
19       vate partnerships and attract private debt or  
20       equity investment.

21              (C) The likelihood that assistance under  
22       this section would enable the project to proceed  
23       at an earlier date than the project would other-  
24       wise be able to proceed.

1           (D) The extent to which the project uses  
2           new or innovative approaches.

3           (E) The extent to which projects track evi-  
4           dence about the effectiveness of the 1 or more  
5           projects financed and the availability of the evi-  
6           dence and project information to the public to  
7           facilitate replication.

8           (F) The amount of budget authority re-  
9           quired to fund the Federal credit instrument  
10          made available under this subtitle.

11          (G) The extent to which the project helps  
12          maintain or protect the environment.

13          (H) The extent to which the project sup-  
14          ports the local economy and provides local jobs.

15          (c) RECEIPT OF OTHER FEDERAL FUNDING.—Re-  
16          ceipt of a Federal grant or contract or other Federal fund-  
17          ing to support an eligible project shall not preclude the  
18          project from being eligible for assistance under this sub-  
19          title.

20          (d) FEDERAL REQUIREMENTS.—

21            (1) EFFECT OF SECTION.—Nothing in this sec-  
22            tion supersedes the applicability of other require-  
23            ments of Federal law (including regulations).

24            (2) NEPA.—A Federal action carried out re-  
25            garding a loan or loan guarantee provided under this

1 subtitle shall not be considered to be a Federal ac-  
2 tion for purposes of the National Environmental  
3 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

4 **SEC. 216. SECURED LOANS.**

5 (a) AGREEMENTS.—

6 (1) IN GENERAL.—Subject to paragraphs (2)  
7 through (4), the Secretary may enter into agree-  
8 ments with 1 or more obligors to make secured  
9 loans, the proceeds of which shall be used—

10 (A) to finance eligible project costs of any  
11 project selected under section 206;

12 (B) to refinance interim construction fi-  
13 nancing of eligible project costs of any project  
14 selected under section 206; or

15 (C) to refinance long-term project obliga-  
16 tions or Federal credit instruments, if that refi-  
17 nancing provides additional funding capacity for  
18 the completion, enhancement, or expansion of  
19 any project that—

20 (i) is selected under section 206; or

21 (ii) otherwise meets the requirements  
22 of section 206.

23 (2) LIMITATION ON REFINANCING OF INTERIM  
24 CONSTRUCTION FINANCING.—A secured loan under  
25 paragraph (1) shall not be used to refinance interim

1 construction financing under paragraph (1)(B) later  
2 than 1 year after the date of substantial completion  
3 of the applicable project.

4 (3) RISK ASSESSMENT.—Before entering into  
5 an agreement under this subsection for a secured  
6 loan, the Secretary, in consultation with the Director  
7 of the Office of Management and Budget and each  
8 rating agency providing a preliminary rating opinion  
9 letter under section 206(a)(1)(B), shall determine an  
10 appropriate capital reserve subsidy amount for the  
11 secured loan, taking into account each such prelimi-  
12 nary rating opinion letter.

13 (4) INVESTMENT-GRADE RATING REQUIRE-  
14 MENT.—The execution of a secured loan under this  
15 section shall be contingent on receipt by the senior  
16 obligations of the project of an investment-grade rat-  
17 ing.

18 (b) TERMS AND LIMITATIONS.—

19 (1) IN GENERAL.—A secured loan provided for  
20 a project under this section shall be subject to such  
21 terms and conditions, and contain such covenants,  
22 representations, warranties, and requirements (in-  
23 cluding requirements for audits), as the Secretary  
24 determines to be appropriate.

1           (2) MAXIMUM AMOUNT.—The amount of a se-  
2           cured loan under this section shall not exceed the  
3           lesser of—

4           (A) an amount equal to 100 percent of the  
5           reasonably anticipated eligible project costs; and

6           (B) if the secured loan does not receive an  
7           investment-grade rating, the amount of the sen-  
8           ior project obligations of the project.

9           (3) PAYMENT.—A secured loan under this sec-  
10          tion—

11          (A) shall be payable, in whole or in part,  
12          from State or local taxes, user fees, or other  
13          dedicated revenue sources that also secure the  
14          senior project obligations of the relevant  
15          project;

16          (B) shall include a rate covenant, coverage  
17          requirement, or similar security feature sup-  
18          porting the project obligations; and

19          (C) may have a lien on revenues described  
20          in subparagraph (A), subject to any lien secur-  
21          ing project obligations.

22          (4) INTEREST RATE.—The interest rate on a  
23          secured loan under this section shall be not more  
24          than the yield on United States Treasury securities  
25          of a similar maturity to the maturity of the secured

1 loan on the date of execution of the loan agreement,  
2 as determined by the Secretary.

3 (5) MATURITY DATE.—The final maturity date  
4 of a secured loan under this section shall be not  
5 later than 35 years after the date of substantial  
6 completion of the relevant project.

7 (6) NONSUBORDINATION.—A secured loan  
8 under this section shall not be subordinated to the  
9 claims of any holder of project obligations in the  
10 event of bankruptcy, insolvency, or liquidation of the  
11 obligor of the project.

12 (7) FEES.—The Secretary may establish fees at  
13 a level sufficient to cover all or a portion of the costs  
14 to the Federal Government of making a secured loan  
15 under this section.

16 (8) NON-FEDERAL SHARE.—The proceeds of a  
17 secured loan under this section may be used to pay  
18 any non-Federal share of project costs required if  
19 the loan is repayable from non-Federal funds.

20 (c) REPAYMENT.—

21 (1) SCHEDULE.—The Secretary shall establish  
22 a repayment schedule for each secured loan provided  
23 under this section, based on the projected cash flow  
24 from project revenues and other repayment sources.

1           (2) COMMENCEMENT.—Scheduled loan repay-  
2           ment of principal or interest on a secured loan under  
3           this section shall commence not later than 5 years  
4           after the date of substantial completion of the  
5           project.

6           (3) DEFERRED PAYMENTS.—

7           (A) AUTHORIZATION.—If, at any time  
8           after the date of substantial completion of a  
9           project for which a secured loan is provided  
10          under this section, the project is unable to gen-  
11          erate sufficient revenues to pay the scheduled  
12          loan repayments of principal and interest on the  
13          secured loan, the Secretary may allow the obli-  
14          gor, subject to subparagraph (C), to add unpaid  
15          principal and interest to the outstanding bal-  
16          ance of the secured loan.

17          (B) INTEREST.—Any payment deferred  
18          under subparagraph (A) shall—

19                 (i) continue to accrue interest in ac-  
20                 cordance with subsection (b)(4) until fully  
21                 repaid; and

22                 (ii) be scheduled to be amortized over  
23                 the remaining term of the secured loan.

24          (C) CRITERIA.—

1 (i) IN GENERAL.—Any payment defer-  
2 ral under subparagraph (A) shall be con-  
3 tingent on the project meeting such cri-  
4 teria as the Secretary may establish.

5 (ii) REPAYMENT STANDARDS.—The  
6 criteria established under clause (i) shall  
7 include standards for reasonable assurance  
8 of repayment.

9 (4) PREPAYMENT.—

10 (A) USE OF EXCESS REVENUES.—Any ex-  
11 cess revenues that remain after satisfying  
12 scheduled debt service requirements on the  
13 project obligations and secured loan and all de-  
14 posit requirements under the terms of any trust  
15 agreement, bond resolution, or similar agree-  
16 ment securing project obligations may be ap-  
17 plied annually to prepay a secured loan under  
18 this section without penalty.

19 (B) USE OF PROCEEDS OF REFI-  
20 NANCING.—A secured loan under this section  
21 may be prepaid at any time without penalty  
22 from the proceeds of refinancing from non-Fed-  
23 eral funding sources.

24 (d) SALE OF SECURED LOANS.—



1           (1) IN GENERAL.—Subject to paragraph (2), as  
2 soon as practicable after the date of substantial  
3 completion of a project and after providing a notice  
4 to the obligor, the Secretary may sell to another en-  
5 tity or reoffer into the capital markets a secured  
6 loan for a project under this section, if the Secretary  
7 determines that the sale or reoffering can be made  
8 on favorable terms.

9           (2) CONSENT OF OBLIGOR.—In making a sale  
10 or reoffering under paragraph (1), the Secretary  
11 may not change the original terms and conditions of  
12 the secured loan without the written consent of the  
13 obligor.

14       (e) LOAN GUARANTEES.—

15           (1) IN GENERAL.—The Secretary may provide a  
16 loan guarantee to a lender in lieu of making a se-  
17 cured loan under this section, if the Secretary deter-  
18 mines that the budgetary cost of the loan guarantee  
19 is substantially the same as that of a secured loan.

20           (2) TERMS.—The terms of a loan guarantee  
21 provided under this subsection shall be consistent  
22 with the terms established in this section for a se-  
23 cured loan, except that the rate on the guaranteed  
24 loan and any prepayment features shall be nego-

1       tiated between the obligor and the lender, with the  
2       consent of the Secretary.

3 **SEC. 217. PROGRAM ADMINISTRATION.**

4       (a) **REQUIREMENT.**—The Secretary shall establish a  
5 uniform system to service the Federal credit instruments  
6 made available under this subtitle.

7       (b) **FEEES.**—The Secretary may collect and spend  
8 fees, contingent on authority being provided in appropria-  
9 tions Acts, at a level that is sufficient to cover—

10           (1) the costs of services of expert firms retained  
11 pursuant to subsection (d); and

12           (2) all or a portion of the costs to the Federal  
13 Government of servicing the Federal credit instru-  
14 ments provided under this subtitle.

15       (c) **SERVICER.**—

16           (1) **IN GENERAL.**—The Secretary may appoint  
17 a financial entity to assist the Secretary in servicing  
18 the Federal credit instruments provided under this  
19 subtitle.

20           (2) **DUTIES.**—A servicer appointed under para-  
21 graph (1) shall act as the agent for the Secretary.

22           (3) **FEE.**—A servicer appointed under para-  
23 graph (1) shall receive a servicing fee, subject to ap-  
24 proval by the Secretary.

1       (d) ASSISTANCE FROM EXPERTS.—The Secretary  
2 may retain the services, including counsel, of any organi-  
3 zation or entity with expertise in the field of municipal  
4 and project finance to assist in the underwriting and serv-  
5 icing of Federal credit instruments provided under this  
6 subtitle.

7       (e) LOAN COORDINATION; INTERAGENCY COOPERA-  
8 TION.—The Secretary—

9           (1) shall coordinate implementation of loan  
10 guarantees under this section with the Administrator  
11 to avoid duplication and enhance the effectiveness of  
12 implementation of the State revolving funds estab-  
13 lished under the Federal Water Pollution Control  
14 Act (33 U.S.C. 1251 et seq.) and the Safe Drinking  
15 Water Act (42 U.S.C. 300f et seq.);

16           (2) shall consult with the Secretary of Agri-  
17 culture before promulgating criteria with respect to  
18 financial appraisal functions and loan guarantee ad-  
19 ministration for activities carried out under this sub-  
20 title; and

21           (3) may enter into a memorandum of agree-  
22 ment providing for Department of Agriculture finan-  
23 cial appraisal functions and loan guarantee adminis-  
24 tration for activities carried out under this subtitle.

1 **SEC. 218. STATE AND LOCAL PERMITS.**

2 The provision of financial assistance for a project  
3 under this subtitle shall not—

4 (1) relieve any recipient of the assistance of any  
5 obligation to obtain any required State or local per-  
6 mit or approval with respect to the project;

7 (2) limit the right of any unit of State or local  
8 government to approve or regulate any rate of re-  
9 turn on private equity invested in the project; or

10 (3) otherwise supersede any State or local law  
11 (including any regulation) applicable to the construc-  
12 tion or operation of the project.

13 **SEC. 219. REGULATIONS.**

14 The Secretary may promulgate such regulations as  
15 the Secretary determines to be appropriate to carry out  
16 this subtitle.

17 **SEC. 220. FUNDING.**

18 (a) **IN GENERAL.**—There is authorized to be appro-  
19 priated to the Secretary to carry out this subtitle  
20 \$50,000,000 for each of fiscal years 2015 through 2019,  
21 to remain available until expended.

22 (b) **ADMINISTRATIVE COSTS.**—Of the funds made  
23 available to carry out this subtitle, the Secretary may use  
24 for the administration of this subtitle not more than  
25 \$2,200,000 for each of fiscal years 2015 through 2019.

1 **SEC. 221. REPORT TO CONGRESS.**

2 Not later than 2 years after the date of enactment  
3 of this Act, and every 2 years thereafter, the Secretary  
4 shall submit to the Committee on Energy and Natural Re-  
5 sources of the Senate and the Committee on Natural Re-  
6 sources of the House of Representatives a report summa-  
7 rizing the financial performance and on-the-ground out-  
8 comes of the projects that are receiving, or have received,  
9 assistance under this subtitle, including an assessment of  
10 whether the objectives of this subtitle are being met.

11 **Subtitle B—Integrated Regional**  
12 **Water Management, Reclama-**  
13 **tion, and Recycling Projects**

14 **SEC. 231. WATER STORAGE PROJECTS.**

15 (a) AGREEMENTS.—The Secretary may enter into a  
16 cost-shared financial assistance agreement with any non-  
17 Federal entity in a Reclamation State or the State of Ha-  
18 waii to carry out the planning, design, and construction  
19 of any permanent water storage and conveyance facility  
20 used solely to regulate and maximize the water supply  
21 arising from a project that is eligible for assistance under  
22 this title or any other provision of law—

23 (1) to recycle wastewater, impaired surface  
24 water, and ground water; or

25 (2) to use integrated and coordinated water  
26 management on a watershed or regional scale.

1 (b) FINANCIAL ASSISTANCE.—In providing financial  
2 assistance under this section, the Secretary shall give pri-  
3 ority to storage and conveyance components that—

4 (1) ensure the efficient and beneficial use of  
5 water or reuse of the recycled water;

6 (2) make maximum use of natural systems;

7 (3) consistent with Secretarial Order No. 3297,  
8 dated February 22, 2010, support sustainable water  
9 management practices and the water sustainability  
10 objectives of 1 or more offices of the Department of  
11 the Interior or any other Federal agency;

12 (4)(A) increase the availability of usable water  
13 supplies in a watershed or region to benefit people,  
14 the economy, and the environment; and

15 (B) include adaptive measures needed to ad-  
16 dress climate change and future demands;

17 (5) where practicable—

18 (A) provide flood control or recreation ben-  
19 efits; and

20 (B) include the development of incremental  
21 hydroelectric power generation;

22 (6) include partnerships that go beyond political  
23 and institutional jurisdictions to support the effi-  
24 cient use of the limited water resources of the  
25 United States and the applicable region;

1           (7) generate environmental benefits, such as  
2           benefits to fisheries, wildlife and habitat, and water  
3           quality and water-dependent ecological systems, as  
4           well as water supply benefits to agricultural and  
5           urban water users; and

6           (8) the financing of which leverages private and  
7           other non-Federal resources.

8           (c) FEDERAL SHARE.—The Federal share of the cost  
9 of a project carried out under subsection (a) shall be—

10           (1) equal to the lesser of—

11                   (A) 50 percent of total cost of the project;

12                   and

13                   (B) \$15,000,000, adjusted for inflation;

14                   and

15           (2) nonreimbursable.

16           (d) NON-FEDERAL SHARE.—The non-Federal share  
17 of the cost of a project carried out under subsection (a)  
18 may include in-kind contributions to the planning, design,  
19 and construction of a project.

20           (e) TITLE AND COSTS.—A non-Federal entity enter-  
21 ing into a financial assistance agreement under this sec-  
22 tion shall—

23           (1) hold title to all facilities constructed under  
24           this section; and

1           (2) be solely responsible for the costs of oper-  
2           ating and maintaining those facilities.

3 **SEC. 232. AUTHORIZATION OF APPROPRIATIONS.**

4           There is authorized to be appropriated \$150,000,000  
5 to carry out this subtitle.

6           **Subtitle C—Title Transfers**

7 **SEC. 241. AUTHORIZATION TO TRANSFER TITLE.**

8           The Secretary may transfer to any non-Federal oper-  
9           ating entity title to any Reclamation project or facility,  
10          or any separable element of such a project or facility, that  
11          is authorized before the date of enactment of this Act, if—

12                 (1) all previous Federal construction contract  
13                 obligations or other related repayment contracts or  
14                 agreements associated with the project have been  
15                 paid out by a non-Federal project beneficiary;

16                 (2)(A) a project facility or separable element of  
17                 such a facility is in need of rehabilitation or im-  
18                 provement, as determined by the Secretary; and

19                 (B) the non-Federal operating entity is other-  
20                 wise eligible for a loan guarantee under this title;

21                 (3) the title transfer meets all applicable Fed-  
22                 eral laws and regulations, as determined by the Sec-  
23                 retary; and





1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior, acting through the Di-  
3           rector of the United States Geological Survey.

4           (4) STATE.—The term “State” means—

5                   (A) a State;

6                   (B) the District of Columbia;

7                   (C) the Commonwealth of Puerto Rico;

8           and

9                   (D) any other territory or possession of the  
10           United States.

11           (5) SYSTEM.—The term “system” means the  
12           open water data system established under subsection  
13           (b).

14           (b) SYSTEM.—The Secretary shall establish and  
15           maintain an open water data system within the United  
16           States Geological Survey to advance the availability, time-  
17           ly distribution, and widespread use of water data and in-  
18           formation for water management, education, research, as-  
19           sessment, and monitoring purposes.

20           (c) PURPOSES.—The purposes of the system are—

21                   (1) to advance the quantification of the avail-  
22                   ability, use of, and risks to, water resources through-  
23                   out the United States;

24                   (2) to increase accessibility to, and expand the  
25                   use of, water data and information in a standard,

1 easy-to-use format by Federal, State, local, and trib-  
2 al governments, communities, educational institu-  
3 tions, and the private sector; and

4 (3) to facilitate the open exchange of water in-  
5 formation particularly in the face of climate change  
6 and unprecedented drought.

7 (d) ACTIVITIES.—In carrying out this section, the  
8 Secretary shall—

9 (1) integrate water data and information into a  
10 interoperable, national, geospatially-referenced water  
11 data framework;

12 (2) identify new water data and information  
13 needs, including data on surface and groundwater  
14 quality and quantity, sediment, erosion, transport,  
15 water chemistry, precipitation, reservoir storage,  
16 water cycle, landscape variables, hydrography, cli-  
17 mate and weather impacts, soil moisture, and human  
18 use;

19 (3) leverage existing shared databases, infra-  
20 structure, and tools to provide a platform for water  
21 data and information innovation, modeling and data  
22 sharing, and solution development;

23 (4) support water data and information shar-  
24 ing, applied research, and educational programs of

1 State, local, and tribal governments, communities,  
2 educational institutions, and the private sector; and

3 (5) promote cooperation and sharing of exper-  
4 tise regarding water data and information among  
5 State, local, and tribal governments, communities,  
6 educational institutions, and the private sector;

7 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to carry out this section  
9 such sums as are necessary.

10 **SEC. 302. WATER RESOURCES RESEARCH ACT AMEND-**  
11 **MENTS.**

12 (a) CONGRESSIONAL FINDINGS AND DECLARA-  
13 TIONS.—Section 102 of the Water Resources Research  
14 Act of 1984 (42 U.S.C. 10301) is amended—

15 (1) by redesignating paragraphs (7) through  
16 (9) as paragraphs (8) through (10), respectively;

17 (2) in paragraph (8) (as so redesignated), by  
18 striking “and” at the end; and

19 (3) by inserting after paragraph (6) the fol-  
20 lowing:

21 “(7) additional research is required to increase  
22 the effectiveness and efficiency of new and existing  
23 treatment works through alternative approaches, in-  
24 cluding—

25 “(A) nonstructural alternatives;

1                   “(B) decentralized approaches;  
2                   “(C) water use efficiency and conservation;  
3                   and  
4                   “(D) actions to reduce energy consumption  
5                   or extract energy from wastewater;”.

6           (b) WATER RESOURCES RESEARCH AND TECH-  
7 NOLOGY INSTITUTES.—Section 104 of the Water Re-  
8 sources Research Act of 1984 (42 U.S.C. 10303) is  
9 amended—

10           (1) in subsection (b)(1)—

11                   (A) in subparagraph (B)(ii), by striking  
12                   “water-related phenomena” and inserting  
13                   “water resources”; and

14                   (B) in subparagraph (D), by striking the  
15                   period at the end and inserting “; and”;

16           (2) in subsection (c)—

17                   (A) by striking “From the” and inserting  
18                   “(1) IN GENERAL.—From the”; and

19                   (B) by adding at the end the following:

20                   “(2) REPORT.—Not later than December 31 of  
21                   each fiscal year, the Secretary shall submit to the  
22                   Committee on Environment and Public Works of the  
23                   Senate, the Committee on the Budget of the Senate,  
24                   the Committee on Transportation and Infrastructure  
25                   of the House of Representatives, and the Committee

1 on the Budget of the House of Representatives a re-  
2 port regarding the compliance of each funding re-  
3 cipient with this subsection for the immediately pre-  
4 ceding fiscal year.”;

5 (3) by striking subsection (e) and inserting the  
6 following:

7 “(e) EVALUATION OF WATER RESOURCES RESEARCH  
8 PROGRAM.—

9 “(1) IN GENERAL.—The Secretary shall con-  
10 duct a careful and detailed evaluation of each insti-  
11 tute at least once every 3 years to determine—

12 “(A) the quality and relevance of the water  
13 resources research of the institute;

14 “(B) the effectiveness of the institute at  
15 producing measured results and applied water  
16 supply research; and

17 “(C) whether the effectiveness of the insti-  
18 tute as an institution for planning, conducting,  
19 and arranging for research warrants continued  
20 support under this section.

21 “(2) PROHIBITION ON FURTHER SUPPORT.—If,  
22 as a result of an evaluation under paragraph (1), the  
23 Secretary determines that an institute does not qual-  
24 ify for further support under this section, no further  
25 grants to the institute may be provided until the

1 qualifications of the institute are reestablished to the  
2 satisfaction of the Secretary.”;

3 (4) in subsection (f)(1), by striking  
4 “\$12,000,000 for each of fiscal years 2007 through  
5 2011” and inserting “\$7,500,000 for each of fiscal  
6 years 2015 through 2020”; and

7 (5) in subsection (g)(1), in the first sentence,  
8 by striking “\$6,000,000 for each of fiscal years  
9 2007 through 2011” and inserting “\$1,500,000 for  
10 each of fiscal years 2015 through 2020”.

11 **SEC. 303. REAUTHORIZATION OF WATER DESALINATION**  
12 **ACT OF 1996.**

13 Section 8 of the Water Desalination Act of 1996 (42  
14 U.S.C. 10301 note; Public Law 104–298) is amended—

15 (1) in the first sentence of subsection (a), by  
16 striking “2013” and inserting “2020”; and

17 (2) in subsection (b), by striking “for each of  
18 fiscal years 2012 through 2013” and inserting “for  
19 each of fiscal years 2015 through 2020”.

20 **SEC. 304. REVIEW OF RESERVOIR OPERATIONS.**

21 (a) IN GENERAL.—Not later than 1 year after receiv-  
22 ing a request of a non-Federal sponsor of a reservoir, the  
23 Secretary of the Army, in consultation with the Adminis-  
24 trator of the National Oceanic and Atmospheric Adminis-  
25 tration, shall review the operation of the reservoir, includ-

1 ing the water control manual and rule curves, using im-  
2 proved weather forecasts and run-off forecasting methods,  
3 including the Advanced Hydrologic Prediction System of  
4 the National Weather Service and the Hydrometeorology  
5 Testbed program of the National Oceanic and Atmos-  
6 pheric Administration.

7 (b) DESCRIPTION OF BENEFITS.—In conducting the  
8 review under subsection (a), the Secretary of the Army  
9 shall determine if a change in operations, including the  
10 use of improved weather forecasts and run-off forecasting  
11 methods, will improve 1 or more of the core functions of  
12 the Corps of Engineers, including—

13 (1) reducing risks to human life, public safety,  
14 and property;

15 (2) reducing the need for future disaster relief;

16 (3) improving local water storage capability and  
17 reliability in coordination with the non-Federal spon-  
18 sor and other water users;

19 (4) restoring, protecting, or mitigating the im-  
20 pacts of a water resources development project on  
21 the environment; and

22 (5) improving fish species habitat or population  
23 within the boundaries and downstream of a water  
24 resources project.



1 (c) RESULTS REPORTED.—Not later than 90 days  
2 after completion of a review under this section, the Sec-  
3 retary shall submit a report to Congress regarding the re-  
4 sults of the review.

5 (d) MANUAL UPDATE.—As soon as practicable, but  
6 not later than 3 years after the date on which a report  
7 under subsection (c) is submitted to Congress, pursuant  
8 to the procedures required under existing authorities, if  
9 the Secretary of the Army determines based on that report  
10 that using improved weather and run-off forecasting meth-  
11 ods improves 1 or more core functions of the Corps of  
12 Engineers at a reservoir, the Secretary of the Army  
13 shall—

14 (1) incorporate those methods in the operation  
15 of the reservoir; and

16 (2) update the water control manual.

17 **TITLE IV—DROUGHT PREPARED-**  
18 **NESS AND RESILIENCE**

19 **SEC. 401. NATIONAL DROUGHT RESILIENCE GUIDELINES.**

20 (a) IN GENERAL.—The Administrator, in conjunction  
21 with the Secretary of the Interior, the Secretary of Agri-  
22 culture, the Director of the National Oceanic and Atmos-  
23 pheric Administration, and other appropriate Federal  
24 agency heads along with State and local governments,  
25 shall develop nonregulatory national drought resilience

1 guidelines relating to drought preparedness planning and  
2 investments for communities, water utilities, and other  
3 water users and providers.

4 (b) CONSULTATION.—In developing the national  
5 drought resilience guidelines, the Administrator and other  
6 Federal agency heads referred to in subsection (a) shall  
7 consult with—

- 8 (1) State and local governments;
- 9 (2) water utilities;
- 10 (3) scientists;
- 11 (4) institutions of higher education;
- 12 (5) relevant private entities; and
- 13 (6) other stakeholders.

14 (c) CONTENTS.—The national drought resilience  
15 guidelines developed under this section shall, to the max-  
16 imum extent practicable, provide recommendations for a  
17 period of 10 years that—

- 18 (1) address a broad range of potential actions,  
19 including—
  - 20 (A) analysis of the impacts of climate  
21 change and drought on the future effectiveness  
22 of water management tools;
  - 23 (B) the identification of drought-related  
24 water management challenges in a broad range  
25 of fields, including—

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- 1 (i) public health and safety;
- 2 (ii) municipal and industrial water
- 3 supply;
- 4 (iii) agricultural water supply;
- 5 (iv) water quality;
- 6 (v) ecosystem health; and
- 7 (vi) water supply planning;
- 8 (C) water management tools to reduce
- 9 drought-related impacts, including—
- 10 (i) water use efficiency through gal-
- 11 lons per capita reduction goals, appliance
- 12 efficiency standards, water pricing incen-
- 13 tives, and other measures;
- 14 (ii) water recycling;
- 15 (iii) groundwater clean-up and stor-
- 16 age;
- 17 (iv) new technologies, such as behav-
- 18 ioral water efficiency; and
- 19 (v) stormwater capture and reuse;
- 20 (D) water-related energy and greenhouse
- 21 gas reduction strategies; and
- 22 (E) public education and engagement; and
- 23 (2) include recommendations relating to the
- 24 processes that Federal, State, and local governments
- 25 and water utilities should consider when developing

1 drought resilience preparedness and plans, includ-  
2 ing—

3 (A) the establishment of planning goals;

4 (B) the evaluation of institutional capacity;

5 (C) the assessment of drought-related risks  
6 and vulnerabilities, including the integration of  
7 climate-related impacts;

8 (D) the establishment of a development  
9 process, including an evaluation of the cost-ef-  
10 fectiveness of potential strategies;

11 (E) the inclusion of private entities, tech-  
12 nical advisors, and other stakeholders in the de-  
13 velopment process;

14 (F) implementation and financing issues;  
15 and

16 (G) evaluation of the plan, including any  
17 updates to the plan.

18 **SEC. 402. DROUGHT PREPAREDNESS FOR FISHERIES.**

19 (a) **DEFINITIONS.**—In this section:

20 (1) **INDIAN TRIBE.**—The term “Indian tribe”  
21 has the meaning given the term in section 4 of the  
22 Indian Self-Determination and Education Assistance  
23 Act (25 U.S.C. 450b).

24 (2) **QUALIFIED TRIBAL GOVERNMENT.**—The  
25 term “qualified tribal government” means a govern-

1       mental body of an Indian tribe that the Secretary of  
2       the Interior determines—

3               (A) is involved in salmon management and  
4       recovery activities under the Endangered Spe-  
5       cies Act of 1973 (16 U.S.C. 1531 et seq.); and

6               (B) has the management and organiza-  
7       tional capability to maximize the benefits of as-  
8       sistance provided under this section.

9       (b) SALMON DROUGHT PLAN.—

10           (1) IN GENERAL.—Not later than January 1,  
11       2016, the Director of the United States Fish and  
12       Wildlife Service shall, in consultation with the Direc-  
13       tor of the National Marine Fisheries Service, the  
14       Commissioner of Reclamation, the Chief of Engi-  
15       neers, and the head of the California Department of  
16       Fish and Wildlife, prepare a salmon drought plan  
17       for the State of California.

18           (2) CONTENTS.—The plan developed under  
19       paragraph (1) shall—

20               (A) contribute—

21                   (i) to the recovery of populations list-  
22       ed as threatened or endangered under the  
23       Endangered Species Act of 1973 (16  
24       U.S.C. 1531 et seq.); and

- 1                   (ii) to the goals of the Central Valley  
2                   Project Improvement Act (title XXXIV of  
3                   Public Law 102-575; 106 Stat. 4706); and  
4                   (B) include options to protect salmon pop-  
5                   ulations originating in the State of California,  
6                   with a particular focus on actions that can be  
7                   taken to aid salmon populations in the State of  
8                   California during the driest 12 years, such as—
- 9                   (i) relocating the release location and  
10                  timing of hatchery fish to avoid predation  
11                  and temperature impacts;
- 12                  (ii) barging hatchery release fish to  
13                  improve survival and reduce straying;
- 14                  (iii) coordinating with water users, the  
15                  Commissioner of Reclamation, and the  
16                  head of the California Department of  
17                  Water Resources regarding voluntary  
18                  water transfers to determine if water re-  
19                  leased upstream to meet the needs of  
20                  downstream or South-of-Delta water users  
21                  can be managed in a way that provides ad-  
22                  ditional benefits for salmon;
- 23                  (iv) hatchery management modifica-  
24                  tions, such as expanding hatchery produc-  
25                  tion during the driest years of fish listed

1 as endangered or threatened under the En-  
2 dangered Species Act of 1973 (16 U.S.C.  
3 1531 et seq.), if appropriate; and  
4 (v) increasing rescue operations of up-  
5 stream migrating fish.

6 (c) FUNDING.—

7 (1) IN GENERAL.—Out of any funds in the  
8 Treasury not otherwise appropriated, the Secretary  
9 of the Treasury shall transfer to the Director of the  
10 United States Fish and Wildlife Service to carry out  
11 this section \$3,000,000, to remain available until ex-  
12 pended, for urgent fish, stream, and hatchery activi-  
13 ties relating to extreme drought conditions, including  
14 work carried out in conjunction with the Director of  
15 the National Marine Fisheries Service, the Commis-  
16 sioner of Reclamation, the Chief of Engineers, the  
17 head of the California Department of Fish and  
18 Wildlife, or a qualified tribal government.

19 (2) RECEIPT AND ACCEPTANCE.—The Director  
20 of the United States Fish and Wildlife Service shall  
21 be entitled to receive, shall accept, and shall use to  
22 carry out this section the funds transferred under  
23 paragraph (1), without further appropriation.

.....  
(Original Signature of Member)

113TH CONGRESS  
2D SESSION

# H. R.

To establish a WaterSense program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mrs. NAPOLITANO introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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# A BILL

To establish a WaterSense program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Water in the 21st Century Act” or “W21”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Administrator.

### TITLE I—CONSERVATION AND EFFICIENCY

Sec. 101. Water efficiency, conservation, and adaptation.



TITLE II—RECYCLING, STORAGE, AND INTEGRATED WATER  
MANAGEMENT

Sec. 201. Definitions.

Subtitle A—Innovative Financing

Sec. 211. Purposes.

Sec. 212. Authority to provide assistance.

Sec. 213. Applications.

Sec. 214. Eligibility for assistance.

Sec. 215. Determination of eligibility and project selection.

Sec. 216. Secured loans.

Sec. 217. Program administration.

Sec. 218. State and local permits.

Sec. 219. Regulations.

Sec. 220. Funding.

Sec. 221. Report to Congress.

Subtitle B—Integrated Regional Water Management, Reclamation, and  
Recycling Projects

Sec. 231. Water storage projects.

Sec. 232. Authorization of appropriations.

Subtitle C—Title Transfers

Sec. 241. Authorization to transfer title.

TITLE III—INNOVATION THROUGH RESEARCH, DATA, AND  
TECHNOLOGY

Sec. 301. Open water data system.

Sec. 302. Water Resources Research Act amendments.

Sec. 303. Reauthorization of Water Desalination Act of 1996.

Sec. 304. Review of reservoir operations.

TITLE IV—DROUGHT PREPAREDNESS AND RESILIENCE

Sec. 401. National drought resilience guidelines.

Sec. 402. Drought preparedness for fisheries.

**1 SEC. 2. DEFINITION OF ADMINISTRATOR.**

**2** In this Act, the term “Administrator” means the Ad-  
**3** ministrator of the Environmental Protection Agency.

1     **TITLE I—CONSERVATION AND**  
2                     **EFFICIENCY**

3     **SEC. 101. WATER EFFICIENCY, CONSERVATION, AND ADAP-**  
4                     **TATION.**

5             (a) **WATERSENSE.**—

6                     (1) **IN GENERAL.**—There is established within  
7             the Environmental Protection Agency a WaterSense  
8             program to identify and promote water efficient  
9             products, buildings, landscapes, facilities, processes,  
10            and services so as—

11                    (A) to reduce water use;

12                    (B) to reduce the strain on water, waste-  
13             water, and stormwater infrastructure;

14                    (C) to conserve energy used to pump, heat,  
15             transport, and treat water; and

16                    (D) to preserve water resources for future  
17             generations, through voluntary labeling of, or  
18             other forms of communications about, products,  
19             buildings, landscapes, facilities, processes, and  
20             services that meet the highest water efficiency  
21             and performance criteria.

22                    (2) **DUTIES.**—The Administrator shall—

23                    (A) establish—

24                             (i) a WaterSense label to be used for  
25                             certain items; and

1 (ii) the procedure by which an item  
2 may be certified to display the WaterSense  
3 label;

4 (B) promote WaterSense-labeled products,  
5 buildings, landscapes, facilities, processes, and  
6 services in the marketplace as the preferred  
7 technologies and services for—

8 (i) reducing water use; and

9 (ii) ensuring product and service per-  
10 formance;

11 (C) work to enhance public awareness of  
12 the WaterSense label through public outreach,  
13 education, and other means;

14 (D) preserve the integrity of the  
15 WaterSense label by—

16 (i) establishing and maintaining per-  
17 formance criteria so that products, build-  
18 ings, landscapes, facilities, processes, and  
19 services labeled with the WaterSense label  
20 perform as well or better than less water-  
21 efficient counterparts;

22 (ii) overseeing WaterSense certifi-  
23 cations made by third parties;

24 (iii) conducting reviews of the use of  
25 the WaterSense label in the marketplace

1 and taking corrective action in any case in  
2 which misuse of the label is identified; and

3 (iv) carrying out such other measures  
4 as the Administrator determines to be ap-  
5 propriate;

6 (E) regularly review and, if appropriate,  
7 update WaterSense criteria for categories of  
8 products, buildings, landscapes, facilities, proc-  
9 esses, and services, at least once every 6 years;

10 (F) to the maximum extent practicable,  
11 regularly estimate and make available to the  
12 public the production and relative market  
13 shares of, and the savings of water, energy, and  
14 capital costs of water, wastewater, and  
15 stormwater infrastructure attributable to the  
16 use of WaterSense-labeled products, buildings,  
17 landscapes, facilities, processes, and services, at  
18 least annually;

19 (G) solicit comments from interested par-  
20 ties and the public prior to establishing or re-  
21 vising a WaterSense category, specification, in-  
22 stallation criterion, or other criterion;

23 (H) provide reasonable notice to interested  
24 parties and the public of any changes (including  
25 effective dates), on the adoption of a new or re-

1           vised category, specification, installation cri-  
2           terion, or other criterion, along with—

3                   (i) an explanation of the changes; and

4                   (ii) as appropriate, responses to com-  
5                   ments submitted by interested parties and  
6                   the public;

7           (I) provide appropriate lead time (as deter-  
8           mined by the Administrator) prior to the appli-  
9           cable effective date for a new or significant revi-  
10          sion to a category, specification, installation cri-  
11          terion, or other criterion, taking into account  
12          the timing requirements of the manufacturing,  
13          marketing, training, and distribution process  
14          for the specific product, building and landscape,  
15          or service category addressed;

16          (J) identify and, if appropriate, implement  
17          other voluntary approaches in commercial, insti-  
18          tutional, residential, industrial, and municipal  
19          sectors to encourage recycling and reuse tech-  
20          nologies to improve water efficiency or lower  
21          water use; and

22          (K) if appropriate, authorize the  
23          WaterSense label for use on products that are  
24          labeled by the Energy Star program imple-

1           mented by the Administrator and the Secretary  
2           of Energy.

3           (3) AUTHORIZATION OF APPROPRIATIONS.—

4           There are authorized to be appropriated to carry out  
5           this section—

6                   (A) \$5,000,000 for fiscal year 2015;

7                   (B) \$10,000,000 for fiscal year 2016;

8                   (C) \$15,000,000 for fiscal year 2017;

9                   (D) \$20,000,000 for fiscal year 2018; and

10                   (E) for each subsequent fiscal year, the ap-  
11           plicable amount for the preceding fiscal year, as  
12           adjusted to reflect changes for the 12-month  
13           period ending the preceding November 30 in  
14           the Consumer Price Index for All Urban Con-  
15           sumers published by the Bureau of Labor Sta-  
16           tistics of the Department of Labor.

17           (b) STATE RESIDENTIAL WATER EFFICIENCY AND  
18           CONSERVATION INCENTIVES PROGRAM.—

19                   (1) DEFINITIONS.—In this subsection:

20                           (A) ELIGIBLE ENTITY.—The term “eligible  
21           entity” means a State government, local or  
22           county government, tribal government, waste-  
23           water or sewerage utility, municipal water au-  
24           thority, energy utility, water utility, or non-

1 profit organization that meets the requirements  
2 of paragraph (2).

3 (B) INCENTIVE PROGRAM.—The term “in-  
4 centive program” means a program for admin-  
5 istering financial incentives for consumer pur-  
6 chase and installation of water-efficient prod-  
7 ucts, buildings (including new water-efficient  
8 homes), landscapes, processes, or services de-  
9 scribed in paragraph (2)(A).

10 (C) RESIDENTIAL WATER-EFFICIENT  
11 PRODUCT, BUILDING, LANDSCAPE, PROCESS, OR  
12 SERVICE.—

13 (i) IN GENERAL.—The term “residen-  
14 tial water-efficient product, building, land-  
15 scape, process, or service” means a prod-  
16 uct, building, landscape, process, or service  
17 for a residence or its landscape that is  
18 rated for water efficiency and perform-  
19 ance—

20 (I) by the WaterSense program;

21 or

22 (II) if a WaterSense specification  
23 does not exist, by the Energy Star  
24 program or an incentive program ap-  
25 proved by the Administrator.

- 1 (ii) INCLUSIONS.—The term “residen-  
2 tial water-efficient product, building, land-  
3 scape, process, or service” includes—
- 4 (I) faucets;
  - 5 (II) irrigation technologies and  
6 services;
  - 7 (III) point-of-use water treat-  
8 ment devices;
  - 9 (IV) reuse and recycling tech-  
10 nologies;
  - 11 (V) toilets;
  - 12 (VI) clothes washers;
  - 13 (VII) dishwashers;
  - 14 (VIII) showerheads;
  - 15 (IX) xeriscaping and other land-  
16 scape conversions that replace irri-  
17 gated turf;
  - 18 (X) new water efficient homes  
19 certified under the WaterSense pro-  
20 gram;
  - 21 (XI) green stormwater installa-  
22 tions such as permeable pavement,  
23 rain gardens, rain barrels, and green  
24 roofs;



1 (XII) composting solutions com-  
2 plementary to water use and water  
3 quality; and

4 (XIII) other water-efficient prod-  
5 ucts, services, processes, or behavioral  
6 water efficiency solutions that address  
7 the objectives of the WaterSense pro-  
8 gram.

9 (D) WATERSENSE PROGRAM.—The term  
10 “WaterSense program” means the program es-  
11 tablished by subsection (a).

12 (2) ELIGIBLE ENTITIES.—An entity shall be eli-  
13 gible to receive an allocation under paragraph (3) if  
14 the entity—

15 (A) establishes (or has established) an in-  
16 centive program to provide financial incentives  
17 to residential consumers for the purchase of  
18 residential water-efficient products, buildings,  
19 landscapes, processes, or services;

20 (B) submits an application for the alloca-  
21 tion at such time, in such form, and containing  
22 such information as the Administrator may re-  
23 quire; and

24 (C) provides assurances satisfactory to the  
25 Administrator that the entity will use the allo-

1 cation to supplement, but not supplant, non-  
2 Federal funds made available to carry out the  
3 incentive program.

4 (3) AMOUNT OF ALLOCATIONS.—For each fiscal  
5 year, the Administrator shall determine the amount  
6 to allocate to each eligible entity to carry out para-  
7 graph (4), taking into consideration—

8 (A) the population served by the eligible  
9 entity during the most recent calendar year for  
10 which data are available;

11 (B) the targeted population of the incen-  
12 tive program of the eligible entity, such as gen-  
13 eral households, low-income households, or first-  
14 time homeowners, and the probable effective-  
15 ness of the incentive program for that popu-  
16 lation;

17 (C) for existing programs, the effectiveness  
18 of the program in encouraging the adoption of  
19 water-efficient products, buildings, landscapes,  
20 facilities, processes, and services;

21 (D) any allocation to the eligible entity for  
22 a preceding fiscal year that remains unused and

23 (E) the per capita water demand of the  
24 population served by the eligible entity during  
25 the most recent calendar year for which data

1           are available and the availability or reliability of  
2           water supplies to the eligible entity.

3           (4) USE OF ALLOCATED FUNDS.—Funds allo-  
4           cated to an eligible entity under paragraph (3) may  
5           be used to pay up to 50 percent of the cost of estab-  
6           lishing and carrying out an incentive program.

7           (5) ISSUANCE OF INCENTIVES.—

8           (A) IN GENERAL.—Financial incentives  
9           may be provided to residential consumers that  
10          meet the requirements of the applicable incen-  
11          tive program.

12          (B) MANNER OF ISSUANCE.—An eligible  
13          entity may—

14               (i) issue all financial incentives di-  
15               rectly to residential consumers; or

16               (ii) with approval of the Adminis-  
17               trator, delegate all or part of financial in-  
18               centive administration to other organiza-  
19               tions, including local governments, munic-  
20               ipal water authorities, water utilities, and  
21               nonprofit organizations.

22          (C) AMOUNT.—The amount of a financial  
23          incentive shall be determined by the eligible en-  
24          tity, taking into consideration—

1 (i) the amount of any Federal or  
2 State tax incentive available for the pur-  
3 chase of the residential water-efficient  
4 product or service;

5 (ii) the amount necessary to change  
6 consumer behavior to purchase water-effi-  
7 cient products and services; and

8 (iii) the consumer expenditures for on-  
9 site preparation, assembly, and original in-  
10 stallation of the product.

11 (6) AUTHORIZATION OF APPROPRIATIONS.—

12 There are authorized to be appropriated to the Ad-  
13 ministrator to carry out this subsection—

14 (A) \$100,000,000 for fiscal year 2015;

15 (B) \$150,000,000 for fiscal year 2016;

16 (C) \$200,000,000 for fiscal year 2017;

17 (D) \$150,000,000 for fiscal year 2018;

18 (E) \$100,000,000 for fiscal year 2019; and

19 (F) for each subsequent fiscal year, the ap-  
20 plicable amount for the preceding fiscal year, as  
21 adjusted to reflect changes for the 12-month  
22 period ending the preceding November 30 in  
23 the Consumer Price Index for All Urban Con-  
24 sumers published by the Bureau of Labor Sta-  
25 tistics of the Department of Labor.

1 (c) WATER SYSTEM MITIGATION AND ADAPTATION  
2 GRANTS.—

3 (1) DEFINITIONS.—In this subsection:

4 (A) OWNER OR OPERATOR.—

5 (i) IN GENERAL.—The term “owner  
6 or operator” means a person (including a  
7 regional, State, local, municipal, or private  
8 entity) that owns or operates a water sys-  
9 tem.

10 (ii) INCLUSION.—The term “owner or  
11 operator” includes a non-Federal entity  
12 that has operational responsibilities for a  
13 federally owned water system.

14 (B) WATER SYSTEM.—The term “water  
15 system” means—

16 (i) a community water system (as de-  
17 fined in section 1401 of the Safe Drinking  
18 Water Act (42 U.S.C. 300f));

19 (ii) a publicly owned treatment works  
20 (as defined in section 212 of the Federal  
21 Water Pollution Control Act (33 U.S.C.  
22 1292)), including a municipal separate  
23 storm sewer system;

24 (iii) a decentralized wastewater treat-  
25 ment system for domestic sewage;

1 (iv) a groundwater storage and re-  
2 plenishment system; or

3 (v) a system for transport and deliv-  
4 ery of water for irrigation or conservation.

5 (2) GRANTS.—Beginning in fiscal year 2015,  
6 the Administrator shall make grants to owners or  
7 operators of water systems to address any ongoing  
8 or forecasted (based on the best available research  
9 and data) climate-related impact on the water qual-  
10 ity or quantity of a region of the United States, for  
11 the purposes of mitigating or adapting to the im-  
12 pacts of climate change.

13 (3) ELIGIBLE USES.—In carrying out this sub-  
14 section, the Administrator shall make grants to as-  
15 sist in the planning, design, construction, implemen-  
16 tation, or maintenance of any program or project to  
17 increase the resilience of a water system to climate  
18 change by—

19 (A) conserving water or enhancing water  
20 use efficiency, including through the use of  
21 water metering to measure the effectiveness of  
22 a water efficiency program;

23 (B) modifying or relocating existing water  
24 system infrastructure made or projected to be  
25 made inoperable by climate change impacts;

1 (C) preserving or improving water quality,  
2 including through measures to manage, reduce,  
3 treat, or reuse municipal stormwater, waste-  
4 water, or drinking water;

5 (D) investigating, designing, or con-  
6 structing groundwater remediation, recycled  
7 water, or desalination facilities or systems;

8 (E) enhancing water management by in-  
9 creasing watershed preservation and protection,  
10 such as through the use of natural or engi-  
11 neered green infrastructure in the management,  
12 conveyance, or treatment of water, wastewater,  
13 or stormwater;

14 (F) enhancing energy efficiency or the use  
15 and generation of renewable energy in the man-  
16 agement, conveyance, or treatment of water,  
17 wastewater, or stormwater;

18 (G) supporting the adoption and use of ad-  
19 vanced water treatment, water supply manage-  
20 ment (such as reservoir reoperation), or water  
21 demand management technologies, projects, or  
22 processes (such as water reuse and recycling or  
23 adaptive conservation pricing) that maintain or  
24 increase water supply or improve water quality;

1 (H) modifying or replacing existing sys-  
2 tems or constructing new systems for existing  
3 communities or land currently in agricultural  
4 production to improve water availability, stor-  
5 age, or conveyance in a manner that—

6 (i) promotes more efficient use of  
7 available water supplies; and

8 (ii) does not further exacerbate  
9 stresses on ecosystems;

10 (I) supporting practices and projects, such  
11 as improved irrigation systems, water banking  
12 and other forms of water transactions, ground-  
13 water recharge, stormwater capture, and reuse  
14 or recycling of drainage water, to improve water  
15 quality or promote more efficient water use, in-  
16 cluding on land currently in agricultural pro-  
17 duction;

18 (J) conducting and completing studies or  
19 assessments to project how climate change may  
20 impact the future operations and sustainability  
21 of water systems;

22 (K) developing and implementing mitiga-  
23 tion measures to rapidly address impacts on  
24 water systems most susceptible to abrupt cli-  
25 mate change, including those in the Colorado



1 River Basin and coastal regions at risk from  
2 rising sea levels; or

3 (L) funding of transactions costs and cred-  
4 it enhancement for pay-for-performance-based  
5 public-private initiatives intended to advance  
6 the eligible uses of the program or project.

7 (4) APPLICATION.—To be eligible to receive a  
8 grant from the Administrator under paragraph (2),  
9 the owner or operator of a water system shall submit  
10 to the Administrator an application that—

11 (A) includes a proposal of the program,  
12 strategy, or infrastructure improvement to be  
13 planned, designed, constructed, implemented, or  
14 maintained by the water system;

15 (B) cites the best available research or  
16 data that demonstrates—

17 (i) the risk to the water resources or  
18 infrastructure of the water system as a re-  
19 sult of ongoing or forecasted changes to  
20 the hydrological system brought about by  
21 factors arising from climate change, in-  
22 cluding rising sea levels and changes in  
23 precipitation levels; and

24 (ii) how the proposed program, strat-  
25 egy, or infrastructure improvement would

1 perform under the anticipated climate con-  
2 ditions;

3 (C) explains how the proposed program,  
4 strategy, or infrastructure improvement is ex-  
5 pected to enhance the resiliency of the water  
6 system, including source water protection for  
7 community water systems, to these risks or re-  
8 duce the direct or indirect greenhouse gas emis-  
9 sions of the water system; and

10 (D) demonstrates that the program, strat-  
11 egy, or infrastructure improvement is—

12 (i) consistent with any approved State  
13 and tribal climate adaptation plan; and

14 (ii) not inconsistent with any ap-  
15 proved natural resources plan.

16 (5) COMPETITIVE PROCESS.—

17 (A) IN GENERAL.—Each calendar year, the  
18 Administrator shall conduct a competitive proc-  
19 ess to select and fund applications under this  
20 subsection.

21 (B) PRIORITY REQUIREMENTS AND  
22 WEIGHTING.—In carrying out the process, the  
23 Administrator shall—

24 (i) prioritize funding of applications  
25 that are submitted by the owners or opera-

1           tors of water systems that are, based on  
2           the best available research and data, at the  
3           greatest and most immediate risk of facing  
4           significant climate-related negative impacts  
5           on water quality or quantity;

6           (ii) in selecting among the priority ap-  
7           plications determined under clause (i), en-  
8           sure that the final list of applications fund-  
9           ed for each year includes a substantial  
10          number that, to the maximum extent prac-  
11          ticable, includes each eligible use described  
12          in paragraph (3);

13          (iii) solicit applications from water  
14          systems that are—

15               (I) located in all regions of the  
16               United States; and

17               (II) facing varying risks as a re-  
18               sult of climate change; and

19           (iv) provide for solicitation and con-  
20           sideration of public input in the develop-  
21           ment of criteria used in evaluating applica-  
22           tions.

23          (6) COST SHARING.—

24               (A) FEDERAL SHARE.—The Federal share  
25               of the cost of any program, strategy, or infra-

1 structure improvement that is the subject of a  
2 grant awarded by the Administrator to a water  
3 system under paragraph (2) shall not exceed 50  
4 percent of the cost of the program, strategy,  
5 and infrastructure improvement.

6 (B) CALCULATION OF NON-FEDERAL  
7 SHARE.—In calculating the non-Federal share  
8 of the cost of a program, strategy, or infra-  
9 structure improvement proposed by a water sys-  
10 tem through an application submitted by the  
11 water system under paragraph (4), the Admin-  
12 istrator shall—

13 (i) include the value of any in-kind  
14 services that are integral to the completion  
15 of the program, strategy, or infrastructure  
16 improvement, as determined by the Admin-  
17 istrator; and

18 (ii) not include any other amount that  
19 the water system receives from a Federal  
20 agency.

21 (7) LABOR STANDARDS.—

22 (A) IN GENERAL.—All laborers and me-  
23 chanics employed on infrastructure improve-  
24 ments funded directly by or assisted in whole or  
25 in part by this subsection shall be paid wages

1 at rates not less than those prevailing for the  
2 same type of work on similar construction in  
3 the immediate locality, as determined by the  
4 Secretary of Labor in accordance with sub-  
5 chapter IV of chapter 31 of part A of subtitle  
6 II of title 40, United States Code.

7 (B) AUTHORITY AND FUNCTIONS.—With  
8 respect to the labor standards in this para-  
9 graph, the Secretary of Labor shall have the  
10 authority and functions set forth in Reorganiza-  
11 tion Plan Numbered 14 of 1950 (64 Stat.  
12 1267; 5 U.S.C. App.) and section 3145 of title  
13 40, United States Code.

14 (8) LOCAL HIRING.—

15 (A) IN GENERAL.—The recipient of assist-  
16 ance may advertise and award a contract for  
17 construction containing requirements for the  
18 employment of individuals residing in or adja-  
19 cent to any of the areas in which the work is  
20 to be performed under the contract, if—

21 (i) all or part of the construction work  
22 performed under the contract occurs in an  
23 area that has—

1 (I) a per capita income of 80 per-  
2 cent or less of the national average  
3 per capita income; or

4 (II) an unemployment rate that  
5 is, for the most recent 24-month pe-  
6 riod for which data are available, at  
7 least 1 percent greater than the na-  
8 tional average unemployment rate;

9 (ii) the estimated cost of the project  
10 of which the contract is a part is greater  
11 than \$1,000,000; and

12 (iii) the recipient does not hire indi-  
13 viduals who do not have the necessary  
14 skills to perform work in the applicable  
15 craft or trade, except for individuals who  
16 are subject to an apprenticeship program  
17 or other training program meeting, as de-  
18 termined by the Secretary;.

19 (B) ADVERTISEMENT.—In advertising and  
20 awarding a contract under this subsection, the  
21 Secretary or recipient of assistance shall ensure  
22 that the requirements contained in the adver-  
23 tisement would not—

24 (i) compromise the quality of the  
25 project;

1 (ii) unreasonably delay the completion  
2 of the project; or

3 (iii) unreasonably increase the cost of  
4 the project.

5 (9) EFFICIENT, INTEGRATED PROCUREMENT  
6 FOR PROGRAMS JOINTLY FUNDED WITH THE DE-  
7 PARTMENT OF HOUSING AND URBAN DEVELOP-  
8 MENT.—

9 (A) DEFINITION OF ELIGIBLE PROJECT.—

10 In this paragraph, the term “eligible project”  
11 means a project for which the amount of fund-  
12 ing provided by the Department of Housing and  
13 Urban Development is 10 percent or more of  
14 the amount of funding provided under this sub-  
15 section.

16 (B) PREFERENCES.—Notwithstanding the  
17 competitive bidding requirements of this section  
18 (including regulations), in the case of an eligible  
19 project funded jointly with funding provided by  
20 the Department of Housing and Urban Devel-  
21 opment that is covered by section 3 of the  
22 Housing and Urban Development Act of 1968  
23 (82 Stat. 846; 12 U.S.C. 1701u), a contracting  
24 agency may apply the preferences required for  
25 the funding by the Department of Housing and

1           Urban Development under section 3 of that Act  
2           (including regulations) with respect to the fund-  
3           ing, to the elements of the project funded in  
4           any part under this subsection.

5           (C) PERMISSIBLE RESTRICTIONS.—A State  
6           or local law governing contracting practices that  
7           prohibits the awarding of contracts to busi-  
8           nesses that have solicited or made contributions  
9           to political candidates, political parties, and  
10          holders of public office shall not be considered  
11          a violation of this section.

12          (10) REGULATIONS.—

13           (A) IN GENERAL.—Not later than 1 year  
14           after the date of enactment of this Act, the Ad-  
15           ministrator shall promulgate final regulations to  
16           carry out this subsection.

17           (B) SPECIAL RULE FOR THE CONSTRUC-  
18           TION OF TREATMENT WORKS.—In carrying out  
19           this paragraph, the Administrator shall incor-  
20           porate all relevant and appropriate require-  
21           ments of title VI of the Federal Water Pollution  
22           Control Act (33 U.S.C. 1381 et seq.) applicable  
23           to the construction of treatment works that are  
24           carried out under this subsection.



1           (11) REPORT TO CONGRESS.—Not later than 3  
2       years after the date of enactment of this Act, and  
3       every 3 years thereafter, the Administrator shall  
4       submit to Congress a report on progress in imple-  
5       menting this subsection, including information on  
6       project applications received and funded annually.

7           (12) AUTHORIZATION OF APPROPRIATIONS.—  
8       There are authorized to be appropriated to carry out  
9       this subsection such sums as are necessary.

10 **TITLE II—RECYCLING, STORAGE,**  
11 **AND INTEGRATED WATER**  
12 **MANAGEMENT**

13 **SEC. 201. DEFINITIONS.**

14       In this title:

15           (1) ELIGIBLE ENTITY.—The term “eligible enti-  
16       ty” means—

17                   (A) a corporation;

18                   (B) a partnership;

19                   (C) a joint venture;

20                   (D) a trust;

21                   (E) a Federal, State, or local governmental  
22       entity, agency, or instrumentality; and

23                   (F) a conservancy district, irrigation dis-  
24       trict, canal company, mutual water company,  
25       water users’ association, Indian tribe, agency

1           created by interstate compact, or any other en-  
2           tity that has the capacity to contract with the  
3           United States under Federal reclamation law.

4           (2) FEDERAL CREDIT INSTRUMENT.—The term  
5           “Federal credit instrument” means a secured loan,  
6           loan guarantee, or other credit enhancement author-  
7           ized to be made available under this title with re-  
8           spect to a project.

9           (3) INVESTMENT-GRADE RATING.—The term  
10          “investment-grade rating” means a rating of BBB  
11          minus, Baa3, bbb minus, BBB (low), or higher as  
12          assigned by a rating agency to project obligations.

13          (4) LENDER.—

14                (A) IN GENERAL.—The term “lender”  
15                means any non-Federal qualified institutional  
16                buyer (as defined in section 230.144A(a) of  
17                title 17, Code of Federal Regulations (or a suc-  
18                cessor regulation) (commonly known as “Rule  
19                144A(a) of the Securities and Exchange Com-  
20                mission” and issued under the Securities Act of  
21                1933 (15 U.S.C. 77a et seq.))).

22                (B) INCLUSIONS.—The term “lender” in-  
23                cludes—

24                        (i) a qualified retirement plan (as de-  
25                        fined in section 4974 of the Internal Rev-

1                   enue Code of 1986) that is a qualified in-  
2                   stitutional buyer; and

3                   (ii) a governmental plan (as defined in  
4                   section 414 of the Internal Revenue Code  
5                   of 1986) that is a qualified institutional  
6                   buyer.

7                   (5) LOAN GUARANTEE.—The term “loan guar-  
8                   antee” means any guarantee or other pledge by the  
9                   Secretary to pay all or part of the principal of, and  
10                  interest on, a loan or other debt obligation issued by  
11                  an obligor and funded by a lender.

12                  (6) OBLIGOR.—The term “obligor” means an  
13                  eligible entity that is primarily liable for payment of  
14                  the principal of, or interest on, a Federal credit in-  
15                  strument.

16                  (7) PROJECT OBLIGATION.—

17                         (A) IN GENERAL.—The term “project obli-  
18                         gation” means any note, bond, debenture, or  
19                         other debt obligation issued by an obligor in  
20                         connection with the financing of a project.

21                         (B) EXCLUSION.—The term “project obli-  
22                         gation” does not include a Federal credit in-  
23                         strument.

24                  (8) RATING AGENCY.—The term “rating agen-  
25                  cy” means a credit rating agency registered with the

1 Securities and Exchange Commission as a nationally  
2 recognized statistical rating organization (as defined  
3 in section 3(a) of the Securities Exchange Act of  
4 1934 (15 U.S.C. 78c(a)).

5 (9) RECLAMATION STATE.—The term “Rec-  
6 lamation State” means any of the States of—

7 (A) Arizona;

8 (B) California;

9 (C) Colorado;

10 (D) Idaho;

11 (E) Kansas;

12 (F) Montana;

13 (G) Nebraska;

14 (H) Nevada;

15 (I) New Mexico;

16 (J) North Dakota;

17 (K) Oklahoma;

18 (L) Oregon;

19 (M) South Dakota;

20 (N) Texas;

21 (O) Utah;

22 (P) Washington; and

23 (Q) Wyoming.

24 (10) SECRETARY.—The term “Secretary”  
25 means the Secretary of the Interior.

1           (11) SECURED LOAN.—The term “secured  
2 loan” means a direct loan or other debt obligation  
3 issued by an obligor and funded by the Secretary in  
4 connection with the financing of a project under sub-  
5 title A.

6           (12) SUBSIDY AMOUNT.—The term “subsidy  
7 amount” means the amount of budget authority suf-  
8 ficient to cover the estimated long-term cost to the  
9 Federal Government of a Federal credit instrument,  
10 as calculated on a net present value basis, excluding  
11 administrative costs and any incidental effects on  
12 Governmental receipts or outlays in accordance with  
13 the Federal Credit Reform Act of 1990 (2 U.S.C.  
14 661 et seq.).

15           (13) SUBSTANTIAL COMPLETION.—The term  
16 “substantial completion”, with respect to a project,  
17 means the earliest date on which a project is consid-  
18 ered to perform the functions for which the project  
19 is designed.

## 20 **Subtitle A—Innovative Financing**

### 21 **SEC. 211. PURPOSES.**

22 The purposes of this subtitle are—

23           (1) to promote increased development of critical  
24 water resources infrastructure by establishing addi-

1 tional opportunities for financing water resources  
2 projects;

3 (2) to attract new investment capital to infra-  
4 structure projects that are capable of generating rev-  
5 enue streams through user fees or other dedicated  
6 funding sources;

7 (3) to complement existing Federal funding  
8 sources and address budgetary constraints on Bu-  
9 reau of Reclamation programs; and

10 (4) to leverage private investment in water re-  
11 sources infrastructure.

12 **SEC. 212. AUTHORITY TO PROVIDE ASSISTANCE.**

13 (a) IN GENERAL.—The Secretary may provide finan-  
14 cial assistance under this subtitle to carry out projects  
15 within—

16 (1) any Reclamation State;

17 (2) any other State in which the Bureau of  
18 Reclamation is authorized to provide project assist-  
19 ance; and

20 (3) the States of Alaska and Hawaii.

21 (b) SELECTION.—In selecting projects to receive fi-  
22 nancial assistance under subsection (a), the Secretary  
23 shall ensure diversity with respect to—

24 (1) project types; and

25 (2) geographical locations.

1 **SEC. 213. APPLICATIONS.**

2 To be eligible to receive assistance under this subtitle,  
3 an eligible entity shall submit to the Secretary an applica-  
4 tion at such time, in such manner, and containing such  
5 information as the Secretary may require.

6 **SEC. 214. ELIGIBILITY FOR ASSISTANCE.**

7 (a) **ELIGIBLE PROJECTS.**—The following projects  
8 may be carried out using assistance made available under  
9 this subtitle:

10 (1) A project for the reclamation and reuse of  
11 municipal, industrial, domestic, and agricultural  
12 wastewater, and naturally impaired ground and sur-  
13 face waters, which the Secretary, acting through the  
14 Commissioner of Reclamation, is authorized to un-  
15 dertake.

16 (2) Any water infrastructure project not specifi-  
17 cally authorized by law that—

18 (A) the Secretary determines, through the  
19 completion of an appraisal investigation and  
20 feasibility study, would contribute to a safe,  
21 adequate water supply for domestic, agricul-  
22 tural, environmental, or municipal and indus-  
23 trial use; and

24 (B) is otherwise eligible for assistance  
25 under this title.

1           (3) A project for enhanced energy efficiency in  
2 the operation of a water system.

3           (4) A project for accelerated repair and replace-  
4 ment of an aging water distribution facility.

5           (5) A brackish or sea water desalination  
6 project.

7           (6) Acquisition of real property or an interest  
8 in real property for water storage, reclaimed or recy-  
9 cled water, or wastewater, if the acquisition is inte-  
10 gral to a project described in paragraphs (1)  
11 through (5).

12           (7) A combination of projects, each of which is  
13 eligible under paragraphs (1) through (6), for which  
14 an eligible entity submits a single application.

15       (b) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—For  
16 purposes of this subtitle, an eligible activity with respect  
17 to an eligible project under subsection (a) includes the cost  
18 of—

19           (1) development-phase activities, including plan-  
20 ning, feasibility analysis, revenue forecasting, envi-  
21 ronmental review, permitting, transaction costs, pre-  
22 liminary engineering and design work, and other  
23 preconstruction activities;

24           (2) construction, reconstruction, rehabilitation,  
25 and replacement activities;



1           (3) the acquisition of real property (including  
2           water rights, land relating to the project, and im-  
3           provements to land), environmental mitigation, con-  
4           struction contingencies, and acquisition of equip-  
5           ment;

6           (4) capitalized interest necessary to meet mar-  
7           ket requirements, reasonably required reserve funds,  
8           capital issuance expenses, and other carrying costs  
9           during construction;

10          (5) refinancing interim construction funding,  
11          long-term project obligations, or a secured loan, loan  
12          guarantee, or other credit enhancement made under  
13          this subtitle;

14          (6) reimbursement or success payments to any  
15          public or private entity that achieves predetermined  
16          outcomes on a pay-for-performance or pay-for suc-  
17          cess basis; and

18          (7) grants, loans, or credit enhancement for  
19          community development financial institutions, green  
20          banks, and other financial intermediaries providing  
21          ongoing finance for projects that meet the purposes  
22          of this subtitle.

1 **SEC. 215. DETERMINATION OF ELIGIBILITY AND PROJECT**  
2 **SELECTION.**

3 (a) **ELIGIBILITY REQUIREMENTS.**—To be eligible to  
4 receive financial assistance under this subtitle, a project  
5 shall meet the following criteria, as determined by the Sec-  
6 retary:

7 (1) **CREDITWORTHINESS.**—

8 (A) **IN GENERAL.**—Subject to subpara-  
9 graph (B), the project shall be creditworthy, as  
10 determined by the Secretary, who shall ensure  
11 that any financing for the project has appro-  
12 priate security features, such as a rate cov-  
13 enant, to ensure repayment.

14 (B) **PRELIMINARY RATING OPINION LET-**  
15 **TER.**—The Secretary shall require each appli-  
16 cant to provide a preliminary rating opinion let-  
17 ter from at least 1 rating agency indicating that  
18 the senior obligations of the project (which may  
19 be the Federal credit instrument) have the po-  
20 tential to achieve an investment-grade rating.

21 (2) **ELIGIBLE PROJECT COSTS.**—The eligible  
22 project costs of a project and other projects in a wa-  
23 tershed shall be reasonably anticipated to be not less  
24 than \$10,000,000.

25 (3) **DEDICATED REVENUE SOURCES.**—The Fed-  
26 eral credit instrument for the project shall be repay-

1       able, in whole or in part, from dedicated revenue  
2       sources that also secure the project obligations.

3               (4) PUBLIC SPONSORSHIP OF PRIVATE ENTI-  
4       TIES.—In the case of a project carried out by an en-  
5       tity that is not a State or local government or an  
6       agency or instrumentality of a State or local govern-  
7       ment, the project shall be publicly sponsored.

8       (b) SELECTION CRITERIA.—

9               (1) ESTABLISHMENT.—The Secretary shall es-  
10      tablish criteria for the selection of projects that meet  
11      the eligibility requirements of subsection (a), in ac-  
12      cordance with paragraph (2).

13              (2) CRITERIA.—The selection criteria shall in-  
14      clude the following:

15              (A) The extent to which the project is na-  
16      tionally or regionally significant.

17              (B) The extent to which assistance under  
18      this section would foster innovative public-pri-  
19      vate partnerships and attract private debt or  
20      equity investment.

21              (C) The likelihood that assistance under  
22      this section would enable the project to proceed  
23      at an earlier date than the project would other-  
24      wise be able to proceed.

1 (D) The extent to which the project uses  
2 new or innovative approaches.

3 (E) The extent to which projects track evi-  
4 dence about the effectiveness of the 1 or more  
5 projects financed and the availability of the evi-  
6 dence and project information to the public to  
7 facilitate replication.

8 (F) The amount of budget authority re-  
9 quired to fund the Federal credit instrument  
10 made available under this subtitle.

11 (G) The extent to which the project helps  
12 maintain or protect the environment.

13 (H) The extent to which the project sup-  
14 ports the local economy and provides local jobs.

15 (c) RECEIPT OF OTHER FEDERAL FUNDING.—Re-  
16 ceipt of a Federal grant or contract or other Federal fund-  
17 ing to support an eligible project shall not preclude the  
18 project from being eligible for assistance under this sub-  
19 title.

20 (d) FEDERAL REQUIREMENTS.—

21 (1) EFFECT OF SECTION.—Nothing in this sec-  
22 tion supersedes the applicability of other require-  
23 ments of Federal law (including regulations).

24 (2) NEPA.—A Federal action carried out re-  
25 garding a loan or loan guarantee provided under this

1 subtitle shall not be considered to be a Federal ac-  
2 tion for purposes of the National Environmental  
3 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

4 **SEC. 216. SECURED LOANS.**

5 (a) AGREEMENTS.—

6 (1) IN GENERAL.—Subject to paragraphs (2)  
7 through (4), the Secretary may enter into agree-  
8 ments with 1 or more obligors to make secured  
9 loans, the proceeds of which shall be used—

10 (A) to finance eligible project costs of any  
11 project selected under section 206;

12 (B) to refinance interim construction fi-  
13 nancing of eligible project costs of any project  
14 selected under section 206; or

15 (C) to refinance long-term project obliga-  
16 tions or Federal credit instruments, if that refi-  
17 nancing provides additional funding capacity for  
18 the completion, enhancement, or expansion of  
19 any project that—

20 (i) is selected under section 206; or

21 (ii) otherwise meets the requirements  
22 of section 206.

23 (2) LIMITATION ON REFINANCING OF INTERIM  
24 CONSTRUCTION FINANCING.—A secured loan under  
25 paragraph (1) shall not be used to refinance interim

1 construction financing under paragraph (1)(B) later  
2 than 1 year after the date of substantial completion  
3 of the applicable project.

4 (3) RISK ASSESSMENT.—Before entering into  
5 an agreement under this subsection for a secured  
6 loan, the Secretary, in consultation with the Director  
7 of the Office of Management and Budget and each  
8 rating agency providing a preliminary rating opinion  
9 letter under section 206(a)(1)(B), shall determine an  
10 appropriate capital reserve subsidy amount for the  
11 secured loan, taking into account each such prelimi-  
12 nary rating opinion letter.

13 (4) INVESTMENT-GRADE RATING REQUIRE-  
14 MENT.—The execution of a secured loan under this  
15 section shall be contingent on receipt by the senior  
16 obligations of the project of an investment-grade rat-  
17 ing.

18 (b) TERMS AND LIMITATIONS.—

19 (1) IN GENERAL.—A secured loan provided for  
20 a project under this section shall be subject to such  
21 terms and conditions, and contain such covenants,  
22 representations, warranties, and requirements (in-  
23 cluding requirements for audits), as the Secretary  
24 determines to be appropriate.

1           (2) MAXIMUM AMOUNT.—The amount of a se-  
2           cured loan under this section shall not exceed the  
3           lesser of—

4                   (A) an amount equal to 100 percent of the  
5                   reasonably anticipated eligible project costs; and

6                   (B) if the secured loan does not receive an  
7                   investment-grade rating, the amount of the sen-  
8                   ior project obligations of the project.

9           (3) PAYMENT.—A secured loan under this sec-  
10          tion—

11                   (A) shall be payable, in whole or in part,  
12                   from State or local taxes, user fees, or other  
13                   dedicated revenue sources that also secure the  
14                   senior project obligations of the relevant  
15                   project;

16                   (B) shall include a rate covenant, coverage  
17                   requirement, or similar security feature sup-  
18                   porting the project obligations; and

19                   (C) may have a lien on revenues described  
20                   in subparagraph (A), subject to any lien secur-  
21                   ing project obligations.

22          (4) INTEREST RATE.—The interest rate on a  
23          secured loan under this section shall be not more  
24          than the yield on United States Treasury securities  
25          of a similar maturity to the maturity of the secured

1 loan on the date of execution of the loan agreement,  
2 as determined by the Secretary.

3 (5) MATURITY DATE.—The final maturity date  
4 of a secured loan under this section shall be not  
5 later than 35 years after the date of substantial  
6 completion of the relevant project.

7 (6) NONSUBORDINATION.—A secured loan  
8 under this section shall not be subordinated to the  
9 claims of any holder of project obligations in the  
10 event of bankruptcy, insolvency, or liquidation of the  
11 obligor of the project.

12 (7) FEES.—The Secretary may establish fees at  
13 a level sufficient to cover all or a portion of the costs  
14 to the Federal Government of making a secured loan  
15 under this section.

16 (8) NON-FEDERAL SHARE.—The proceeds of a  
17 secured loan under this section may be used to pay  
18 any non-Federal share of project costs required if  
19 the loan is repayable from non-Federal funds.

20 (c) REPAYMENT.—

21 (1) SCHEDULE.—The Secretary shall establish  
22 a repayment schedule for each secured loan provided  
23 under this section, based on the projected cash flow  
24 from project revenues and other repayment sources.



1           (2) COMMENCEMENT.—Scheduled loan repay-  
2           ment of principal or interest on a secured loan under  
3           this section shall commence not later than 5 years  
4           after the date of substantial completion of the  
5           project.

6           (3) DEFERRED PAYMENTS.—

7           (A) AUTHORIZATION.—If, at any time  
8           after the date of substantial completion of a  
9           project for which a secured loan is provided  
10          under this section, the project is unable to gen-  
11          erate sufficient revenues to pay the scheduled  
12          loan repayments of principal and interest on the  
13          secured loan, the Secretary may allow the obli-  
14          gor, subject to subparagraph (C), to add unpaid  
15          principal and interest to the outstanding bal-  
16          ance of the secured loan.

17          (B) INTEREST.—Any payment deferred  
18          under subparagraph (A) shall—

19                  (i) continue to accrue interest in ac-  
20                  cordance with subsection (b)(4) until fully  
21                  repaid; and

22                  (ii) be scheduled to be amortized over  
23                  the remaining term of the secured loan.

24          (C) CRITERIA.—

1 (i) IN GENERAL.—Any payment defer-  
2 ral under subparagraph (A) shall be con-  
3 tingent on the project meeting such cri-  
4 teria as the Secretary may establish.

5 (ii) REPAYMENT STANDARDS.—The  
6 criteria established under clause (i) shall  
7 include standards for reasonable assurance  
8 of repayment.

9 (4) PREPAYMENT.—

10 (A) USE OF EXCESS REVENUES.—Any ex-  
11 cess revenues that remain after satisfying  
12 scheduled debt service requirements on the  
13 project obligations and secured loan and all de-  
14 posit requirements under the terms of any trust  
15 agreement, bond resolution, or similar agree-  
16 ment securing project obligations may be ap-  
17 plied annually to prepay a secured loan under  
18 this section without penalty.

19 (B) USE OF PROCEEDS OF REFI-  
20 NANCING.—A secured loan under this section  
21 may be prepaid at any time without penalty  
22 from the proceeds of refinancing from non-Fed-  
23 eral funding sources.

24 (d) SALE OF SECURED LOANS.—

1           (1) IN GENERAL.—Subject to paragraph (2), as  
2           soon as practicable after the date of substantial  
3           completion of a project and after providing a notice  
4           to the obligor, the Secretary may sell to another en-  
5           tity or reoffer into the capital markets a secured  
6           loan for a project under this section, if the Secretary  
7           determines that the sale or reoffering can be made  
8           on favorable terms.

9           (2) CONSENT OF OBLIGOR.—In making a sale  
10          or reoffering under paragraph (1), the Secretary  
11          may not change the original terms and conditions of  
12          the secured loan without the written consent of the  
13          obligor.

14          (e) LOAN GUARANTEES.—

15          (1) IN GENERAL.—The Secretary may provide a  
16          loan guarantee to a lender in lieu of making a se-  
17          cured loan under this section, if the Secretary deter-  
18          mines that the budgetary cost of the loan guarantee  
19          is substantially the same as that of a secured loan.

20          (2) TERMS.—The terms of a loan guarantee  
21          provided under this subsection shall be consistent  
22          with the terms established in this section for a se-  
23          cured loan, except that the rate on the guaranteed  
24          loan and any prepayment features shall be nego-

1           tiated between the obligor and the lender, with the  
2           consent of the Secretary.

3 **SEC. 217. PROGRAM ADMINISTRATION.**

4           (a) **REQUIREMENT.**—The Secretary shall establish a  
5 uniform system to service the Federal credit instruments  
6 made available under this subtitle.

7           (b) **FEEES.**—The Secretary may collect and spend  
8 fees, contingent on authority being provided in appropria-  
9 tions Acts, at a level that is sufficient to cover—

10           (1) the costs of services of expert firms retained  
11 pursuant to subsection (d); and

12           (2) all or a portion of the costs to the Federal  
13 Government of servicing the Federal credit instru-  
14 ments provided under this subtitle.

15           (c) **SERVICER.**—

16           (1) **IN GENERAL.**—The Secretary may appoint  
17 a financial entity to assist the Secretary in servicing  
18 the Federal credit instruments provided under this  
19 subtitle.

20           (2) **DUTIES.**—A servicer appointed under para-  
21 graph (1) shall act as the agent for the Secretary.

22           (3) **FEE.**—A servicer appointed under para-  
23 graph (1) shall receive a servicing fee, subject to ap-  
24 proval by the Secretary.

1 (d) ASSISTANCE FROM EXPERTS.—The Secretary  
2 may retain the services, including counsel, of any organi-  
3 zation or entity with expertise in the field of municipal  
4 and project finance to assist in the underwriting and serv-  
5 icing of Federal credit instruments provided under this  
6 subtitle.

7 (e) LOAN COORDINATION; INTERAGENCY COOPERA-  
8 TION.—The Secretary—

9 (1) shall coordinate implementation of loan  
10 guarantees under this section with the Administrator  
11 to avoid duplication and enhance the effectiveness of  
12 implementation of the State revolving funds estab-  
13 lished under the Federal Water Pollution Control  
14 Act (33 U.S.C. 1251 et seq.) and the Safe Drinking  
15 Water Act (42 U.S.C. 300f et seq.);

16 (2) shall consult with the Secretary of Agri-  
17 culture before promulgating criteria with respect to  
18 financial appraisal functions and loan guarantee ad-  
19 ministration for activities carried out under this sub-  
20 title; and

21 (3) may enter into a memorandum of agree-  
22 ment providing for Department of Agriculture finan-  
23 cial appraisal functions and loan guarantee adminis-  
24 tration for activities carried out under this subtitle.

1 **SEC. 218. STATE AND LOCAL PERMITS.**

2 The provision of financial assistance for a project  
3 under this subtitle shall not—

4 (1) relieve any recipient of the assistance of any  
5 obligation to obtain any required State or local per-  
6 mit or approval with respect to the project;

7 (2) limit the right of any unit of State or local  
8 government to approve or regulate any rate of re-  
9 turn on private equity invested in the project; or

10 (3) otherwise supersede any State or local law  
11 (including any regulation) applicable to the construc-  
12 tion or operation of the project.

13 **SEC. 219. REGULATIONS.**

14 The Secretary may promulgate such regulations as  
15 the Secretary determines to be appropriate to carry out  
16 this subtitle.

17 **SEC. 220. FUNDING.**

18 (a) IN GENERAL.—There is authorized to be appro-  
19 priated to the Secretary to carry out this subtitle  
20 \$50,000,000 for each of fiscal years 2015 through 2019,  
21 to remain available until expended.

22 (b) ADMINISTRATIVE COSTS.—Of the funds made  
23 available to carry out this subtitle, the Secretary may use  
24 for the administration of this subtitle not more than  
25 \$2,200,000 for each of fiscal years 2015 through 2019.

1 **SEC. 221. REPORT TO CONGRESS.**

2 Not later than 2 years after the date of enactment  
3 of this Act, and every 2 years thereafter, the Secretary  
4 shall submit to the Committee on Energy and Natural Re-  
5 sources of the Senate and the Committee on Natural Re-  
6 sources of the House of Representatives a report summa-  
7 rizing the financial performance and on-the-ground out-  
8 comes of the projects that are receiving, or have received,  
9 assistance under this subtitle, including an assessment of  
10 whether the objectives of this subtitle are being met.

11 **Subtitle B—Integrated Regional**  
12 **Water Management, Reclama-**  
13 **tion, and Recycling Projects**

14 **SEC. 231. WATER STORAGE PROJECTS.**

15 (a) AGREEMENTS.—The Secretary may enter into a  
16 cost-shared financial assistance agreement with any non-  
17 Federal entity in a Reclamation State or the State of Ha-  
18 waii to carry out the planning, design, and construction  
19 of any permanent water storage and conveyance facility  
20 used solely to regulate and maximize the water supply  
21 arising from a project that is eligible for assistance under  
22 this title or any other provision of law—

23 (1) to recycle wastewater, impaired surface  
24 water, and ground water; or

25 (2) to use integrated and coordinated water  
26 management on a watershed or regional scale.

1 (b) FINANCIAL ASSISTANCE.—In providing financial  
2 assistance under this section, the Secretary shall give pri-  
3 ority to storage and conveyance components that—

4 (1) ensure the efficient and beneficial use of  
5 water or reuse of the recycled water;

6 (2) make maximum use of natural systems;

7 (3) consistent with Secretarial Order No. 3297,  
8 dated February 22, 2010, support sustainable water  
9 management practices and the water sustainability  
10 objectives of 1 or more offices of the Department of  
11 the Interior or any other Federal agency;

12 (4)(A) increase the availability of usable water  
13 supplies in a watershed or region to benefit people,  
14 the economy, and the environment; and

15 (B) include adaptive measures needed to ad-  
16 dress climate change and future demands;

17 (5) where practicable—

18 (A) provide flood control or recreation ben-  
19 efits; and

20 (B) include the development of incremental  
21 hydroelectric power generation;

22 (6) include partnerships that go beyond political  
23 and institutional jurisdictions to support the effi-  
24 cient use of the limited water resources of the  
25 United States and the applicable region;



1           (7) generate environmental benefits, such as  
2           benefits to fisheries, wildlife and habitat, and water  
3           quality and water-dependent ecological systems, as  
4           well as water supply benefits to agricultural and  
5           urban water users; and

6           (8) the financing of which leverages private and  
7           other non-Federal resources.

8           (c) FEDERAL SHARE.—The Federal share of the cost  
9 of a project carried out under subsection (a) shall be—

10           (1) equal to the lesser of—

11                   (A) 50 percent of total cost of the project;

12                   and

13                   (B) \$15,000,000, adjusted for inflation;

14                   and

15           (2) nonreimbursable.

16           (d) NON-FEDERAL SHARE.—The non-Federal share  
17 of the cost of a project carried out under subsection (a)  
18 may include in-kind contributions to the planning, design,  
19 and construction of a project.

20           (e) TITLE AND COSTS.—A non-Federal entity enter-  
21 ing into a financial assistance agreement under this sec-  
22 tion shall—

23           (1) hold title to all facilities constructed under  
24           this section; and

1           (2) be solely responsible for the costs of oper-  
2           ating and maintaining those facilities.

3 **SEC. 232. AUTHORIZATION OF APPROPRIATIONS.**

4           There is authorized to be appropriated \$150,000,000  
5 to carry out this subtitle.

6           **Subtitle C—Title Transfers**

7 **SEC. 241. AUTHORIZATION TO TRANSFER TITLE.**

8           The Secretary may transfer to any non-Federal oper-  
9           ating entity title to any Reclamation project or facility,  
10          or any separable element of such a project or facility, that  
11          is authorized before the date of enactment of this Act, if—

12           (1) all previous Federal construction contract  
13           obligations or other related repayment contracts or  
14           agreements associated with the project have been  
15           paid out by a non-Federal project beneficiary;

16           (2)(A) a project facility or separable element of  
17           such a facility is in need of rehabilitation or im-  
18           provement, as determined by the Secretary; and

19           (B) the non-Federal operating entity is other-  
20           wise eligible for a loan guarantee under this title;

21           (3) the title transfer meets all applicable Fed-  
22           eral laws and regulations, as determined by the Sec-  
23           retary; and

1 (4)(A) the Secretary notifies each congressional  
2 committee of jurisdiction of the transfer by not later  
3 than 60 days before the date of the transfer; and

4 (B) no objection to the transfer is raised by any  
5 such committee.

6 **TITLE III—INNOVATION**  
7 **THROUGH RESEARCH, DATA,**  
8 **AND TECHNOLOGY**

9 **SEC. 301. OPEN WATER DATA SYSTEM.**

10 (a) DEFINITIONS.—In this section:

11 (1) EDUCATIONAL INSTITUTION.—The term  
12 “educational institution” means—

13 (A) a public or private elementary or sec-  
14 ondary school;

15 (B) an institution of vocational, profes-  
16 sional, or higher education (including a junior  
17 college or teachers’ college); and

18 (C) an association of schools or institutions  
19 described in subparagraphs (A) and (B).

20 (2) INDIAN TRIBE.—The term “Indian tribe”  
21 has the meaning given that term in section 4 of the  
22 Indian Self-Determination and Education Assistance  
23 Act (25 U.S.C. 450b).

1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior, acting through the Di-  
3           rector of the United States Geological Survey.

4           (4) STATE.—The term “State” means—

5                   (A) a State;

6                   (B) the District of Columbia;

7                   (C) the Commonwealth of Puerto Rico;

8                   and

9                   (D) any other territory or possession of the  
10           United States.

11           (5) SYSTEM.—The term “system” means the  
12           open water data system established under subsection  
13           (b).

14           (b) SYSTEM.—The Secretary shall establish and  
15           maintain an open water data system within the United  
16           States Geological Survey to advance the availability, time-  
17           ly distribution, and widespread use of water data and in-  
18           formation for water management, education, research, as-  
19           sessment, and monitoring purposes.

20           (c) PURPOSES.—The purposes of the system are—

21                   (1) to advance the quantification of the avail-  
22                   ability, use of, and risks to, water resources through-  
23                   out the United States;

24                   (2) to increase accessibility to, and expand the  
25                   use of, water data and information in a standard,

1 easy-to-use format by Federal, State, local, and trib-  
2 al governments, communities, educational institu-  
3 tions, and the private sector; and

4 (3) to facilitate the open exchange of water in-  
5 formation particularly in the face of climate change  
6 and unprecedented drought.

7 (d) ACTIVITIES.—In carrying out this section, the  
8 Secretary shall—

9 (1) integrate water data and information into a  
10 interoperable, national, geospatially-referenced water  
11 data framework;

12 (2) identify new water data and information  
13 needs, including data on surface and groundwater  
14 quality and quantity, sediment, erosion, transport,  
15 water chemistry, precipitation, reservoir storage,  
16 water cycle, landscape variables, hydrography, cli-  
17 mate and weather impacts, soil moisture, and human  
18 use;

19 (3) leverage existing shared databases, infra-  
20 structure, and tools to provide a platform for water  
21 data and information innovation, modeling and data  
22 sharing, and solution development;

23 (4) support water data and information shar-  
24 ing, applied research, and educational programs of

1 State, local, and tribal governments, communities,  
2 educational institutions, and the private sector; and

3 (5) promote cooperation and sharing of exper-  
4 tise regarding water data and information among  
5 State, local, and tribal governments, communities,  
6 educational institutions, and the private sector;

7 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to carry out this section  
9 such sums as are necessary.

10 **SEC. 302. WATER RESOURCES RESEARCH ACT AMEND-**  
11 **MENTS.**

12 (a) CONGRESSIONAL FINDINGS AND DECLARA-  
13 TIONS.—Section 102 of the Water Resources Research  
14 Act of 1984 (42 U.S.C. 10301) is amended—

15 (1) by redesignating paragraphs (7) through  
16 (9) as paragraphs (8) through (10), respectively;

17 (2) in paragraph (8) (as so redesignated), by  
18 striking “and” at the end; and

19 (3) by inserting after paragraph (6) the fol-  
20 lowing:

21 “(7) additional research is required to increase  
22 the effectiveness and efficiency of new and existing  
23 treatment works through alternative approaches, in-  
24 cluding—

25 “(A) nonstructural alternatives;

1                   “(B) decentralized approaches;  
2                   “(C) water use efficiency and conservation;  
3                   and  
4                   “(D) actions to reduce energy consumption  
5                   or extract energy from wastewater;”.

6           (b) WATER RESOURCES RESEARCH AND TECH-  
7 NOLOGY INSTITUTES.—Section 104 of the Water Re-  
8 sources Research Act of 1984 (42 U.S.C. 10303) is  
9 amended—

10           (1) in subsection (b)(1)—

11                   (A) in subparagraph (B)(ii), by striking  
12                   “water-related phenomena” and inserting  
13                   “water resources”; and

14                   (B) in subparagraph (D), by striking the  
15                   period at the end and inserting “; and”;

16           (2) in subsection (c)—

17                   (A) by striking “From the” and inserting  
18                   “(1) IN GENERAL.—From the”; and

19                   (B) by adding at the end the following:

20                   “(2) REPORT.—Not later than December 31 of  
21                   each fiscal year, the Secretary shall submit to the  
22                   Committee on Environment and Public Works of the  
23                   Senate, the Committee on the Budget of the Senate,  
24                   the Committee on Transportation and Infrastructure  
25                   of the House of Representatives, and the Committee

1 on the Budget of the House of Representatives a re-  
2 port regarding the compliance of each funding re-  
3 cipient with this subsection for the immediately pre-  
4 ceding fiscal year.”;

5 (3) by striking subsection (e) and inserting the  
6 following:

7 “(e) EVALUATION OF WATER RESOURCES RESEARCH  
8 PROGRAM.—

9 “(1) IN GENERAL.—The Secretary shall con-  
10 duct a careful and detailed evaluation of each insti-  
11 tute at least once every 3 years to determine—

12 “(A) the quality and relevance of the water  
13 resources research of the institute;

14 “(B) the effectiveness of the institute at  
15 producing measured results and applied water  
16 supply research; and

17 “(C) whether the effectiveness of the insti-  
18 tute as an institution for planning, conducting,  
19 and arranging for research warrants continued  
20 support under this section.

21 “(2) PROHIBITION ON FURTHER SUPPORT.—If,  
22 as a result of an evaluation under paragraph (1), the  
23 Secretary determines that an institute does not qual-  
24 ify for further support under this section, no further  
25 grants to the institute may be provided until the



1 qualifications of the institute are reestablished to the  
2 satisfaction of the Secretary.”;

3 (4) in subsection (f)(1), by striking  
4 “\$12,000,000 for each of fiscal years 2007 through  
5 2011” and inserting “\$7,500,000 for each of fiscal  
6 years 2015 through 2020”; and

7 (5) in subsection (g)(1), in the first sentence,  
8 by striking “\$6,000,000 for each of fiscal years  
9 2007 through 2011” and inserting “\$1,500,000 for  
10 each of fiscal years 2015 through 2020”.

11 **SEC. 303. REAUTHORIZATION OF WATER DESALINATION**

12 **ACT OF 1996.**

13 Section 8 of the Water Desalination Act of 1996 (42  
14 U.S.C. 10301 note; Public Law 104–298) is amended—

15 (1) in the first sentence of subsection (a), by  
16 striking “2013” and inserting “2020”; and

17 (2) in subsection (b), by striking “for each of  
18 fiscal years 2012 through 2013” and inserting “for  
19 each of fiscal years 2015 through 2020”.

20 **SEC. 304. REVIEW OF RESERVOIR OPERATIONS.**

21 (a) IN GENERAL.—Not later than 1 year after receiv-  
22 ing a request of a non-Federal sponsor of a reservoir, the  
23 Secretary of the Army, in consultation with the Adminis-  
24 trator of the National Oceanic and Atmospheric Adminis-  
25 tration, shall review the operation of the reservoir, includ-

1 ing the water control manual and rule curves, using im-  
2 proved weather forecasts and run-off forecasting methods,  
3 including the Advanced Hydrologic Prediction System of  
4 the National Weather Service and the Hydrometeorology  
5 Testbed program of the National Oceanic and Atmos-  
6 pheric Administration.

7 (b) DESCRIPTION OF BENEFITS.—In conducting the  
8 review under subsection (a), the Secretary of the Army  
9 shall determine if a change in operations, including the  
10 use of improved weather forecasts and run-off forecasting  
11 methods, will improve 1 or more of the core functions of  
12 the Corps of Engineers, including—

13 (1) reducing risks to human life, public safety,  
14 and property;

15 (2) reducing the need for future disaster relief;

16 (3) improving local water storage capability and  
17 reliability in coordination with the non-Federal spon-  
18 sor and other water users;

19 (4) restoring, protecting, or mitigating the im-  
20 pacts of a water resources development project on  
21 the environment; and

22 (5) improving fish species habitat or population  
23 within the boundaries and downstream of a water  
24 resources project.

1 (c) RESULTS REPORTED.—Not later than 90 days  
2 after completion of a review under this section, the Sec-  
3 retary shall submit a report to Congress regarding the re-  
4 sults of the review.

5 (d) MANUAL UPDATE.—As soon as practicable, but  
6 not later than 3 years after the date on which a report  
7 under subsection (c) is submitted to Congress, pursuant  
8 to the procedures required under existing authorities, if  
9 the Secretary of the Army determines based on that report  
10 that using improved weather and run-off forecasting meth-  
11 ods improves 1 or more core functions of the Corps of  
12 Engineers at a reservoir, the Secretary of the Army  
13 shall—

14 (1) incorporate those methods in the operation  
15 of the reservoir; and

16 (2) update the water control manual.

17 **TITLE IV—DROUGHT PREPARED-**  
18 **NESS AND RESILIENCE**

19 **SEC. 401. NATIONAL DROUGHT RESILIENCE GUIDELINES.**

20 (a) IN GENERAL.—The Administrator, in conjunction  
21 with the Secretary of the Interior, the Secretary of Agri-  
22 culture, the Director of the National Oceanic and Atmos-  
23 pheric Administration, and other appropriate Federal  
24 agency heads along with State and local governments,  
25 shall develop nonregulatory national drought resilience

1 guidelines relating to drought preparedness planning and  
2 investments for communities, water utilities, and other  
3 water users and providers.

4 (b) CONSULTATION.—In developing the national  
5 drought resilience guidelines, the Administrator and other  
6 Federal agency heads referred to in subsection (a) shall  
7 consult with—

8 (1) State and local governments;

9 (2) water utilities;

10 (3) scientists;

11 (4) institutions of higher education;

12 (5) relevant private entities; and

13 (6) other stakeholders.

14 (c) CONTENTS.—The national drought resilience  
15 guidelines developed under this section shall, to the max-  
16 imum extent practicable, provide recommendations for a  
17 period of 10 years that—

18 (1) address a broad range of potential actions,  
19 including—

20 (A) analysis of the impacts of climate  
21 change and drought on the future effectiveness  
22 of water management tools;

23 (B) the identification of drought-related  
24 water management challenges in a broad range  
25 of fields, including—

- 1 (i) public health and safety;
- 2 (ii) municipal and industrial water
- 3 supply;
- 4 (iii) agricultural water supply;
- 5 (iv) water quality;
- 6 (v) ecosystem health; and
- 7 (vi) water supply planning;
- 8 (C) water management tools to reduce
- 9 drought-related impacts, including—
- 10 (i) water use efficiency through gal-
- 11 lons per capita reduction goals, appliance
- 12 efficiency standards, water pricing incen-
- 13 tives, and other measures;
- 14 (ii) water recycling;
- 15 (iii) groundwater clean-up and stor-
- 16 age;
- 17 (iv) new technologies, such as behav-
- 18 ioral water efficiency; and
- 19 (v) stormwater capture and reuse;
- 20 (D) water-related energy and greenhouse
- 21 gas reduction strategies; and
- 22 (E) public education and engagement; and
- 23 (2) include recommendations relating to the
- 24 processes that Federal, State, and local governments
- 25 and water utilities should consider when developing

1 drought resilience preparedness and plans, includ-  
2 ing—

3 (A) the establishment of planning goals;

4 (B) the evaluation of institutional capacity;

5 (C) the assessment of drought-related risks  
6 and vulnerabilities, including the integration of  
7 climate-related impacts;

8 (D) the establishment of a development  
9 process, including an evaluation of the cost-ef-  
10 fectiveness of potential strategies;

11 (E) the inclusion of private entities, tech-  
12 nical advisors, and other stakeholders in the de-  
13 velopment process;

14 (F) implementation and financing issues;  
15 and

16 (G) evaluation of the plan, including any  
17 updates to the plan.

18 **SEC. 402. DROUGHT PREPAREDNESS FOR FISHERIES.**

19 (a) DEFINITIONS.—In this section:

20 (1) INDIAN TRIBE.—The term “Indian tribe”  
21 has the meaning given the term in section 4 of the  
22 Indian Self-Determination and Education Assistance  
23 Act (25 U.S.C. 450b).

24 (2) QUALIFIED TRIBAL GOVERNMENT.—The  
25 term “qualified tribal government” means a govern-

1       mental body of an Indian tribe that the Secretary of  
2       the Interior determines—

3               (A) is involved in salmon management and  
4               recovery activities under the Endangered Spe-  
5               cies Act of 1973 (16 U.S.C. 1531 et seq.); and

6               (B) has the management and organiza-  
7               tional capability to maximize the benefits of as-  
8               sistance provided under this section.

9       (b) SALMON DROUGHT PLAN.—

10           (1) IN GENERAL.—Not later than January 1,  
11           2016, the Director of the United States Fish and  
12           Wildlife Service shall, in consultation with the Direc-  
13           tor of the National Marine Fisheries Service, the  
14           Commissioner of Reclamation, the Chief of Engi-  
15           neers, and the head of the California Department of  
16           Fish and Wildlife, prepare a salmon drought plan  
17           for the State of California.

18           (2) CONTENTS.—The plan developed under  
19           paragraph (1) shall—

20               (A) contribute—

21                   (i) to the recovery of populations list-  
22                   ed as threatened or endangered under the  
23                   Endangered Species Act of 1973 (16  
24                   U.S.C. 1531 et seq.); and

- 1 (ii) to the goals of the Central Valley  
2 Project Improvement Act (title XXXIV of  
3 Public Law 102–575; 106 Stat. 4706); and  
4 (B) include options to protect salmon pop-  
5 ulations originating in the State of California,  
6 with a particular focus on actions that can be  
7 taken to aid salmon populations in the State of  
8 California during the driest 12 years, such as—
- 9 (i) relocating the release location and  
10 timing of hatchery fish to avoid predation  
11 and temperature impacts;
- 12 (ii) barging hatchery release fish to  
13 improve survival and reduce straying;
- 14 (iii) coordinating with water users, the  
15 Commissioner of Reclamation, and the  
16 head of the California Department of  
17 Water Resources regarding voluntary  
18 water transfers to determine if water re-  
19 leased upstream to meet the needs of  
20 downstream or South-of-Delta water users  
21 can be managed in a way that provides ad-  
22 ditional benefits for salmon;
- 23 (iv) hatchery management modifica-  
24 tions, such as expanding hatchery produc-  
25 tion during the driest years of fish listed



1 as endangered or threatened under the En-  
2 dangered Species Act of 1973 (16 U.S.C.  
3 1531 et seq.), if appropriate; and

4 (v) increasing rescue operations of up-  
5 stream migrating fish.

6 (c) FUNDING.—

7 (1) IN GENERAL.—Out of any funds in the  
8 Treasury not otherwise appropriated, the Secretary  
9 of the Treasury shall transfer to the Director of the  
10 United States Fish and Wildlife Service to carry out  
11 this section \$3,000,000, to remain available until ex-  
12 pended, for urgent fish, stream, and hatchery activi-  
13 ties relating to extreme drought conditions, including  
14 work carried out in conjunction with the Director of  
15 the National Marine Fisheries Service, the Commis-  
16 sioner of Reclamation, the Chief of Engineers, the  
17 head of the California Department of Fish and  
18 Wildlife, or a qualified tribal government.

19 (2) RECEIPT AND ACCEPTANCE.—The Director  
20 of the United States Fish and Wildlife Service shall  
21 be entitled to receive, shall accept, and shall use to  
22 carry out this section the funds transferred under  
23 paragraph (1), without further appropriation.



AGENDA NO. 19.  
 MEETING DATE August 12, 2014

TITLE TAKE ACTION PURSUANT TO AB 408 FOR 2014 DISTRICT ELECTIONS

MOTION \_\_\_\_\_  RESOLUTION \_\_\_\_\_  ORDINANCE \_\_\_\_\_

**RECOMMENDED ACTION**

Take action pursuant to AB 408, codified as Public Utilities Code Section 11852.5, to either appoint the sole candidate running for election in Wards 2, 3, 4, or 7; or proceed with the election in one or more of those wards; or continue the item for decision at a special meeting to be held prior to August 20.

**SUMMARY**

The terms of Directors for East Bay Municipal Utility District Wards 2, 3, 4 and 7 expire December 31, 2014. The regular election for Directors will be held on Tuesday, November 4, 2014. The election shall be held and conducted in accordance with the Municipal Utility District Act of the State of California and conform with the provisions of the California Elections Code. The nomination period for the General Election begins July 14, 2014 and ends August 8, 2014. If nomination papers for an incumbent director are not filed by 5:00 pm on August 8, 2014, the filing deadline will be extended to August 13, 2014.

Pursuant to AB 408, the Board may take action at its public meeting of August 12 if, prior to the meeting, the District receives notice from the counties that only one candidate is running for election in Wards 2, 3, 4, or 7. If only one candidate is running for election in Wards 2, 3, 4 or 7, the Board has authority under AB 408 to act on August 12 to either appoint the sole candidate or to proceed with the election. A draft resolution is attached which will be finalized in accordance with the Board's decision.

If the counties provide notice after August 12 that only one candidate is running for election in Wards 2, 3, 4 or 7, a special meeting will be scheduled before August 20 for the Board to consider whether to appoint the sole candidate or to proceed with the election. If the Board takes no action under AB 408 before August 20, the election will go forward. Likewise, if there are two or more candidates for an open Board seat in a particular ward, the Board's AB 408 powers will not be triggered and the election will automatically go forward for that seat.

**DISCUSSION**

Governor Brown signed EBMUD-sponsored AB 408 on August 16, 2013. This legislation allows municipal utility districts with seven-member boards elected by wards the same authority that existing

Funds Available: FY		Budget Code:	
DEPARTMENT SUBMITTING  Office of the Secretary	DEPARTMENT MANAGER or DIRECTOR  <i>Lynelle M. Lewis</i> Lynelle M. Lewis	APPROVED  <i>Stephan R. Lee</i> General Manager	

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law provides to other local government entities (including cities, regional park districts, school districts, and enterprise and non-enterprise special districts)--the ability to appoint uncontested Board candidates rather than having ratepayers incur the cost of an election.

The November 2014 election is the first to be impacted by AB 408 (Bonta), which amended the Municipal Utility District (MUD) Act to allow, but not require, the Board to appoint uncontested candidates in lieu of holding an election. AB 408, codified as Section 11852.5 of the MUD Act, permits the Board to appoint a candidate in lieu of holding an election if only one or no candidate runs for an open ward seat.

### **FISCAL IMPACT**

The Board supported the adoption of AB 408 because since 2002, EBMUD ratepayers have paid over \$1.7 million in election costs for uncontested candidates, and in 2012 District ratepayers paid \$475,000 in election costs for three uncontested candidates. Staff anticipates future savings potential could be on the same order as these historic costs.

### **NEXT STEPS**

If the counties do not provide the District with notice prior to the August 12 meeting that only one candidate is running for election in Wards 2, 3, 4, or 7, the Secretary of the District will work with the Board President to schedule a special meeting before August 20 in which the Board will take action pursuant to AB 408 to either appoint the sole candidate or proceed with the election in one or more of those wards. The Secretary of the District will notify the county elections officials of the Board's selected course of action under AB 408 on or before August 20.

### **ALTERNATIVES**

**Do not take any action pursuant to AB 408, and have the election proceed automatically for all open board seats, even those that are unopposed.** This alternative is not recommended because the District supported adoption of AB 408 to provide a tool to control costs on behalf of its ratepayers and to give the Board the authority to choose between appointing an unopposed candidate or proceeding with the election.

RESOLUTION NO. \_\_\_\_\_

APPOINTING [*name to be inserted*] TO THE BOARD OF DIRECTORS  
OF EAST BAY MUNICIPAL UTILITY DISTRICT

Introduced by Director \_\_\_\_\_ ; Seconded by Director \_\_\_\_\_

WHEREAS, a general election has been ordered and called to be held in Ward No. 2, Ward No. 3, Ward No. 4 and Ward No. 7 of the East Bay Municipal Utility District (“District”), State of California, on Tuesday, November 4, 2014, at the time for the holding of the general election provided for by the Elections Code of the State of California; and

WHEREAS, pursuant to Public Utilities Code Section 11852.5 of the Municipal Utility District Act, if only one person has filed a declaration of candidacy for a particular ward by 5:00 p.m. on August 13, 2014, the elections official for the county in which the ward is located, or in the case of a ward located in more than one county, the county containing the majority of the population of the ward, shall immediately submit a certificate of this fact to the District and upon the District’s receipt of such notice, the Board of Directors of the District (the “Board”) may choose, at a regular or special meeting held on or before August 20, 2014, either to hold an election in the ward or appoint the sole person to the office who has filed a declaration of candidacy for that ward; and

WHEREAS, the District has received the notice required by Section 11852.5 of the Municipal Utility District Act that [*name to be inserted*] is the sole person who has filed a declaration of candidacy for District Ward [*number to be inserted*];

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of East Bay Municipal Utility District does hereby appoint [*name to be inserted*] to serve as director representing Ward [*number to be inserted*] until the next General Election in November 2018.

ADOPTED this 12th day of August, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

---

President

---

Secretary

APPROVED AS TO FORM AND PROCEDURE:

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General Counsel



AGENDA NO.  
MEETING DATE

20.  
August 12, 2014

**TITLE LOWER MOKELUMNE RIVER SPAWNING AND REARING HABITAT IMPROVEMENT PROJECT MITIGATED NEGATIVE DECLARATION AND PROJECT APPROVAL**

MOTION  RESOLUTION  ORDINANCE

**RECOMMENDED ACTION**

Adopt the Mitigated Negative Declaration (MND) for the Lower Mokelumne River Spawning and Rearing Habitat Improvement Project, adopt findings in accordance with the California Environmental Quality Act (CEQA), approve the Mitigation Monitoring and Reporting Program and approve implementation of the project.

**SUMMARY**

The Lower Mokelumne River Spawning and Rearing Habitat Improvement Project is an effort to improve spawning and rearing habitat for Chinook salmon and steelhead and improve water quality in the Mokelumne River downstream from Camanche Dam. Habitat improvement projects in this area have been ongoing for over 40 years and have dramatically improved aquatic habitat for fish. The proposed project includes spawning habitat rehabilitation and floodplain restoration components. Approximately 15,000 cubic yards of gravel will be placed in the river over a 3-year period to replenish gravel deficient areas, and approximately 1,000 cubic yards annually thereafter to maintain the river in optimum conditions for spawning habitat. Additionally, rearing habitat would be improved by the creation of small (<1 acre) floodplain in the Mokelumne River Day Use Area.

**DISCUSSION**

EBMUD's 1998 Joint Settlement Agreement for the Lower Mokelumne River Project states that EBMUD may, in cooperation with the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS), "Improve spawning gravels in the lower Mokelumne River above tidewater to correct compaction of existing gravels, adding new gravels and creating gravel berms, cleaning gravels, and measures to reduce sediments to improve instream spawning habitat." The Lower Mokelumne River Spawning and Rearing Habitat Improvement Project is being conducted with the input and support of the CDFW and USFWS.

The project improves habitat by creating more sections of the river with optimal conditions for salmon and steelhead spawning beds. These conditions include adequate water velocity to provide oxygen and flush organic debris and are created when appropriately sized gravels are properly and strategically placed in the river bed. Previous gravel placement projects have successfully improved the river and provided more and

Funds Available: FY15		Budget Code: WSO/483/1010084/5311	
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR	APPROVED	
Water and Natural Resources	 Richard G. Sykes	 General Manager	

Contact the Office of the District Secretary with questions about completing or submitting this form.

better spawning habitat. EBMUD and the USFWS's Anadromous Fish Restoration Program fund the proposed project. Figure 1 shows the regional project location and Figure 2 includes specific locations floodplain, gravel collection, and gravel placement work.

### **ENVIRONMENTAL REVIEW PROCESS/PUBLIC OUTREACH**

The District published the MND on June 23, 2014, with a 30-day public review period ending on July 23, 2014 through the State Clearinghouse. Copies of the document were available for public review at EBMUD's Lodi Office. Letters were distributed to notify local residents and resource agencies of the project, and the availability of the MND. Written comment letters were received by the Central Valley Regional Water Quality Control Board, and the Central Valley Flood Board providing notification of necessary permitting and jurisdictional requirements for the project, and the MND was updated to address these requirements. The National Marine Fisheries Service also provided informal comments on additional information needed to address Section 7 consultation. The additional information was provided in the updated MND Project Description. The MND is available on the District's website.

### **FISCAL IMPACT**

The project is funded by EBMUD (\$25,000 annually), and the U.S. Fish and Wildlife Service's Anadromous Fish Restoration Program (\$100,000 annually). EBMUD funding is included in the Natural Resources Department FY15 budget.

### **ALTERNATIVES**

**Do not adopt the mitigated negative declaration.** This alternative is not recommended because the MND meets CEQA requirements. Additionally, this type of work has been conducted without significant environmental impact in the past.

**Do not proceed with the project.** This alternative is not recommended as the habitat enhancement work supports a healthy fishery, a significant environmental management goal for the lower Mokelumne River.

### **Attachments**

Figure 1 - Project Location

Figure 2 – Specific project locations and types

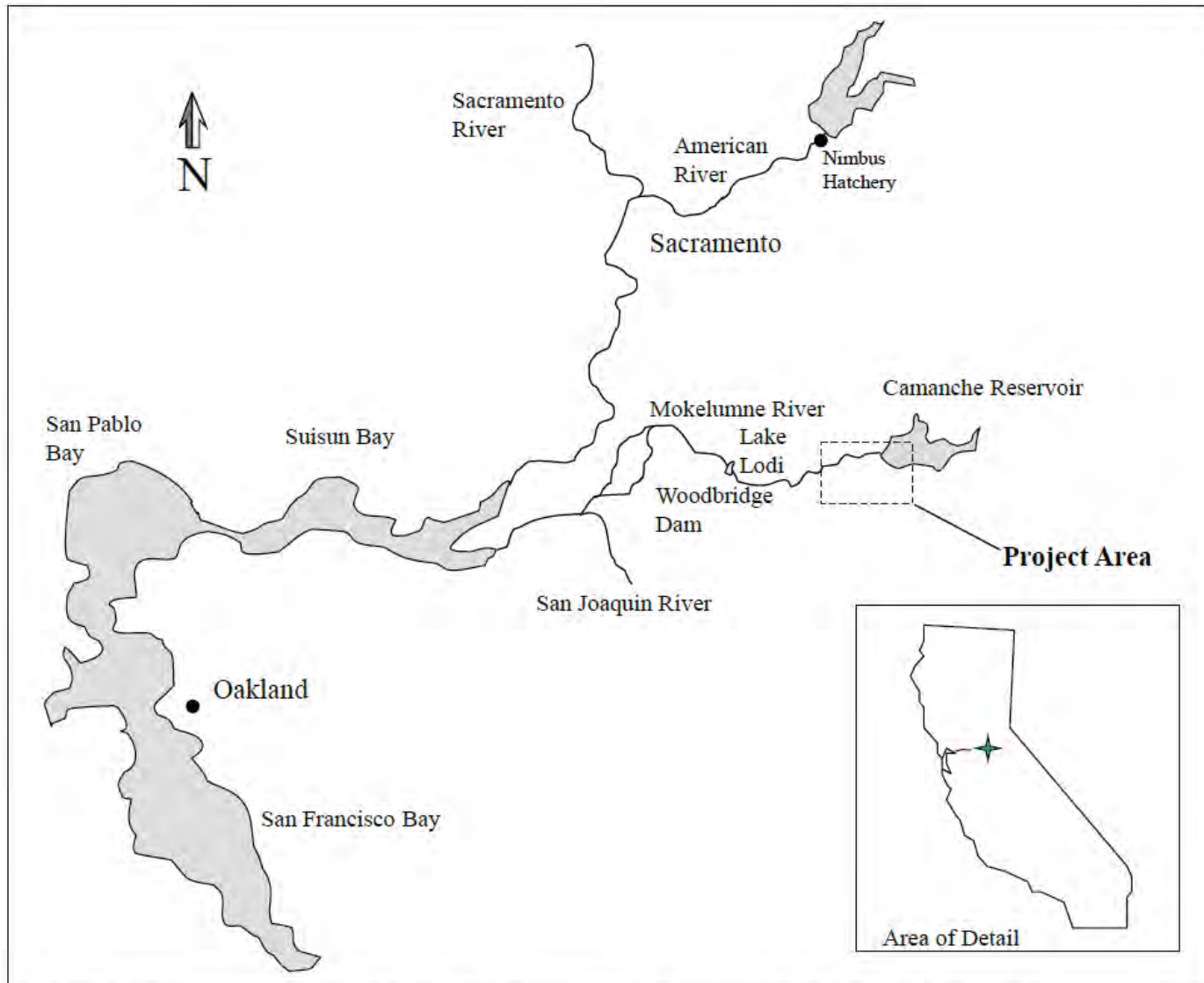


Figure 1. Regional Location of the Lower Mokelumne River Spawning and Rearing Habitat Improvement Project



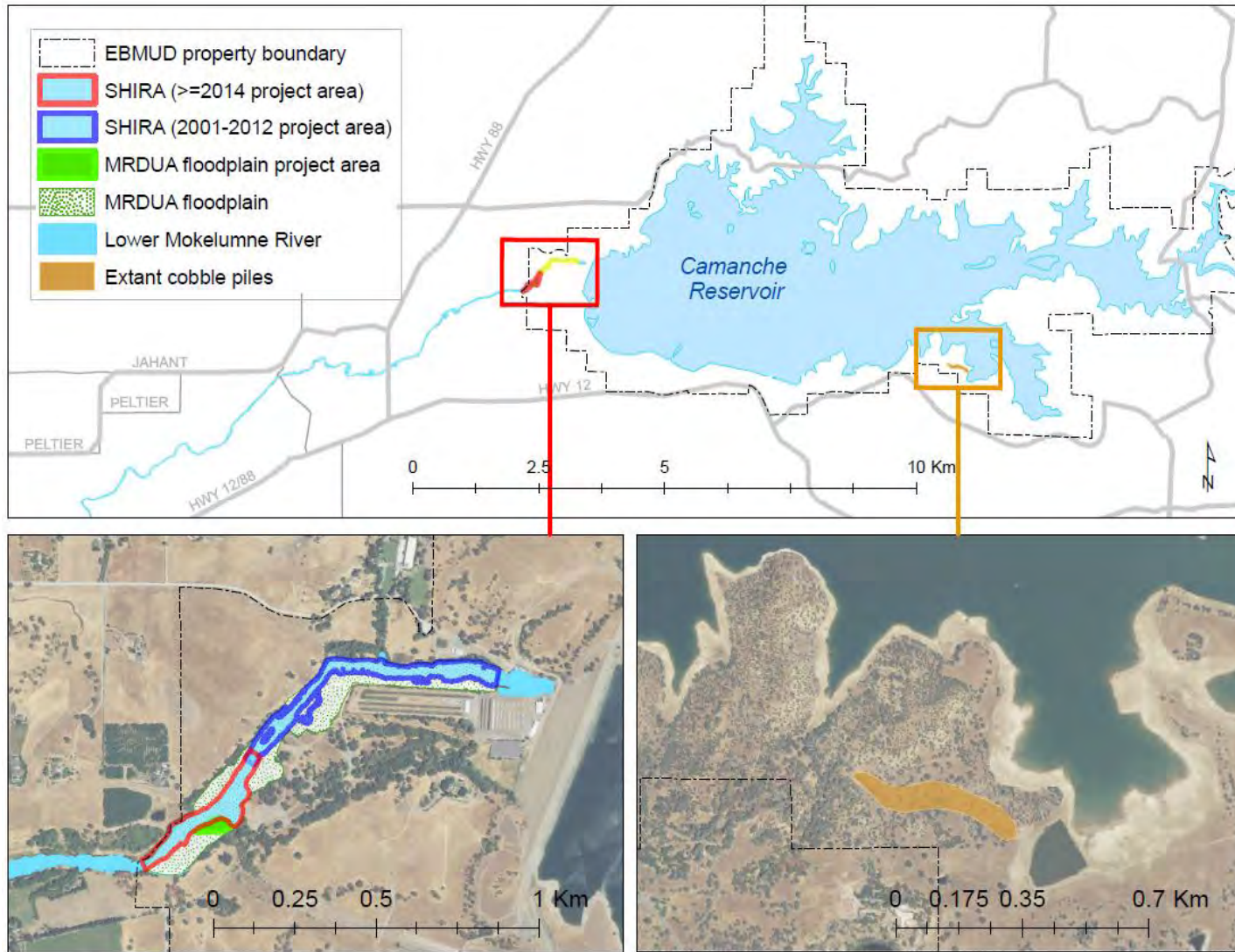


Figure 2. Specific project site locations by type (gravel piles, floodplain, and placement areas).

RESOLUTION NO. \_\_\_\_\_

**MAKING FINDINGS, ADOPTING THE MITIGATED NEGATIVE DECLARATION FOR THE LOWER MOKELUMNE RIVER SPAWNING AND REARING HABITAT IMPROVEMENT PROJECT, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING AND AUTHORIZING THE PROJECT**

Introduced by Director

; Seconded by Director

WHEREAS, one of the objectives of the Joint Settlement Agreement (JSA) for the Lower Mokelumne River Project entered into by and between the East Bay Municipal Utility District (EBMUD), the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service is to improve the Lower Mokelumne River ecosystem through actions such as adding new spawning gravel and enhancing salmonid rearing habitat to improve that ecosystem; and

WHEREAS, one of the performance measures of the Water Quality and Resource Management Program for EBMUD's Lower Mokelumne River Project is to maintain the processes that provide adequate sediment supply in the Lower Mokelumne River by providing annual supplementation of suitably sized spawning gravel in the active stream channel and by improving salmonid rearing habitat; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), EBMUD as lead agency prepared an Initial Study and Mitigated Negative Declaration (MND) for the Lower Mokelumne River Spawning and Rearing Habitat Improvement Project (Project) analyzing whether any potentially significant environmental impacts would result from the Project, and describing mitigation measures that would avoid or lessen such potential impacts to a level of insignificance; and

WHEREAS, in accordance with CEQA, a Notice of Intent to Adopt a Mitigated Negative Declaration for the Lower Mokelumne River Spawning Habitat Improvement Project was completed by EBMUD and circulated on June 23, 2014 for a 30-day public review and comment period; and

WHEREAS, in compliance with CEQA, notice was provided to local residents, stakeholders, resource agencies, San Joaquin and Calaveras Counties, and the State Clearinghouse; and

WHEREAS, EBMUD received two comment letters on the draft MND during the public comment period and EBMUD reviewed and responded to those comments; and

WHEREAS, EBMUD has prepared a Mitigation Monitoring and Reporting Program (MMRP) for the Project, which is attached hereto as Exhibit B and incorporated herein by this reference;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Municipal Utility District does hereby find, determine and certify that:

1. The MND has been presented to the Board of Directors along with the comments received, and the Board has reviewed and considered the information contained therein prior to approving the Project.
2. The MND reflects the Board's independent judgment and analysis.
3. All proceedings of the environmental review process, including the MND and all required notices, have been conducted and completed in compliance with CEQA, the CEQA Guidelines, and all other applicable laws, regulations and procedures.
4. The potential environmental impacts of the Project are fully disclosed in the MND and the MND is adequate for use by EBMUD for the approval, design and implementation of the Project.
5. The Board of Directors makes the findings and determinations regarding the proposed Project set forth in the Board's Findings Regarding the Lower Mokelumne River Spawning and Rearing Habitat Improvement Project, attached hereto as Exhibit A and incorporated herein by this reference.
6. The Board of Directors hereby approves, adopts, and imposes the MMRP attached hereto as Exhibit B. The mitigation measures adopted by the Board in its Findings are hereby incorporated into the Project.
7. The documents and materials constituting the record of this proceeding are located at EBMUD's administrative offices, 375-11<sup>th</sup> Street, Oakland, CA 94607. The custodian of said records is the Secretary of the District.
8. In the preparation of the MND, every effort has been made to utilize the best information available and to incorporate new information as it became available, including information obtained from the public, from other public agencies, and from the studies sponsored by EBMUD.
9. No substantial changes in circumstances have occurred since preparation of the MND which would require substantial revisions to the MND or preparation of a full Environmental Impact Report (EIR) due to the discovery or disclosure of new significant environmental impacts not covered in the MND, and there is no requirement to recirculate the MND or prepare an EIR.

BE IT FURTHER RESOLVED that, in accordance with CEQA, the Board determines that impacts identified in the MND as potentially significant will be reduced to a less than significant level because EBMUD has made or agreed to Project revisions and/or mitigation measures. EBMUD, acting as lead agency, has therefore determined that a Mitigated Negative Declaration is appropriate for this Project.

BE IT FURTHER RESOLVED that based on the whole record before it, including the MND and comment letters received, the Board of Directors finds that there is no substantial evidence that the Project will have a significant effect on the environment. Therefore, the MND, including the MMRP, is hereby adopted as having been completed in compliance with CEQA.

BE IT FURTHER RESOLVED that the Project, as described in said MND, is hereby approved and the General Manager is hereby directed to take such actions as shall be necessary to implement this determination to carry out the Project.

BE IT FURTHER RESOLVED that the Secretary of the District is hereby directed to file a Notice of Determination, in accordance with the law, with the County Clerk of San Joaquin County and the County Clerk of Calaveras County.

ADOPTED this 12<sup>th</sup> day of August, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM AND PROCEDURE:

\_\_\_\_\_  
General Counsel



**EXHIBIT A**  
**EBMUD BOARD OF DIRECTORS FINDINGS REGARDING**  
**THE LOWER MOKELUMNE RIVER SPAWNING AND REARING HABITAT**  
**IMPROVEMENT PROJECT**

**1.0 Introduction**

This document describes the findings by the East Bay Municipal Utility District (“EBMUD”) Board of Directors for the Lower Mokelumne River Spawning Habitat Improvement Project (“Project”).

Part 1 of these findings describes the Project.

Part 2 contains the findings regarding the independent review and judgment of the Board of Directors.

Part 3 contains the findings regarding the Project.

The findings presented here summarize the potential impacts identified in the Initial Study and Mitigated Negative Declaration (MND) as well as the project changes and mitigation measures agreed to by EBMUD and incorporated into the Project as set forth in the MND. The summary is not intended to change any aspects of the complete text of the analysis and mitigation measures contained in the MND.

**1.1 The Project**

The Project site is located northeast of Lodi in San Joaquin County and would take place in the 1-mile reach of the lower Mokelumne River immediately downstream of Camanche Dam. The Project will place approximately 2,500 to 5,000 yds<sup>3</sup> of suitably sized salmonid spawning gravel annually for a 3-year period at two sites, and then provide annual supplementation of approximately 500 to 1,000 yds<sup>3</sup> thereafter. Additionally, rearing habitat would be improved by the creation of small (<1 acre) floodplains that will seasonally inundate in the East Bay Municipal Utility District’s Mokelumne River Day Use Area. Gravel would be sourced from either 1) local quarries, 2) quarries in neighboring watersheds, or 3) existing cobble piles on East Bay Municipal Utility District Property in the Camanche Reservoir watershed, based on availability and permitting.

The spawning habitat objectives of the Project are to provide additional salmonid spawning gravel, improve intergravel water quality (i.e., the conditions between gravel particles that are conducive to spawning success), and increase bedslope thereby increasing floodplain connectivity and providing the energy needed to sustain river rehabilitation in the first 1 mile below Camanche Dam.

The proposed spawning gravel replenishment and rehabilitation activities increase available and usable spawning areas by providing spawning gravels within the appropriate size range; increase use of spawning habitat; improve gravel permeability and intergravel water quality; decrease redd superimposition (Merz 1998); and, ultimately, increase the natural production of fall-run salmon and steelhead trout in the Mokelumne River. Increased gravel substrate will also increase production of aquatic invertebrates (Ochikubo Chan 2003), the food base for juvenile salmonids.

The rearing habitat objectives of the Project are to incorporate juvenile salmonid rearing habitat with the long-term spawning habitat rehabilitation that has occurred on the Mokelumne River since 1990, improve juvenile survival by providing habitat that promotes primary production and macroinvertebrate production for food, provides shallow water habitat for protection from predation, and encourages freshwater rearing to a larger size ultimately, increasing the survival of juvenile fall-run salmon and steelhead trout in the Mokelumne River. Rearing habitat will be designed to inundate under current flow regimes on the lower Mokelumne River to maximize effectiveness.

Improving spawning gravels and juvenile rearing habitat in the lower Mokelumne River is one of the ecosystem action priorities identified in the Joint Settlement Agreement among the District, U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife for the District's Lower Mokelumne River Project.

## **2.0 Findings Regarding Independent Review and Judgment**

Each member of the EBMUD Board of Directors ("Board") was provided electronic access to the MND, as well as a copy of the Mitigation Monitoring and Reporting Program (MMRP) and the comments received during the public review process.

The Board hereby finds that the MND reflects the Board's independent judgment and analysis. The Board also finds that it has independently reviewed, considered and analyzed the Initial Study and Mitigated Negative Declaration together with the comments received during the public review process and the MMRP prior to taking any final action with respect to the Project.

## **3.0 Findings Regarding the Project**

Having received and considered the information contained in the Initial Study and Mitigated Negative Declaration, the comments on the Initial Study and Mitigated Negative Declaration, and the MMRP, the EBMUD Board of Directors hereby adopts the following findings regarding the project.

### **3.1 Findings Regarding Significant and Unavoidable Effects**

The Board hereby finds, based on the whole record before it (including the Initial Study and the comments received), that there is no substantial evidence that the project will have a significant and unavoidable effect on the environment.

## **3.2 Findings Regarding Less than Significant Effects**

### **A. Aesthetics**

#### Impact: Less Than Significant

Findings: The Project would not have a substantial adverse affect on a scenic vista as defined by the State of California, and the Project is not in the viewshed of a scenic highway as defined by the State of California. Temporary changes in visual resources would result from the transportation of gravel and use of equipment to place gravel instream in mainly rural, open space, and agricultural areas of San Joaquin County. Under the Project, the transportation of gravel along private access roads and the placement of gravel in areas open to public recreation use have the potential to temporarily affect views from rural residences and public recreation areas. However, viewer exposure would be low to moderate depending on the location of viewers. Furthermore, because the impacts would be relatively short term and temporary, impacts on visual resources are considered less than significant. Finally, the Project would not include artificial lighting or reflective surfaces; therefore, additional light or glare would not be created. Therefore, the Project would have less than significant impacts on aesthetic resources. (MND p. 3-5)

### **B. Agricultural and Forest Resources**

#### Impact: No Impact

Findings: The project does not involve land conversion, and does not conflict with existing zoning for agricultural use or a Williamson Act contract, therefore, no impacts to agriculture will occur. The Project is consistent with existing agricultural land uses in the vicinity of the project site and would not have an adverse impact on agriculture resources. It is not in an area zoned as forest land as defined in Public Resource Code section 12220(g) or timberland (as defined by Government Code section 51104 (g)). The project will not result in the loss of forest land or conversion of forest land to non-forest use, or involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use. Therefore, no impacts to agriculture or forest resources will occur. (MND p. 3-6)

### **C. Land Use and Planning**

#### Impact: No Impact

Findings: The Project site is within the lower Mokelumne River corridor and would not disrupt or divide the existing physical arrangement of an established community. The Project will occur within a 1-mile reach of the lower Mokelumne River immediately downstream of Camanche Dam. The Project area is designated as Open Space in the San Joaquin County General Plan (General Plan). Specific land uses in



this designation include wildlife habitat, recreation, and agriculture. According to the "Resources" section of the General Plan, open space areas are for the preservation of natural resources, the managed production of natural resources, recreation, and public safety. Implementation of the Project has the potential to contribute to the protection, restoration, and improvement of the lower Mokelumne River; therefore, it is consistent with the General Plan designation for the project area. The Project has been identified in several state and federal planning documents. Salmon spawning gravel improvements for the lower Mokelumne River have been identified as priority actions in the USFWS's Anadromous Fish Restoration Plan (1997) and several DFG publications and plans (California Department of Fish and Game 1991, 1993a, 1993b) to improve spawning habitat for fall-run Chinook salmon and steelhead trout in the river. The Mokelumne River system was also included in FERC's 1993 FEIS. The Project is consistent with applicable environmental plans or policies adopted by agencies with jurisdiction over the project. Land uses surrounding the Project sites consist of open space (e.g., wildlife habitat, recreation area, agricultural operations, and mineral extraction). The Project has the potential to restore and improve the lower Mokelumne River. Therefore, the Project is consistent with existing land uses in the vicinity of the project site. The Project does not conflict with any known local policies or ordinances protecting biological resources or the provisions of any adopted Habitat Conservation Plans, Natural Community Conservation Plans or other approved local, regional, or state habitat conservation plans. The Project does not conflict with the San Joaquin County Multi-Species Habitat Conservation and Open-Space Plan (SJMSCP), which incorporates similar measures aimed at averting the actual killing or injury of individual SJMSCP Covered Species and minimization of impacts to habitat. Therefore, the Project would not have an adverse land use and planning impacts for the reasons stated above. (MND p. 3-37 and 3-38)

#### **D. Mineral Resources**

##### Impact: No Impact

Findings: San Joaquin County and Calaveras County have a wide variety of mineral resources. The Project does not include extraction of mineral resources listed in the General Plan for either County and does not preclude or prevent the extraction of mineral resources in the future through any restrictions to land use. Therefore, the Project would not have an adverse impact on mineral resources. (MND p. 3-38)

#### **E. Population and Housing**

##### Impact: No Impact

Findings: The Project would not create housing or attract new development; therefore, the Project would not directly or indirectly contribute to substantial population growth. Implementation of the habitat improvement project on the Mokelumne River would not displace residential, commercial, or other development adjacent to the project site. Therefore, the Project would not necessitate construction

of replacement housing elsewhere. The Project does not involve displacing any people. Therefore, replacement housing would not need to be constructed elsewhere. The Project would not have an adverse impact on population or housing. (MND p. 3-41)

#### **F. Public Services**

##### Impact: No Impact

Findings: The Project would not result in any impacts to government facilities and would not affect existing fire protection, police protection, schools, parks or other public facilities. During construction of the Project, additional trucks (30 trucks per site) would use the existing roadway network. This impact is expected to be less than significant because the additional trucks would be temporary and a limited number would be required for construction. Therefore, the Project would not have an adverse impact on public services. (MND p. 3-30)

#### **G. Recreation**

##### Impact: Less than Significant Impact

Findings: The Project would not increase the demand for parks or recreation facilities, and would not result in substantial physical deterioration of the existing recreational facilities. Recreational activities in the vicinity of the Project are limited to public access at the Mokelumne River Day Use Area because the majority of adjacent river property is privately owned. Most recreational activities taking place in the project area include onshore fishing, picnicking, limited hiking, and non-motorized boating. The Project does not include or require the construction or expansion of recreational facilities in the area. For these reasons, the Project's impacts on recreational resources would be less than significant.

#### **H. Transportation/Traffic**

##### Impact: Less Than Significant

##### Findings:

Construction of the Project will require use of only a few pieces of construction equipment at any time. Transportation of gravel to the various project sites will be accomplished using tractor-trailer trucks with a capacity of up to 20-22 yds<sup>3</sup>. Access from the gravel source sites to the construction sites will be by public and private roads and easement areas. Distance from the gravel sources to the enhancement sites are less than 10 miles, if in basin quarry, or cobble piles are used. If out of basin gravel is purchased, distance could be as much as 50 miles from the construction site. Gravel placement at each site is expected to require an estimated 60-120 truck trips annually. Although delivery of the gravel to the project sites would increase the number of vehicle trips on existing roadways, the increase is considered relatively minimal and temporary. Consequently, the Project is not expected to significantly

increase vehicle trips or traffic congestion or result in inadequate emergency access. The Project will not affect air traffic patterns because there are no airports or airstrips located within two miles of the project site. The Project is not expected to create any roadway safety hazards associated with a project design feature or incompatible use because gravel placement sites are located off public roads and highways and vehicle traffic generated by the Project is commensurate with existing uses. The Project would not result in insufficient emergency access or parking capacity onsite or offsite. No parking is required to support the Project. The Project would not result in conflicts with adopted policies supporting alternative transportation because the project does not generate the need for public transportation, and the traffic generated by the Project does not exceed the capacity of the existing public roads. (MND p. 3-44) For these reasons, transportation impacts would be less than significant.

## **I. Utilities and Service Systems**

### Impact: Less Than Significant

Findings: The Project would not exceed wastewater treatment requirements of the Regional Water Quality Control Board. Under the Project, the project proponent will comply with Section 401 of the Clean Water Act and obtain certification from the Central Valley Regional Water Quality Control Board that project-related activities will maintain water quality (i.e., control sediment) at and downstream of the project site. The Project will not result in or require construction of new water, wastewater, or storm water drainage facilities nor require expansion of existing facilities. The Project does not require the services of water, wastewater treatment, or landfill service providers. The Project will not generate solid waste. Therefore, the Project would have less than significant impacts to utilities and service systems. (MND p. 3-46 and 3-47)

## **3.3 Findings Regarding Significant Effects Mitigated to Less Than Significant Levels**

### **A. Air Quality**

#### Impact: Less than Significant with Mitigation

The Project is within the San Joaquin Valley Air Basin and the Mountain Counties Air Basin and is subject to jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD) and the Calaveras County Air Pollution Control District (CCAPCD) Both counties are designated as nonattainment areas for particulate matter less than 10 microns in diameter (PM10) and ozone.

Although construction-related impacts would be temporary, construction activity has the potential to generate measurable amounts of pollutants, adding to regional ozone and PM10 levels that are already in violation of state and federal standards. Without mitigation, the Project could have significant construction-related impacts on air

quality resulting from the generation of dust and PM10 matter from the sorting, loading and transportation of material from source sites to enhancement sites; placement of gravel in the river; and, the operation of heavy equipment. However, these activities will all occur in the mainly rural, open space, areas in San Joaquin and Calaveras Counties and changes in air quality will not be excessive. Under the Project, the processing, screening, and transportation of gravel along private access roads and the movement and placement of gravel in areas open to public recreation use have the potential to temporarily affect air quality, but these effects are not expected to exceed California air quality standards or persist past the short construction time window. Over the long term the project would contribute to improving air quality, as floodplain function, including native tree establishment and growth, are restored. The project's anticipated emissions are minimal and fall below all applicable emissions thresholds (MND 3-7 through 3-9). Any impacts would be reduced to a less-than-significant level with implementation of the mitigation measures described below.

Findings: The Board hereby finds that the implementation of Mitigation Measures III-1 and III-2 in the MND (page 3-9 and 3-10) would reduce said impacts to a less-than-significant level.

Facts in Support of Findings: Measures III-1 and III-2 recommended on pages 3-9 and 3-10 of the MND are hereby imposed and shall be monitored in compliance with the MMRP. Because EBMUD has agreed to this mitigation, any such impacts have been avoided or will be reduced to a less-than-significant level.

The mitigation measure includes implementing the following dust reduction measures during transportation of materials and gravel placement:

- wet materials to limit visible dust emissions using water, or
- provide at least 6 inches of freeboard space from the top of the transport container, or
- cover the transport container.
- Limit or promptly remove any accumulation of mud or dirt on construction equipment and vehicles at the end of each workday or once every 24 hours.
- wet construction area during construction activities using a water tender truck and trailer.

## **B. Biological Resources**

### Impact: Less than Significant with Mitigation

The Project could impact special status species in the Project area.

The valley elderberry longhorn beetle is associated with elderberry shrubs in the California Central Valley. Disturbance of individual plants as a result of construction

activities could result in take of larva or adults of the beetle. Determination of occupancy is difficult, so impacts on elderberry shrubs is considered by the USFWS as a potential take of Valley Elderberry Longhorn Beetle. However, EBMUD's Safe Harbor Agreement ("SHA") with the USFWS allows it to work within the 100 foot exclusion zone surrounding the elderberry bush provided the District submits a notice of take to the USFWS more than 30 days in advance of the projected project date, as is required in the SHA, Section 7. A. 1. Implementation of the SHA provides a "net conservation benefit" to the covered species, because the collective management activities performed by EBMUD pursuant to the SHA are expected to provide an increase in the covered species' populations by restoring and maintaining the covered species' habitat. The Project will not disturb any existing elderberry shrubs, and no significant impacts to the species are anticipated.

(MND p. 3-16)

The project's proposed improvement of steelhead and salmon spawning habitat by placing gravel could temporarily result in increased siltation and reduced dissolved oxygen, which could, without mitigation, potentially have a significantly temporary impact on salmon, steelhead, and Pacific lamprey. However, the long-term goal of the project is to significantly improve habitat for salmon. (MND pp. 3-17 to 3-18) Implementation of the Mitigation Measures described in the MND would mitigate any temporary impacts to less than significant levels. In addition, the Project is not expected to result in significant impacts to the movement or dispersal of special status species in the area because disturbance and noise during operations will be minor and temporary and would occur outside of critical time periods for those species.

Impacts resulting from gravel transport and stockpiling, and placing washed spawning gravel in the river that may temporarily impact individuals or populations of special status species during the limited construction period of the project. (MND p. 3-22) In addition to the species discussed above, potentially affected species could include California tiger salamanders and other special status amphibians, and reptiles including the western pond turtle and giant garter snake. Impacts to all species would be mitigated to less than significant levels with implementation of the mitigation measures identified in the MND. As explained in the MND, avian species are unlikely to be impacted due to the timing of the Project, which falls outside of breeding and nesting periods. In addition, the Project is not expected to result in significant impacts to the movement or dispersal of special status species in the area because disturbance and noise during operations will be minor and temporary and would occur outside of critical time periods for those species.

The Project could also impact riparian habitat in the Project area, but implementation of Mitigation Measures identified in the MND will ensure that impacts would be less than significant. The Project will not cause significant impacts to wetlands or other areas protected under Section 404 of the Clean Water Act. Mitigation measures included in the MND will ensure that temporary impacts remain less than significant, and in the long term the Project will beneficially impact such areas.

Finally, the Project does not conflict with any local policies or ordinances protecting biological resources, or with any habitat conservation plans or natural community conservation plans.

Findings: The Board hereby finds that the implementation of Mitigation Measures IV-1, 2 and 3 in the MND (page 3-22,3-23) would reduce said impacts to a less-than-significant level.

Facts in Support of Findings: Measures IV-1, 2 and 3 recommended starting on page 3-22 of the MND are hereby imposed and shall be monitored in compliance with the MMRP. Because EBMUD has agreed to these mitigations, any such impacts have been avoided or will be reduced to a less-than-significant level.

The mitigation measures include:

- East Bay Municipal Utility District property in San Joaquin County is covered by a Certificate of Inclusion to USFWS incidental take permit TE12194-0 for valley elderberry longhorn beetle (USFWS 2007) under the Lower Mokelumne River Safe Harbor Agreement. Pursuant to this authorization, EBMUD shall notify in writing with 90 day notice any change in land use likely to reduce the number of living elderberry bushes with one or more stems 1-inch or greater within the Mokelumne River Day Use Area. The Project will not disturb any existing elderberry plants. The location of any elderberry plants near the Project site will be marked with a sign identifying it as habitat for a federally protected species. The signage from the USFWS "Conservation Guidelines for the Valley Elderberry Longhorn Beetle" (USFWS 1999) should be used.
- Table 4 on page 3-22 of the MND lists the critical periods when disturbance could result in significant impacts to individuals or populations of special status species. To avoid these impacts, all project ground disturbing activities will be conducted during the period August through mid-September, outside the listed critical periods. Additionally, biological surveys will be conducted 10 days prior to any construction activities to assure no impacts to species that are likely to occur in the vicinity. If sensitive species are present during biological surveys, CDFW or USFWS will be consulted prior to any construction activities. Appropriate measures to prevent impacts to sensitive species will be implemented, including but not limited to fencing off sensitive areas, limiting or adjusting work time frames to avoid sensitive species, moving sensitive species to adjacent existing high quality habitat outside of work area.
- Transportation routes and work areas will be designated to avoid damaging trees and shrubs in riparian habitats. Potential impacts on riparian vegetation during transport of gravel from stockpile sites to the river will be minimized to the greatest extent practicable by selecting routes that avoid or minimize

damage. All impacts on heritage size trees (i.e., greater than 16 inches in diameter) will be avoided.

### **C. Cultural Resources**

#### Impact: Less than Significant with Mitigation

No resources designated through one of the four historical resource registration programs managed by the Office of Historic Preservation (California Historical Landmarks, California Points of Historical Interest, California Register of Historical Resources, or the California Native American Heritage Commission) are found in the project area, and the lead agency has not identified any historical resources or unique archaeological resources that could be affected by the project

The proposed action was previously determined to be a routine undertaking with little to no potential to affect historic properties under Appendix A of the Cultural Resources Programmatic Agreement between the USFWS, the California State Historic Preservation Office, and the Advisory Council for Historic Preservation. There were no previously recorded cultural resources identified within the project area of potential effect (APE), and thus impacts are not anticipated. Additionally, compliance with Section 106 of the National Historic Preservation Act (NHPA) is necessary. However, even after completion of the investigation, project-related construction activities (loading of gravel from stockpile sites) could unearth previously unknown cultural resources. (MND p. 3-25 and 3-26) Any impacts related to discovery of previously unknown cultural resources would be mitigated to less than significant levels, as described below.

Findings: The Board hereby finds that the implementation of Mitigation Measure V-1 in the MND (page 3-26) would reduce said impacts to a less-than-significant level.

Facts in Support of Findings: Measure V-1 recommended on page 3-26 of the MND is hereby imposed and shall be monitored in compliance with the MMRP. Because EBMUD has agreed to this mitigation, any such impacts have been avoided or will be reduced to a less-than-significant level.

The mitigation measure provides:

- If buried cultural materials are unearthed during construction, the project proponent shall require its contractor to halt work in the vicinity of the finds until a qualified archaeologist can assess its significance. If human remains are unearthed during construction, the project proponent will comply with the California Health and Safety Code Section 7050.5, which states no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition in accordance with Public Resources Code Section 5097.98. All actions would be taken consistent with CEQA Guidelines section 15064.5(e).

## **D. Geology and Soils**

### Impact: Less than Significant with Mitigation

Because the Project does not include the construction of any building or residential structures, there would be no impacts associated with exposing people to fault rupture, seismic ground shaking, seismic ground failure, liquefaction or landslides. The Project would also not cause any impacts related to landslides, lateral spreading, subsidence, liquefaction, collapse, or expansive soils because it is located on a nearly level historic floodplain with stable soils. It also does not involve the disposal of wastewater.

Construction activities associated with the Project could result in temporary increases in erosion of soils and changes in topography within the project area. The discharge of soil into open water and its effect on water quality and fisheries resources are discussed in Section IX-HYDROLOGY AND WATER QUALITY. The project would not result in substantial soil erosion or the loss of topsoil. In fact project activities would contribute to the retention of soil across the recovered floodplain. Mitigation Measure IX-1, discussed in the Hydrology and Water Quality section, below, would protect water quality during project construction, so no significant impact is anticipated from project activities. That mitigation measure requires EBMUD to perform water sampling during construction operations so ensure that turbidity does not exceed predetermined levels. MND (3-27 and 3-28)

Findings: The Board hereby finds that implementation of Mitigation Measure IX-1 in the MND (p. 3-35) would reduce this impact to a less-than-significant level.

Facts in Support of Findings: Measure VIII-1 under HYDROLOGY AND WATER QUALITY recommended on page 3-35 of the MND applies and is hereby imposed and shall be monitored in compliance with the MMRP. Because EBMUD has agreed to this mitigation, any such impacts have been avoided or will be reduced to a less-than-significant level. This Mitigation Measure is described under Section 3.4(G), below.

## **E. Greenhouse Gas Emissions**

### Impact: Less than Significant with Mitigation

The San Joaquin Valley Air Pollution Control District (“SJVAPCD”) has concluded that Best Performance Standards (“BPS”) is a legitimate means of addressing the significance of GHG emissions in a CEQA context, and may be the only legitimate means, given the inability to scientifically assign a numeric significance threshold. The Climate Change Action Plan (“CCAP”) developed by SJVAPCD investigates BPS as potential Emission Reduction Measures for stationary and development projects only; temporary construction impacts are not summarized. The Calaveras



County “Guidelines for Assessing and Mitigating Air Quality Impacts of Land Use Projects” describes their GHG emissions standards for project-level thresholds of significance for ROG and NOx at 150 lbs/day. Projects exceeding these levels must mitigate impacts.

This project does not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. This project is a short term construction project that does not meet the criteria of a stationary and development project emission source. Given this and the project’s limited emissions, it would not result in significant impacts related to the release of GHGs. Nonetheless, Mitigation Measure VII-1 will be implemented to ensure that the Project does not conflict with any SJVAPCD or Calaveras County efforts to reduce GHG emissions. For these reasons, GHG related impacts would be less than significant. Further, the project’s minimal GHG emissions may be offset by the improvement in habitat conditions because floodplain inundation should lead to improved riparian recruitment and additional carbon fixing plants to alleviate GHG impacts over time.

Findings: The Board hereby finds that the implementation of Mitigation Measure VII-1 in the MND (page 3-30) would reduce said impacts to a less-than-significant level.

Facts in Support of Findings: Mitigation Measure VII-1 on page 3-30 of the MND is hereby imposed and shall be monitored in compliance with the MMRP. Because EMBUD has agreed to this mitigation, any such impacts have been avoided or will be reduced to a less than significant level. The mitigation measure provides as follows:

Best Performance Standards from available GHG reduction plans will be used to maintain temporary construction impacts to less than significant. The single BPS relevant to this project is: Preserving existing trees, and planting replacement trees at a set ratio in the unlikely event that any trees were removed during construction will be implemented as part of the Project.

#### **F. Hazards and Hazardous Materials**

##### Impact: Less than Significant with Mitigation

Equipment necessary for gravel transport and placement would include fuel, oil and similar substances. No unregulated hazardous substances are to be used during Project implementation, and no unregulated hazardous substances will be present when all project components are complete. Accidental release of small quantities of fuel and oil during construction could occur. Following mitigation, minor spills would not pose a major risk to public safety. MND (3-32).

The Project is within a rural, agricultural area with limited, widely dispersed residential sites. There is no school located within one quarter mile of the Project area, and the project will not impact any listed hazardous materials sites. The Project will also not impact an airport land use plan because it is not within the vicinity of

any public or private airstrips, airports, or runway approach paths. The Project will not affect the implementation of any emergency response or evacuation plan, and will not pose an increased risk of wildland fire to nearby residences. Water tender trucks will be onsite during construction to maintain wetted work areas to reduce fire potential, and could also be used in fire suppression actions if necessary.

For these reasons, the project would not cause significant impacts related to hazards and hazardous materials.

Findings: The Board hereby finds that implementation of Mitigation Measure VIII-1 in the MND (page 3-32) would reduce said impacts to a less-than-significant level

Facts in Support of Findings: Mitigation Measure VIII-1 is hereby imposed and shall be monitored in compliance with the MMRP. Because EBMUD has agreed to these mitigations, any such impacts have been avoided or will be reduced to a less-than-significant level. This Mitigation Measure provides:

All equipment will be clean and use biodegradable lubricants and hydraulic fluids. All equipment working within the stream channel will be inspected daily for fuel, lubrication, and coolant leaks; and, for leak potentials (e.g. cracked hoses, loose filling caps, stripped drain plugs). Vehicles are to be fueled and lubricated in a designated staging area located outside the stream channel and banks. Clean gravels will be added to the river using the front-end loaders. Front-end loaders will be wheeled (rubber tire) to minimize impacts. Construction specifications will require that any equipment used in or near the river is properly cleaned to prevent any hazardous materials from entering the river, and containment material will be on site in case of an accident. Contracted construction personal will regularly monitor contractors to insure environmental compliance. Spill prevention kits will be located close to construction areas, with workers trained in its use. MND (3-32)

## **G. Hydrology and Water Quality**

### Impact: Less than Significant with Mitigation

The Project would not result in a change in the quantity of groundwater, alter the direction or rate of groundwater flow, affect groundwater quality, or result in the substantial reduction in the amount of groundwater otherwise available for public water supplies. Because the composition of the gravel to be placed is similar in size to that typically occurring in the substrate of the enhancement sites, groundwater infiltration should remain similar to existing conditions. Because water is not used during gravel placement, the Project would not create or contribute runoff water. In addition, the Project does not include the construction of any buildings or residential structures and therefore would not cause impacts associated with exposing people or property to flooding or inundation by seiche, tsunami, or mudflow.

While the Project could cause minor changes in existing currents and change the direction of existing water movements near the gravel placement areas, those changes would be highly localized and would not affect existing absorption rates, drainage patterns, or the rate or amount of surface runoff in the area. In addition, the relatively small amount of deposited gravels will not significantly affect the river's ability to convey flood flows.

Nor would the project cause significant impacts related to water quality or the violation of waste discharge requirements or water quality standards. As detailed in the MND, the Project will comply with Section 401 of the Clean Water Act and will obtain certification that it will not adversely affect water quality. The Project's impacts to water quality resulting from erosion or pollutants would be minimal and temporary, and the project includes measures to minimize water quality impacts, such as washing of gravel prior to delivery to the Project site, use of steam-cleaned trucks to transfer the gravel, use of rubber-tired vehicles for all Project work, use of biodegradable oils in construction vehicles, and water quality monitoring during work to ensure that turbidity and settleable solids stay at acceptable levels. Implementation of Mitigation Measure IX-1 would ensure that impacts related to introduction of sediment into the river would be reduced to less than significant levels.

Findings: The Board hereby finds that the implementation of Mitigation Measure IX-1 in the MND (page 3-35) would reduce said impacts to a less-than-significant level.

Facts in Support of Findings: Measure IX-1 recommended on page 3-35 of the MND is hereby imposed and shall be monitored in compliance with the MMRP. Because EBMUD has agreed to this mitigation, any such impacts have been avoided or will be reduced to a less-than-significant level.

The mitigation measure provides:

- The project proponent will comply with Section 401 of the Clean Water Act and obtain certification that project-related activities will maintain water quality (i.e., control sediment) at and downstream of the project site. The project will also follow guidelines required in Lake and Streambed Alteration Permits (CDFW) and Section 404 permits (ACOE) issued for the project. To minimize risks of increasing turbidity and adding fine sediment to the water, the sorted gravel will be washed at the quarry site before being loaded into steam-cleaned tractor-trailer transfer trucks for delivery to the enhancement sites. Additionally, instream gravel placement work will be accomplished during summer low-flow periods (approximately 300 cfs), and sediment that would be disturbed by the rubber tires and gravel ripping actions is expected to settle quickly out of the water column. Streambank disturbance will be minimized to small areas of low bank at each site. Once work at individual sites is completed, the riverbank will be restored, if necessary, by sloping the bank and adding suitable quantities of appropriate-sized gravel to prevent bank sloughing and introduction of fine sediment in

the river. Once every four hours during construction operations, water quality monitoring for turbidity and settleable solids will be performed using procedures in accordance with Standard Methods 17th edition (American Public Health Association). EBMUD will perform surface water sampling when performing any in-water work, in the event that project activities result in any materials reaching surface waters, or when any activities result in the creation of a visible plume in surface waters. Limits during in-water working periods shall not exceed a turbidity increase of 15 NTU over background turbidity. At no point shall turbidity be allowed to exceed 20 NTU. Activities shall not cause settleable matter to exceed 0.1 ml/l in surface waters as measured in surface waters 300 feet downstream from the project. Monitoring shall be conducted 100 feet upstream from the project area (out of the influence of the project) and 300 feet downstream of the active work area. Sampling results will be submitted to the CARWQCB within two weeks of initiation of sampling and every two weeks thereafter.

## **H. Noise**

### Impact: Less than Significant with Mitigation

The Project would only cause temporary increases in noise levels in the vicinity of the Project and would therefore not cause any permanent increase in ambient noise levels in the area. The Project is not within the vicinity of a public airport or private airstrip such that nearby residents or workers would be exposed to excessive noise levels.

The Project could cause noise related to sorting and loading of gravel, transportation of gravel along haul routes to the Project site, and operation of construction equipment at the Project site during gravel placement. Under the noise standards of Calaveras and San Joaquin Counties, this temporary increase in noise during the construction period could cause significant impacts by increasing noise levels experienced by the limited number of individuals in the immediate project area. However, mitigation set forth in the MND will reduce this impact to less than significant levels by restricting the days and hours during which work occurs, ensuring that equipment is fitted with proper sound control devices, and implementing additional noise minimization measures as necessary to ensure that Project construction noise stays within acceptable levels.

Findings: The Board hereby finds that the implementation of Mitigation Measure XII-1 in the MND (page 3-40) would reduce said impacts to a less-than-significant level.

Facts in Support of Findings: Measure XII-1 recommended on page 3-40 of the MND is hereby imposed and shall be monitored in compliance with the MMRP. Because EBMUD has agreed to this mitigation, any such impacts have been avoided or will be reduced to a less-than-significant level.

The mitigation measure includes:

- Restrict construction that could adversely affect residences to daytime hours and prohibit construction on Sundays and legal holidays.
- All equipment will have sound-control devices no less effective than those provided on the original equipment. No equipment shall have unmuffled exhaust.
- As directed by the project proponent, implement appropriate additional noise mitigation measures, including, but not limited to, changing the location of stationary construction equipment, shutting off idling equipment, rescheduling construction activity, notifying nearby residences in advance of construction work, or installing acoustic barriers around stationary construction noise sources.

## **I. Mandatory Findings of Significance**

### **Impact: Less Than Significant with Mitigation**

There will be temporary and minor adverse effects that will occur at the construction and processing sites; however, the overall improvement to the environment will outweigh these effects and implementation of the mitigation measures set forth above and in the MRRP will ensure that impacts would be less than significant. Because vegetation communities and wildlife habitats within the Mokelumne River watershed have been substantially modified to suit human land uses and will likely continue to be modified as human populations increase, the project will benefit aquatic species and their habitat by improving spawning and rearing habitat. In addition, there are no examples of important periods of California history or prehistory that would be affected by the project, and implementation of Mitigation Measure V-1 will ensure that impacts to cultural resources would be less than significant.

The Project would result in short-term construction related impacts, but the project is not expected to contribute to cumulative impacts because the mitigation measures set forth above and in the MMRP, which will reduce all project impacts to a less-than-significant level, will also ensure that the project's contribution to any cumulatively considerable impacts would be minimal.

### **3.4 Findings Regarding Comments on the MND and Minor Changes to the MND**

Written comments were received from the Central Valley Flood Protection Board and Central Valley Regional Water Quality Control Board regarding potential permitting requirements for the Project. As explained in the MND, the project would only cause minor changes in existing currents in the Project area, and would not affect existing absorption rates, drainage patterns, or the rate or amount of surface runoff in the area. In addition, the relatively small amount of deposited gravels will not significantly affect the river's ability to convey flood flows. Nor would the project cause significant impacts

related to water quality. As detailed in the MND, the Project will comply with Section 401 of the Clean Water Act and will obtain certification that it will not adversely affect water quality. The Project's impacts to water quality resulting from erosion or pollutants would be minimal and temporary, and the project includes measures to minimize water quality impacts, such as washing of gravel prior to delivery to the Project site, use of steam-cleaned trucks to transfer the gravel, use of rubber-tired vehicles for all Project work, and water quality monitoring during work to ensure that turbidity and settleable solids stay at acceptable levels. For these reasons, while the Project will comply with all relevant permitting requirements, it has been carefully designed to ensure that impacts would be less than significant. Therefore, the Board hereby finds that these comment letters do not constitute evidence that the Project would cause significant environmental impacts.

Minor textual edits consistent with the preceding paragraph were made to the MND to further clarify that the Project would not cause significant environmental impacts related to hydrology and water quality. In addition, clarifying edits were made to the project description explaining the anticipated volume of gravel placement, and the manner in which work will be completed to minimize impacts. The Board hereby finds that the information added to the MND merely clarifies, amplifies, or makes insignificant modifications to the MND such that recirculation is not required.

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**Exhibit B**

**Lower Mokelumne River Spawning and Rearing Habitat Improvement Project Mitigation Monitoring and Reporting Program**

<i>Mitigation Measure</i>	<i>Monitoring and Enforcement Action</i>	<i>Timing of Action</i>	<i>Implementation</i>	<i>Monitoring and Enforcement Responsibility</i>
<b>Air Quality</b>				
<p><b>Mitigation Measure III-1.</b> Implement the following dust reduction measures during transportation of materials to project sites to reduce construction-related emissions:</p> <ul style="list-style-type: none"> <li>• wet materials to limit visible dust emissions using water, or</li> <li>• provide at least 6 inches of freeboard space from the top of the transport container, or</li> <li>• cover the transport container.</li> </ul>	<p>Stipulate mitigation measures in construction contract and monitor implementation through site inspections</p>	<p>During Construction</p>	<p>Contract stipulation and document site inspections</p>	<p>EBMUD</p>
<p><b>Mitigation Measure III-2.</b> Implement the following dust reduction measure during gravel placement to reduce construction-related emissions:</p> <ul style="list-style-type: none"> <li>• Limit or promptly remove any accumulation of mud or dirt on construction equipment and vehicles at the end of each work day or once every 24 hours.</li> <li>• Wet construction area during construction activities using a water-tender truck and trailer.</li> </ul>	<p>Stipulate mitigation measures in construction contract and monitor implementation through site inspections</p>	<p>During Construction</p>	<p>Contract stipulation and document site inspections</p>	<p>EBMUD</p>

<i>Mitigation Measure</i>	<i>Monitoring and Enforcement Action</i>	<i>Timing of Action</i>	<i>Implementation</i>	<i>Monitoring and Enforcement Responsibility</i>
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<i>Enforcement Action</i>	<i>Enforcement Resources</i>	<i>Enforcement</i>	<i>Responsibility</i>
<p><b>Mitigation Measure IV-1.</b> East Bay Municipal Utility District property in San Joaquin County is covered by a Certificate of Inclusion to USFWS incidental take permit TE12194-0 for valley elderberry longhorn beetle (USFWS 2007) under the Lower Mokelumne River Safe Harbor Agreement. Pursuant to this authorization, EBMUD shall notify in writing with 90 day notice any change in land use likely to reduce the number of living elderberry bushes with one or more stems 1-inch or greater within the Mokelumne River Day Use Area. The Project will not disturb any existing elderberry plants. The location of any elderberry plants near the Project site will be marked with a sign identifying it as habitat for a federally protected species. The signage from the USFWS "Conservation Guidelines for the Valley Elderberry Longhorn Beetle" (USFWS 1999) should be used.</p>	<p><b>Biological Resources</b></p> <p>Conduct field surveys before construction and mark any observed plant populations. Conduct site inspections during construction.</p>	<p>Before and During Construction</p> <p>Prepare written report of field survey report. Document site inspections.</p>	<p>EBMUD</p>
<p><b>Mitigation Measure IV-2.</b> Table 4 (MND p. 3-22) lists the critical periods when disturbance could result in significant impacts to individuals or populations of special status species. To avoid these impacts, all project ground disturbing activities will be conducted during the period August</p>	<p>Stipulate mitigation measures in construction contract and monitor implementation through site inspections</p>	<p>During Construction</p> <p>Contract stipulation and document site inspections</p>	<p>EBMUD</p>

<p>through mid-September, outside the listed critical periods. Additionally, biological surveys will be conducted 10 days prior to any construction activities to assure no impacts to species that are likely to occur in the vicinity. If sensitive species are present during biological surveys, CDFW or USFWS will be consulted prior to any construction activities. Appropriate measures to prevent impacts to sensitive species will be implemented, including but not limited to fencing off sensitive areas, limiting or adjusting work time frames to avoid sensitive species, moving sensitive species to adjacent existing high quality habitat outside of work area.</p>				
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<i>Mitigation Measure</i>	<i>Monitoring and Enforcement Action</i>	<i>Timing of Action</i>	<i>Implementation</i>	<i>Monitoring and Enforcement Responsibility</i>
<p><b>Mitigation Measure IV-3.</b> Transportation routes and work areas will be designated to avoid damaging trees and shrubs in riparian habitats. Potential impacts on riparian vegetation during transport of gravel from stockpile sites to the river will be minimized to the greatest extent practicable by selecting routes that avoid or minimize damage. All impacts on heritage size trees (i.e., greater than 16 inches in diameter) will be avoided.</p>	<p>Stipulate mitigation measures in construction contract and monitor implementation through site inspections</p>	<p>During Construction</p>	<p>Contract stipulation and document site inspections</p>	<p>EBMUD</p>

<b>Cultural Resources</b>			
	Stipulate mitigation measures in construction contract and monitor implementation through site inspections	During Construction	Contract stipulation and document site inspections
<p><b>Mitigation Measure V-1.</b> If buried cultural materials are unearthed during construction, the project proponent shall require its contractor to halt work in the vicinity of the finds until a qualified archaeologist can assess its significance. If human remains are unearthed during construction, the project proponent will comply with the California Health and Safety Code Section 7050.5, which states no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition in accordance with Public Resources Code Section 5097.98. All actions would be taken consistent with CEQA Guidelines section 15064.5(e).</p>			EBMUD
<b>Greenhouse Gas Emissions</b>			
	Stipulate mitigation measures in construction contract and monitor implementation through site inspections	During Construction	Contract stipulation and document site inspections
<p><b>Mitigation Measure VII-1.</b> Best Performance Standards from available GHG reduction plans will be used to maintain temporary construction impacts to less than significant. The single BPS relevant to this project is: Preserving existing trees, and planting replacement trees at a set ratio in the unlikely event that any trees were removed during construction will be implemented as part of the Project.</p>			EBMUD
<i>Mitigation Measure</i>	<i>Monitoring and Enforcement Action</i>	<i>Timing of Action</i>	<i>Implementation</i>
<b>HAZARDS AND HAZARDOUS MATERIALS</b>			
<i>Monitoring and Enforcement Responsibility</i>			

<p><b>Mitigation Measure VIII-1 Use Clean Equipment and Bio-degradable Lubricants.</b> All equipment will be clean and use biodegradable lubricants and hydraulic fluids. All equipment working within the stream channel will be inspected daily for fuel, lubrication, and coolant leaks; and, for leak potentials (e.g. cracked hoses, loose filling caps, stripped drain plugs). Vehicles are to be fueled and lubricated in designated staging areas located outside the stream channel and banks. Clean gravels will be added to the river using the front-end loaders. Front-end loaders will be wheeled (rubber tire) to minimize impacts. Construction specifications will require that any equipment used in or near the river is properly cleaned to prevent any hazardous materials from entering the river, and containment material will be on site in case of an accident. Contracted construction personnel will regularly monitor contractors to insure environmental compliance. Spill prevention kits will be located close to construction areas, with workers trained in its use.</p>	<p>Stipulate mitigation measures in construction contract and monitor implementation through site inspections</p>	<p>During Construction</p>	<p>Contract stipulation and document site inspections</p>	<p>EBMUD</p>
<p><b>HYDROLOGY AND WATER QUALITY</b></p>				
<p><b>Mitigation Measure IX-1.</b> The project proponent will comply with Section 401 of the Clean Water Act and obtain certification that project-related activities will maintain water quality (i.e., control</p>	<p>Implement all required Water Quality monitoring before, during and after construction as required by permits listed</p>	<p>Before, During and After Construction</p>	<p>Document and report findings</p>	<p>EBMUD</p>

sediment) at and downstream of the project site. The project will also follow guidelines required in Lake and Streambed Alteration Permits (CDFW), Storm Water Pollution Protection Plan (SWPPP), and Section 404 permits (ACOE) issued for the project. To minimize risks of increasing turbidity and adding fine sediment to the water, the sorted gravel will be washed at the quarry site before being loaded into steam-cleaned tractor-trailer transfer trucks for delivery to the enhancement sites. Additionally, instream gravel placement work will be accomplished during summer low-flow periods (approximately 300 cfs), and sediment that would be disturbed by the rubber tires and gravel ripping actions is expected to settle quickly out of the water column. Streambank disturbance will be minimized to small areas of low bank at each site. Once work at individual sites is completed, the riverbank will be restored, if necessary, by sloping the bank and adding suitable quantities of appropriate-sized gravel to prevent bank sloughing and introduction of fine sediment in the river. Once every four hours during construction operations, water quality monitoring for turbidity and settleable solids will be performed using procedures in accordance with Standard Methods 17th edition (American Public Health Association). EBMUD will perform

<p>surface water sampling when performing any in-water work, in the event that project activities result in any materials reaching surface waters, or when any activities result in the creation of a visible plume in surface waters. Limits during in-water working periods shall not exceed a turbidity increase of 15 NTU over background turbidity. At no point shall turbidity be allowed to exceed 20 NTU. Activities shall not cause settleable matter to exceed 0.1 ml/l in surface waters as measured in surface waters 300 feet downstream from the project. Monitoring shall be conducted 100 feet upstream from the project area (out of the influence of the project) and 300 feet downstream of the active work area. Sampling results will be submitted to the CARWQCB within 2 weeks of initiation of sampling and every 2 weeks thereafter.</p>				
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<i>Mitigation Measure</i>	<i>Monitoring and Enforcement Action</i>	<i>Timing of Action</i>	<i>Implementation</i>	<i>Monitoring and Enforcement Responsibility</i>
<b>NOISE</b>				
<p><b>Mitigation Measure XII-1.</b> To mitigate noise-related impacts, the project proponent will require that the contractor comply with the following conditions:</p> <ul style="list-style-type: none"> <li>• Restrict construction that could adversely affect residences to daytime hours and prohibit</li> </ul>	<p>Stipulate mitigation measures in construction contract and monitor implementation through site inspections</p>	<p>During Construction</p>	<p>Contract stipulation and document site inspections</p>	<p>EBMUD</p>

<p>construction on Sundays and legal holidays.</p> <ul style="list-style-type: none"> <li>• All equipment will have sound-control devices no less effective than those provided on the original equipment. No equipment shall have unmuffled exhaust.</li> <li>• As directed by the project proponent, implement appropriate additional noise mitigation measures, including, but not limited to, changing the location of stationary construction equipment, shutting off idling equipment, rescheduling construction activity, notifying nearby residences in advance of construction work, or installing acoustic barriers around stationary construction noise sources.</li> </ul>				
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**EAST BAY MUNICIPAL UTILITY DISTRICT**

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DATE: August 7, 2014

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Xavier J. Irias, Director of Engineering and Construction *XJI*

SUBJECT: Chabot Dam Seismic Improvement Project – Pilot Project Labor Agreement Update

On February 11, 2014, the Board of Directors approved the development of a “Pilot” Project Labor Agreement (PLA) for the Chabot Dam Seismic Upgrade Project. Staff has hired Davillier-Sloan to represent the District in negotiating the PLA. Later this month Davillier-Sloan will begin conducting exploratory meetings with potential stakeholders and parties to the PLA and will prepare principles to serve as a basis for the District’s position when negotiating the PLA. The principles will be discussed with the Board in late fall 2014 prior to beginning negotiations. The preliminary schedule for the PLA negotiation process is shown below.

Exploratory Meetings with Stakeholders	August - October 2014
Board Consideration and Discussion of Principles	November 2014
Negotiation of PLA and Periodic Board Updates	November 2014 – February 2015
Board Consideration of PLA for Approval	March 2015
Final Implementation Plan	April 2015
Construction Contract Bid/Award	Fall 2015

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**EAST BAY MUNICIPAL UTILITY DISTRICT**

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DATE: August 7, 2014

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Monthly Report – July 2014

**HIGHLIGHTS**

**On July 28, U.S. EPA and the Department of Justice (DOJ) lodged a proposed consent decree for the District and its seven satellite collection system agencies.** EPA also hosted a press event related to the proposed consent decree the same day at Crown Memorial State Beach in Alameda. Speakers included representatives from EPA, DOJ, the State Water Resources Control Board, Regional Water Quality Control Board, and San Francisco Bay Keeper. The decree would require EBMUD and the satellite agencies to implement projects and programs to reduce infiltration/inflow in the sewer systems to eventually eliminate discharges from the District's three wet weather facilities. The proposed settlement is subject to a 30-day public comment period and court approval prior to becoming effective.

**On July 30, the Oakland City Council voted unanimously to award all three of the City's Zero Waste franchise agreements to California Waste Solutions (CWS).** As part of the Mixed Materials and Organics Franchise agreement, CWS will deliver the commercial and multi-family source-separated organic material to the District's Main Wastewater Treatment Plant (MWWTP) for processing into renewable energy. CWS will also construct a temporary transfer station on leased land at the MWWTP.

**Freeport Regional Water Project (FRWP) deliveries completed.** Deliveries into Mokelumne Aqueduct No. 1 and 2 continued through July 17. Approximately 3,400 acre-feet of supplemental water supply was sent to local reservoirs in July, bringing the total to 23,400 acre-feet.

**Water transfers to Contra Costa Water District (CCWD) completed.** From July 17–July 24, the District wheeled approximately 1,700 acre-feet of water to CCWD pursuant to the January 2004 CCWD and FRWA Settlement Agreement.

**WATER SUPPLY AND WATER RIGHTS PROGRAMS AND ACTIVITIES**

**On July 15, the State Water Resources Control Board (SWRCB) approved an emergency regulation to increase water conservation in urban settings.** The regulation is to ensure water agencies, their customers, and state residents limit outdoor water use by complying with specific mandatory measures. The regulation went into effect on July 28 and requires EBMUD to activate its Water Shortage Contingency Plan to prohibit specified outdoor uses and to report water production monthly to track water use in comparison to 2013. Beginning in October, EBMUD also will need to report residential gallons per capita per day. State templates for these reports are expected to be received in August.

**On July 18, staff provided updates to California Department of Fish and Wildlife (CDFW) and US Fish and Wildlife Service (USFWS) representatives on the Oursan Ridge Conservation Bank.** Staff provided updates and discussed endowment issues and issues concerning credit methodologies for the bank. The USFWS is insisting that red-legged frog breeding must be documented on-site or an appropriate breeding habitat be added to the bank before they will approve the bank. There was also brief discussion about the potential to add habitat credits for golden eagles to the bank.

**In July, the Department of Water Resources (DWR) approved EBMUD as the California Statewide Groundwater Elevation Monitoring (CASGEM) entity for the South East Bay Plain Basin (SEBPB).** In June 2014, staff submitted a proposed groundwater monitoring plan for the EBPB's southern sub-basin which incorporated previous edits requested by DWR. Under the CASGEM program, EBMUD commits to provide, on a semi-annual basis, groundwater level information from selected wells that EBMUD owns, maintains and regularly monitors within the southern sub-basin.

**Staff provided comments on proposed regulatory language for dreissenid mussels (zebra and quagga).** The new CDFW regulations would require entities to develop prevention plans to ensure programs are in place to prevent introductions of mussels into new water bodies. Additionally, the regulations would require control plans to be submitted to and approved by CDFW within 60 days of a dreissenid mussel being found in a water body. Current District prevention plans meet the new requirements and comments focused on ensuring that operations could continue during the 60 day window to establish a control plan.

**Precipitation.** The East Bay precipitation for July was 0.01 inches (33% of average) and the season total was 0.01 inches (33% of average). The Mokelumne precipitation for July was 0.58 inches (242% of average) and the season total was 0.58 inches (242% of average).

**Releases from Camanche Reservoir.** The average rate of Camanche release for July was 257 cfs (0 cfs generation, 223 cfs sluice, and 34 cfs through the hatchery), and the average flow below Woodbridge Dam was 30 cfs, both in accordance with the Joint Settlement Agreement "Dry" criteria.

**Mokelumne reservoirs storage is 63% of average.** As of July 31, 2014, Pardee was at 556.0 feet or 90% of average, and Camanche was at 188.1 feet or 46% of average. Combined Pardee and Camanche reservoir storage was 312,000 acre-feet compared to 472,000 acre-feet last year.

**Releases from East Bay reservoirs.** There were no East Bay reservoir releases in July.

**East Bay reservoirs storage is 91% of average.** As of July 31, 2014, USL was at 449.6 feet or 101% of average, San Pablo was at 308.4 feet or 112% of average, and Briones was at 547.4 feet or 75% of average. Total terminal reservoir storage was 117,000 acre-feet compared to 108,000 acre-feet last year.

**Mokelumne Aqueducts and Raw Water Pumping Plants.** The average rate of Mokelumne Aqueduct draft for July 2014 was 139 MGD. Walnut Creek Raw Water Pumping Plant (RWPP) No. 3 was started on July 14 to reduce Briones Reservoir draft and was shutdown on July 25. Moraga RWPP was shutdown on July 8 as FRWP operations ended. Walnut Creek No. 1 and 2 and Briones RWPPs remained out of service.

**Water Production.** Average rate of gross water production for July:

	July 2014	July 2013	July 2012	Average of FY 2005-2007
East of Hills	74 MGD	88 MGD	84 MGD	99 MGD
West of Hills	139 MGD	152 MGD	149 MGD	187 MGD
Total	213 MGD	240 MGD	233 MGD	286 MGD
Max Day Production	227 MGD (7/7/2014)	259 MGD (7/1/2013)	254 MGD (7/11/2012)	

*Note: Data are all from preliminary daily operational reports and are subject to revision*

## CUSTOMER EVENTS AND PUBLIC OUTREACH

**Increased interest in the District’s recycled water truck program due to continuing drought conditions.** In July, staff conducted training and issued two new permits for commercial recycled water truck program users. Staff also sent information to 90 firms that hold permits for recycled water from EBMUD’s two truck facilities and to 280 EBMUD customers who hold potable hydrant meter permits encouraging them to use either EBMUD’s recycled water truck program or similar projects operated by other utilities in the East Bay.

**On July 10, staff provided an overview of EBMUD’s wastewater system at the Alameda Local Agency Formation Commission.** Topics covered included an overview of wastewater infrastructure, system capacity, key initiatives (renewable energy, wet weather flow management), financial status and future challenges. The presentation was well received and served as a follow-up to a water system overview presentation provided in March 2014.

**On July 17, staff participated in the quarterly Oakland Private Sector Advisory Committee workshop related to local emergency planning.** The committee is comprised of members of the business and non-profit community and provides guidance and sets priorities for the City of Oakland and Office of Emergency Services staff for community and business recovery in a major emergency. The committee goals are to build a network of resources, enable effective communications, and identify next steps and priorities for projects going forward.

**On July 17, the Camanche Regional Park Advisory Board (CRPAB) meeting followed its new “focus group” format.** The topic for this first recreation focus group meeting was reservoir fishing programs. Presenters included EBMUD and California Department of Fish and Wildlife staff and a local fishing advocate. The meeting was a success and members from the general public outnumbered CRPAB members and District staff.

**On July 23, staff conducted a tour of the Main Wastewater Treatment Plant for Assembly Member Bill Quirk.** Also in attendance were Assemblyman Quirk’s District Director, Assemblywoman Nancy Skinner’s policy staffer, and San Leandro business and civic leader Dan

Walters. The tour provided an overview of facility operations, with a focus on food waste to energy as requested by the Assembly Member.

**Contract Equity outreach events:**

**On July 14, staff participated in the Minority Business Development Agency (MBDA) San Francisco Chapter special panel discussion on strategies to increase minority business representation in the Bay Area.** The panel was held in San Francisco and included the MBDA's first Latina National Director.

**On July 20-22, the American Indian Chamber hosted its 2014 annual conference in Rancho Mirage, CA.** Staff moderated a workshop on how to strengthen and grow corporate partnerships with Indian businesses. Staff also participated in the business expo disseminating information on the Contract Equity Program. Over 300 business owners attended.

**On July 23, staff represented EBMUD's CEP program at a San Francisco Bay Area Rapid Transit (BART) Business Advisory Council meeting in Oakland.**

**On July 26, staff participated in the 23<sup>rd</sup> Annual Bay Area Black Expo event at the Plaza in Oakland.** Staff disseminated information on the Contract Equity Program, upcoming contract opportunities and small business incentives. Approximately 250 participants were in attendance.

**Water Conservation outreach events:**

**On July 15, staff gave a presentation at the Emeryville City Council meeting on the water supply, the drought, District-offered conservation services and ways to reduce water use.** The Council had questions about outdoor watering frequency and per capita use and directed city staff to work with the District to locate savings opportunities as they arise. Approximately 15 people were in the audience and the meeting was streamed via cable television.

**On July 16, staff teamed with Pacific Gas and Electric and StopWaste.org for a three-hour presentation for commercial food service operators.** The presentation focused on how small business owners can simultaneously improve efficiency and reduce their overall utility foot print. Staff also fielded questions on how the Governor's drought proclamation will potentially affect their operations. Approximately 20 people were in attendance.

**On July 29 the District hosted the Bay Area Regional Energy Network forum titled, "The Water-Energy Nexus: Strategies for Local Action."** Staff presented information on EBMUD water-energy nexus strategies, including District conservation research and greenhouse gas reduction goals. Other presenters included PG&E, U.C. Davis, Town of Windsor and the Regional Climate Protection Authority. Over 80 guests from local government, water agency, academic, regulatory, and private sector interests attended.

**Staff provided drought updates, conservation and rebate program information at the following events:**

<b>Date</b>	<b>Event/Location</b>	<b>Approximate # of Attendees</b>
July 16	Legacy Plaza Green Fair in San Ramon	Over 300 Legacy Plaza residents
July 17	Rockridge Town Hall at the Library in Oakland	35
July 20	Sugartown Festival and Street Fair in Crockett	5000
July 24	Golden Gate Chapter, American Society of Civil Engineers in Oakland	50
July 26	United 4 Safety Fair at Police Dept. in San Leandro	100

**The District provided summer employment for thirteen Oakland high school students.** Staff, in partnership with the College and Career Readiness Office of Oakland Unified School District (OUSD) mentored and supervised students from Oakland, McClymonds, Skyline and Fremont high schools. From June 30 - August 1, the students each worked a maximum of 150 hours, had individualized learning plans, and gained work experience. This annual OUSD-funded program provides work experience to help students prepare to enter the workforce and/or college.

**On July 31, five Los Medanos Community College (LMC) students completed a 10-week Instrument Intern program at the District.** The students gained hands-on experience at the District through a partnership with the LMC Cooperative Work Experience Program and the LMC Foundation. The students, along with other candidates from the public, were encouraged to apply for Instrument Technician and Instrument Worker II positions in June 2014. The District develops partnerships with community colleges such as LMC to outreach to local, diverse communities and prepare job candidates for hard-to-fill maintenance and skilled trades careers.

## **CAPITAL IMPROVEMENTS AND FACILITY MAINTENANCE**

**On July 14, work began on the Chabot Rifle Range Remediation project near USL Reservoir.** Upon completion, the results will be evaluated by the District, the United States Army Corps of Engineers (USACE) and the California Department of Toxic Substances Control to determine if additional remediation on the site is necessary. Over the last six years, the District has been working with USACE on our Miller Road property in Castro Valley to perform a remediation pilot project at the former Lake Chabot machine gun range. In recognition of the military's responsibility for contaminating the property during the World War II era, USACE has been evaluating the site under its Formerly Used Defense Sites program. In June 2014, the District reviewed and approved a final pilot scale treatability study work plan and negotiated a right of entry to provide the government and its contractors access to the site.

**On July 17, the District received notice a written determination that the Chabot Dam Seismic Upgrade Project does not require a United States Army Corps of Engineers permit.** This determination, made in compliance with Section 404 of the Clean Water Act, will simplify project development. Staff is working on obtaining needed permits from other resource agencies.

**On July 19, volunteers helped beautify Mokelumne Watershed Headquarters grounds.**

Three volunteers worked with District staff to rebuild old rock walls, prune, and transplant native landscaping. Clippings from the work will be used in restoration projects throughout the watershed.

**On July 24, the District's design consultant, URS, presented their 10% design report for the seismic upgrade of the Upper San Leandro Outlet Tower to District stakeholders.** The upgrade includes strengthening the outlet tower by bracing the tower at the top and replacing mechanical and electrical controls for the tower. The design is expected to be completed by the end of the year with construction slated for 2015. Some concerns raised by the stakeholders included the regulatory permitting process, project impacts on federally-listed species, an assessment of reservoir silting on the tower outlet gates, the proposed valve types, instrumentation and communications systems, and equipment security at the site.

**Federal Energy Regulatory Commission (FERC) instrumentation inspection of the Mokelumne dams and appurtenant structures completed July 21-25 shows instruments are performing as intended.** Per FERC regulations, operators of FERC jurisdictional dams should perform annual inspection of the facility instruments to ensure that they are performing normally as required for dam safety monitoring. The results of the inspections will be included in the annual dam safety report to FERC.

**Pipeline.** In July, staff completed infrastructure renewal (IR) jobs in Lafayette on Withers Road (2,450 feet of 12-inch water pipe) and Tieglund Road (1,415 feet of 6-inch pipe). On July 14, staff began installing another IR job on Lucinda Lane in Pleasant Hill (970 feet of 6-inch pipe).

**The Dingee Pipeline and Claremont Center Aqueducts (Oakland) Replacement pipeline work continues.** Reach 1 of the new Dingee pipeline is in service. The old Dingee pipeline will remain in service until the connections to the distribution lines on Reach 1 are completed in early August. Reach 2 pipeline installation is complete and the appurtenances are being installed. The tie-in is scheduled for mid-August after distribution lines are completed. The Sequoia Aqueduct installation work adjacent to The College Preparatory School is expected to begin in mid-August.

**On July 30, the Sobrante Water Treatment Plant Electrical Upgrades (El Sobrante) was accepted as complete.** The contractor demolished and replaced four motor control centers (MCC), demolished an electrical unit substation, furnished and installed a new electrical unit substation enclosed in a new power building, demolished and replaced three automatic transfer switches and installed new power cable from the main switchgear at the Maloney Pumping Plant to the new electrical substation. With the exception of switching over to the new MCC in the Reclaim Pump Building, the contractor completed all of the planned electrical upgrades despite a significantly reduced plant outage period.

**The Fontaine St. (Oakland), El Portal Dr. (San Pablo), and Euclid Ave. (Berkeley) Pipeline Improvements Project requires an increase to the change order contingency.** A significant amount of work has been added to the project to enhance the long-term reliability of the pipelines in the El Portal Drive area. The work includes providing 120 feet of 48" steel pipe, and installing 400 feet of 8" HDPE pipe and a new fire hydrant connection. The work will be performed by the contractor, JMB Construction, Inc. The currently authorized change order contingency of

\$153,140 will be increased by \$210,860. The total change order amount is projected to be \$364,000, or 23.8 percent of the original contract amount of \$1,531,400.

**Plans and specifications for the RARE Chloramination System Project are complete.** This project adds a chloramination system to minimize biological fouling in the reverse osmosis membranes used for producing recycled water for Chevron. Construction is scheduled to begin in December 2014 and will be completed in July 2015.

**Construction of the West End Property 12kV electrical service connection was completed.** The District acquired the 15.9-acre West End property (WEP) adjacent to the Main Wastewater Treatment Plant (MWWTP) in 2007. In December 2013, the City of Oakland terminated utility services to the WEP as part of the City's redevelopment of the former Oakland Army Base. In response, the District installed a new electrical service from PG&E to maintain power to the site.

**The MWWTP Site Utility Improvements and Guard Structure Installation project requires an increase to the construction change order contingency from \$83,000 (10%) to \$149,400 (18%).** This 8% increase would allow for an increased contract amount from \$830,000 up to \$979,400, if needed. Hazardous soils on the West End property were encountered during construction excavation that required special handling and disposal. Hazardous soils were not anticipated because previous excavation in the near vicinity on a separate construction contract did not indicate any hazardous soils. The project is approximately 70% complete and is anticipated to be complete in fall 2014. Sufficient funds are available for this increased change order contingency.

## **WATER AND WASTEWATER SYSTEM OPERATIONS**

**State Water Resources Control Board (SWRCB) issued a draft permit for public comment for regulatory coverage for short-term or seasonal discharges of drinking water from community drinking water systems that are a result of mandatory activities to comply with the Federal Safe Drinking Water Act, the California Health and Safety Code, and the California Department of Public Health regulations.** The permit also provides regulatory coverage for emergency discharges from community drinking water systems due to facility leaks, system failures and catastrophic events. Comments are now due by August 19. A public board hearing is scheduled for August 5 and permit adoption will be considered September 23. On July 1, the San Francisco Regional Water Quality Control Board (Region 2) gave public notice that they were postponing their National Pollutant Discharge Elimination System (NPDES) permit that would cover discharges from drinking water systems to defer to the SWRCB process.

**All discharges from the MWWTP were in compliance with the permit limits for the month of July.** This is the 179<sup>th</sup> consecutive month that the MWWTP experienced no exceedances.

**There were five odor complaints received in July.** One complaint was received on July 14, July 20, and July 21 and two on July 22. Staff investigated and adjusted processes to reduce activated sludge foaming, which is a primary source of secondary odor emissions and also flushed the prechlorination feed system to restore dose control.



**On July 28, the District received a Notice of Violation settlement offer of \$4,000 from the Bay Area Air Quality Management District (BAAQMD) for a November 9, 2013 digester gas release.** As previously reported, this release occurred when the gas production exceeded the available waste gas flare capacity. The settlement offer was expected and staff is proceeding with the execution of the settlement agreement.

**Human remains found at Camanche Reservoir.** A boater discovered human bones along the shoreline on Camanche Reservoir and alerted ranger staff. Detectives from the Calaveras Sheriff’s office collected the bones and sent them for testing at U.C. Santa Cruz. It was determined that the remains were Native American. Native American tribal representatives and archaeological consultants have been granted access to document and preserve the site. The remains will be repatriated to a protected site.

**July main breaks.** The attached table lists the main breaks that were repaired by staff in July, sorted by city and street. The associated map shows the locations of the breaks geographically.

**ORGANIZATION EFFECTIVENESS AND EFFICIENCY**

**District firefighters respond to six fires on District property.** The largest was a four-acre grass fire on watershed property near the town of Campo Seco. Another grass fire at Pardee Recreation Area scorched just over one acre after a camper mistakenly threw hot coals into the grass. The remaining four incidents were dumpster fires at Camanche Recreation Area.

**On July 17, District staff presented the results of the District’s Asbestos Cement Pipeline Replacement Program at the Water Research Foundation Infrastructure Management Workshop in Los Angeles.** The presentation and workshop covered the current state of the science of condition assessment technologies, highlighted condition assessment strategies, and provided a case-studies of utilities that have implemented successful programs. Both the presentation and workshop were very well received.

**Tuition Reimbursement**

	<b>July 2014</b>	<b>FY15 Total</b>
Number of Employees	32	32
Number of Classes	40	40
Total Reimbursed	\$28,177	\$28,177

**Employment Information**

	<b>July 2014</b>	<b>FY15 Total</b>
Retirements – Regular	17	17
Retirements – Vested	0	0
Other Separations	8	8
Hires	19	19

**FINANCIAL NEWS**

**There were no contracts over \$70,000 and less than \$100,000 approved by the General Manager in July 2014.**

**The net Mokelumne power revenue for July was \$222,376 vs the \$210,139 planned.** Inflows into Pardee for July were 103% of plan and generation was 118% of plan with Pardee Reservoir volume decreasing over the month. The average electricity price was as planned at \$45/MWh. Renewable power and related Renewable Energy Credits (RECs) were sold to the Sacramento Municipal Utility District under the Power Purchase Agreement. REC revenue for July was \$22,359. Capacity payment was \$26,000 less than plan due to Pardee unit No.1 emergency repair. Total net revenue for FY15 to date is \$222,376 which is 6.4% of the \$3.5 Million plan, and 3.9% of the FY15 budgeted \$5.7 Million.

FY15	Net Revenue		Inflow (Acre Feet)	
	Plan	Actual	Plan	Actual
<b>July</b>	\$210,139	<b>\$222,376</b>	19,000	19,613
<b>FY15 YTD Total</b>	\$210,139	<b>\$222,376</b>	19,000	19,613

*Bold items are estimated*

**On July 29, as part of the District's de-risking program, the District issued \$84.7 million in fixed rate refunding bonds - Wastewater Series 2014A and 2014B.** This issue decreased synthetic debt from 26% of the system's debt portfolio to just 4% while saving approximately \$260,000 on a present value basis. The de-risking converted variable rate debt to fixed rate debt and terminated associated swaps which substantially reduced variable rate debt and derivative exposure in the wastewater debt portfolio.

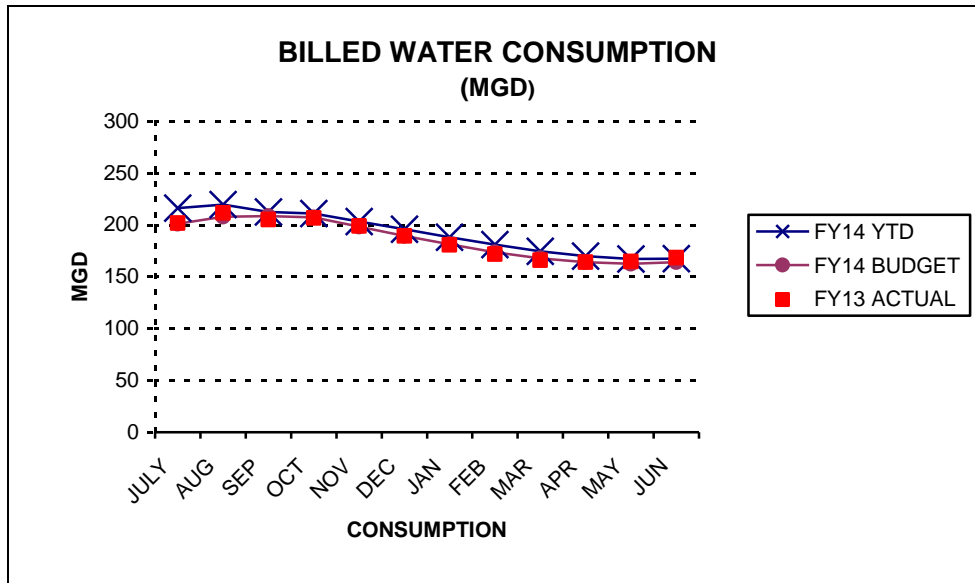
**Plant book activity for July 2014.** Four hundred and thirty nine books were sold in July 2014, which increased the total plant books sold to 35,078. July plant book revenues total \$7,557.35, increasing total revenues to \$746,258.34. Total revenues as a percentage of out-of-pocket book design and production cost equals 95%.

**In FY14, the District billed a total of \$10.6 million in tip fees to trucked waste customers.** This is the first time the District's Resource Recovery Program's annual tip fee billing exceeded \$10 million.

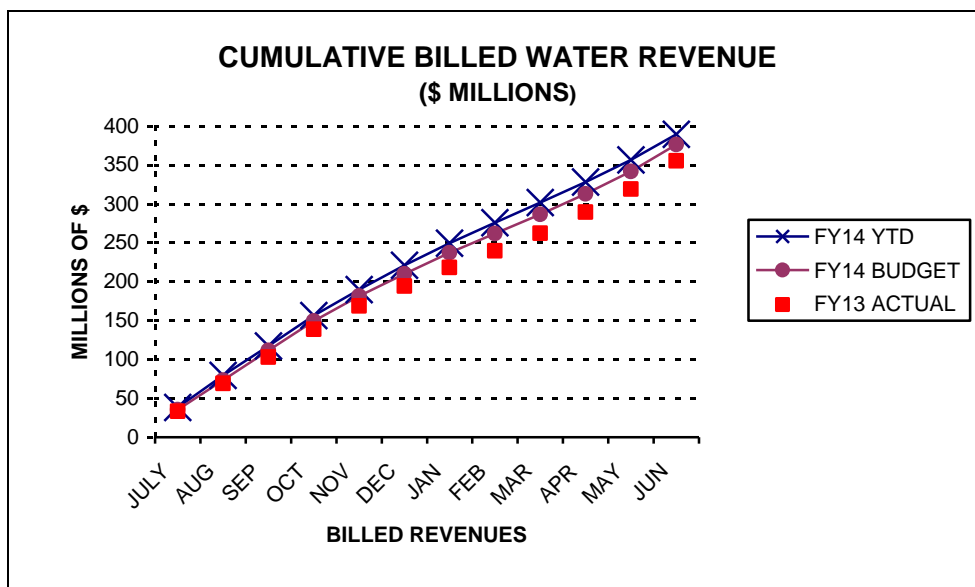
**As a result of the District's request for voluntary conservation in February, billed water consumption for June 2014 was 19.4% lower than for June 2013.** Overall billed water consumption for FY14 through June 2014 was 167.5 MGD, which is 0.5% less than billed consumption of 168.4 MGD for the same period through June in FY13.

Billed Water Consumption		
Usage Type	FY14 (MGD)	FY13 (MGD)
Residential	89.4	90.7
Commercial	53.8	53.9
Industrial	16.8	15.9
Public Authority	7.5	7.9
<b>Total Billed Water Consumption</b>	<b>167.5</b>	<b>168.4</b>

Water revenues billed for the fiscal year through June were \$389.6 million, which is 9.6% more than the FY13 revenue through June of \$355.5 million due to the 9.75% rate increase for services provided and billed starting July 1, 2013.



Source: Customer Information System



Source: Customer Information System

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	City	Bldg	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On
1	ALAMO	4		BROOKDALE	CT	ASBESTOS CEMENT	6	1962	900	7/1/2014	7/1/2014
2	ALAMO	320		CROSS	RD	ASBESTOS CEMENT	6	1961	900	7/26/2014	7/27/2014
3	ALAMO			SERAFIX	RD	NON METALLIC	2	1997	5,760	6/25/2014	7/14/2014
4	ALAMO	216		STONE VALLEY	WAY	ASBESTOS CEMENT	6	1980	1,350	7/21/2014	7/21/2014
5	ALAMO	10		VISTA	LN	ASBESTOS CEMENT	6	1964	5,760	6/27/2014	7/2/2014
6	BERKELEY			HILGARD	AVE	STEEL	1	1923	2,700	7/28/2014	7/29/2014
7	BERKELEY	2417		SACRAMENTO	ST	CAST IRON	4	1934	1800	7/7/2014	7/7/2014
8	CASTRO VALLEY	5825		ALDERBROOK	CT	ASBESTOS CEMENT	6	1980	5,760	7/4/2014	7/9/2014
9	CASTRO VALLEY	17404		PRESIDENT	DR	HIGH DENSITY POLYETHYLENE PIPE	2	1965	900	7/10/2014	7/11/2014
10	CASTRO VALLEY	3674		QUAIL	AVE	CAST IRON	6	1931	9,000	7/28/2014	7/28/2014
11	CASTRO VALLEY	3674		QUAIL	AVE	CAST IRON	6	1931	360	7/29/2014	7/29/2014
12	CASTRO VALLEY	2338		STAR	AVE	CAST IRON	6	1948	5,760	7/15/2014	7/21/2014
13	DANVILLE	1055		CEDAR LANE	CT	NON METALLIC	6	1986	2,700	7/6/2014	7/6/2014
14	DANVILLE	863		LA GONDA	WAY	ASBESTOS CEMENT	8	1960	2250	7/20/2014	7/20/2014
15	DANVILLE	301		MCCLOUD	PL	ASBESTOS CEMENT	6	1976	4500	7/25/2014	7/25/2014
16	DANVILLE	320		MCCLOUD	PL	ASBESTOS CEMENT	6	1976	5,400	7/28/2014	7/28/2014
17	DANVILLE	60		STARMONT	LN	ASBESTOS CEMENT	6	1982	5,760	7/2/2014	7/9/2014
18	EL CERRITO			CENTRAL	AVE	CAST IRON	4	1938	18,000	7/28/2014	7/29/2014
19	EL CERRITO	748		COLUSA	AVE	CAST IRON	6	1949	5,760	7/4/2014	7/9/2014
20	EL CERRITO	1416		DEVONSHIRE	DR	CAST IRON	6	1927	4,500	7/12/2014	7/13/2014
21	EL CERRITO	1416		DEVONSHIRE	DR	CAST IRON	6	1927	900	7/25/2014	7/25/2014
22	EL CERRITO			FAIRMOUNT	AVE	ASBESTOS CEMENT	6	1952	360	6/30/2014	7/1/2014
23	EL CERRITO	1104		KING	DR	STEEL	16	1927	900	7/21/2014	7/22/2014

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	City	Bldg	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On
24	EL SOBRANTE	4300		GARDEN	RD	STEEL	12	1938	57,600	7/21/2014	7/23/2014
25	EL SOBRANTE	954		KELVIN	RD	CAST IRON	2	1971	1,350	7/9/2014	7/9/2014
26	HAYWARD	1151		HAZEL	AVE	CAST IRON	6	1956	5,400	7/2/2014	7/3/2014
27	HAYWARD	24124		ZORRO	CT	CAST IRON	4	1950	5,760	7/23/2014	7/28/2014
28	LAFAYETTE	1367		EL CURTOLA	BL	CAST IRON	6	1945	5,760	7/21/2014	7/24/2014
29	LAFAYETTE	5		GABLE	LN	CAST IRON	8	1955	5760	7/9/2014	7/14/2014
30	OAKLAND	1934		9TH	AVE	CAST IRON	6	1932	4,500	7/30/2014	7/30/2014
31	OAKLAND	630		22ND	ST	CAST IRON	4	1894	21,600	7/15/2014	7/15/2014
32	OAKLAND	1120		70TH	AVE	CAST IRON	6	1931	5,760	7/7/2014	7/15/2014
33	OAKLAND	1074		85TH	AVE	CAST IRON	20	1916	5760	7/5/2014	7/9/2014
34	OAKLAND			86TH	AVE	CAST IRON	8	1934	2,700	7/26/2014	7/26/2014
35	OAKLAND	276		ADAMS	ST	CAST IRON	6	1929	45,000	7/8/2014	7/9/2014
36	OAKLAND	6746		AITKEN	DR	CAST IRON	6	1935	9,000	7/21/2014	7/21/2014
37	OAKLAND	9333		B	ST	CAST IRON	6	1935	4,500	7/13/2014	7/13/2014
38	OAKLAND	8500		BLAINE	ST	CAST IRON	6	1938	50,400	7/17/2014	7/18/2014
39	OAKLAND	711		CALMAR	AVE	CAST IRON	6	1925	9,000	7/30/2014	7/31/2014
40	OAKLAND			CALMAR	AVE	CAST IRON	6	1925	1800	7/25/2014	7/25/2014
41	OAKLAND	5838		ELIZABETH	ST	CAST IRON	6	1938	18,000	7/13/2014	7/14/2014
42	OAKLAND	10701		GOLF LINKS	RD	ASBESTOS CEMENT	8	1957	2,700	7/16/2014	7/16/2014
43	OAKLAND	7700		GREENLY	DR	CAST IRON	6	UNK	86,400	6/27/2014	7/15/2014
44	OAKLAND	6214		HAYES	ST	ASBESTOS CEMENT	6	1962	450	7/9/2014	7/9/2014
45	OAKLAND	4614		MELROSE	AVE	CAST IRON	4	1909	9,000	7/16/2014	7/17/2014
46	OAKLAND	269		NEWTON	AVE	ASBESTOS CEMENT	6	1961	4,500	7/8/2014	7/9/2014
47	OAKLAND	3488		PAXTON	AVE	CAST IRON	6	1921	115,200	7/30/2014	7/31/2014
48	OAKLAND	10114		PEARMAN	ST	ASBESTOS CEMENT	6	1955	5,760	7/3/2014	7/8/2014

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	City	Bldg	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On
49	OAKLAND			PERALTA	ST	CAST IRON	10	1926	360	7/20/2014	7/22/2014
50	OAKLAND	6706		SAN PABLO	AVE	CAST IRON	4	1892	900	7/8/2014	7/8/2014
51	OAKLAND	6933		SHEPHERD CANYON	RD	CAST IRON	6	1953	900	7/21/2014	7/21/2014
52	OAKLAND	4566		ST ANDREWS	RD	CAST IRON	4	1947	5,760	7/8/2014	7/17/2014
53	ORINDA	328		CAMINO SOBRANTE		CAST IRON	8	1934	46,080	6/30/2014	7/8/2014
54	ORINDA	128		DIABLO VIEW		CAST IRON	2	1945	5,760	7/15/2014	7/16/2014
55	ORINDA	132		DIABLO VIEW		CAST IRON	2	1945	5,760	7/2/2014	7/3/2014
56	ORINDA	85		LA ESPIRAL		CAST IRON	6	1940	2,250	7/2/2014	7/2/2014
57	ORINDA	9		TAPPAN	LN	CAST IRON	6	1951	5,760	7/2/2014	7/10/2014
58	ORINDA	48		TARRY	LN	CAST IRON	6	1946	630	7/22/2014	7/23/2014
59	PIEDMONT	25		VALANT	PL	CAST IRON	10	1968	5,760	7/23/2014	7/23/2014
60	PINOLE	864	E	MEADOW	AVE	CAST IRON	6	1953	9,000	7/14/2014	7/14/2014
61	PLEASANT HILL	64		DOBBS	DR	ASBESTOS CEMENT	8	1965	3,600	7/15/2014	7/15/2014
62	PLEASANT HILL	2057		OAK PARK	BL	CAST IRON	4	1941	2,250	7/21/2014	7/21/2014
63	RICHMOND	433	S	15TH	ST	CAST IRON	4	1937	27,000	7/29/2014	7/29/2014
64	RICHMOND	243	S	16TH	ST	CAST IRON	4	1946	5,760	7/22/2014	7/25/2014
65	RICHMOND	404		32ND	ST	CAST IRON	4	1941	5,760	7/18/2014	7/21/2014
66	RICHMOND	6655		ARLINGTON	BL	CAST IRON	4	1940	5,760	6/29/2014	7/3/2014
67	RICHMOND	2852		ARUNDEL	WAY	CAST IRON	4	1943	5,760	6/27/2014	7/3/2014
68	RICHMOND	1535		FRED JACKSON	WAY	NON METALLIC	8	1953	1,800	7/4/2014	7/4/2014
69	RICHMOND	3177		ROLLINGWOOD	DR	CAST IRON	6	1966	5,760	7/8/2014	7/10/2014
70	RICHMOND	1620		TRUMAN	ST	CAST IRON	6	1944	5,760	7/3/2014	7/7/2014
71	SAN LEANDRO			135TH	AVE	CAST IRON	6	1949	5,760	7/1/2014	7/1/2014
72	SAN LEANDRO	1020		BEGIER	AVE	CAST IRON	6	1939	4,500	7/2/2014	7/2/2014

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	City	Bldg	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On	
73	SAN LEANDRO	2506		DAVIS	ST	CAST IRON	8	1949	9,000	7/8/2014	7/8/2014	
74	SAN LEANDRO	360		LEO	AVE	CAST IRON	6	1940	5,760	7/12/2014	7/17/2014	
75	SAN LEANDRO	14784		MIDLAND	RD	CAST IRON	6	1945	5,760	7/9/2014	7/15/2014	
76	SAN LEANDRO	1731		ORIOLE	AVE	CAST IRON	4	1938	1,350	7/7/2014	7/7/2014	
77	SAN LORENZO	16025		ASHLAND	AVE	CAST IRON	6	1938	5,760	6/30/2014	7/1/2014	
78	SAN PABLO	2518		MACARTHUR	AVE	CAST IRON	4	1942	12,960	7/14/2014	7/16/2014	
79	SAN RAMON	1332		CANYON SIDE	AVE	ASBESTOS CEMENT	6	1985	4,500	7/25/2014	7/26/2014	
80	SAN RAMON	2669		COREY	PL	ASBESTOS CEMENT	6	1977	1,800	7/26/2014	7/27/2014	
81	WALNUT CREEK	373		SHADY GLEN	RD	ASBESTOS CEMENT	8	1955	450	7/4/2014	7/4/2014	
82	WALNUT CREEK	249		SIERRA	DR	ASBESTOS CEMENT	6	1959	1,350	7/10/2014	7/10/2014	
									<b>TOTAL</b>	<b>792,720</b>		

