

February 15, 2017

## **MEETING NOTICE**

### **WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE**

Members of the Water Conservation and Demand Management Committee:

Director Nai Hsueh  
Director Linda J. LeZotte, Vice Chair  
Director Richard P. Santos, Chair

Staff Support of the Water Conservation and Demand Management Committee:

Norma Camacho, Interim Chief Executive Officer  
Jim Fiedler, Chief Operating Officer, Water Utility  
Stanly Yamamoto, District Counsel  
Garth Hall, Deputy Operating Officer, Water Supply Division  
Rick Callender, Deputy Administrative Officer, Office of Government Relations  
Jerry De La Piedra, Water Supply Planning and Conservation Manager, Water Supply  
Planning and Conservation Unit  
Vanessa De La Piedra, Groundwater Management Manager, Groundwater Monitoring and  
Analysis Unit

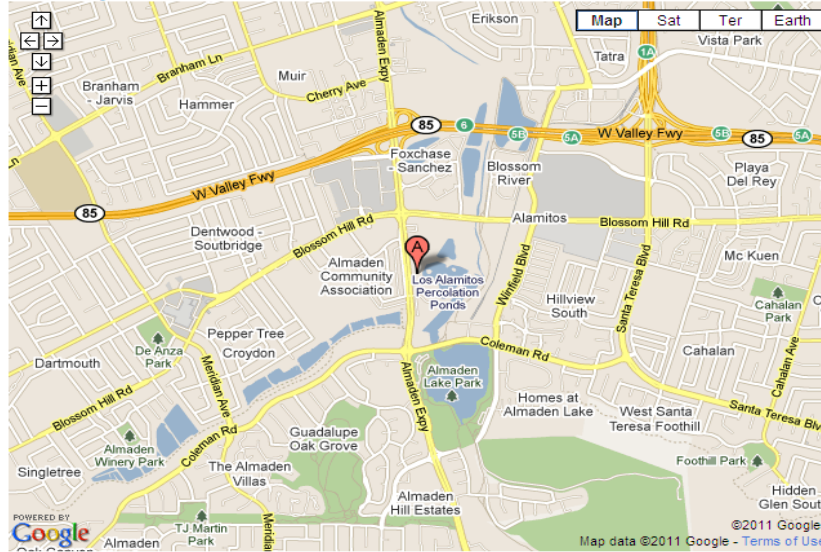
The regular meeting of the Water Conservation and Demand Management Committee is scheduled to be held on **Thursday, February 23, 2017, at 10:00 a.m.** in the Headquarters Building Boardroom, located at the Santa Clara Valley Water District, 5700 Almaden Expressway, San Jose, California.

Enclosed are the meeting agenda and corresponding materials. Please bring this packet with you to the meeting.

Enclosures



**Santa Clara Valley Water District - Headquarters Building,  
5700 Almaden Expressway, San Jose, CA 95118**



**From Oakland:**

- Take 880 South to 85 South
- Take 85 South to Almaden Expressway exit
- Turn left on Almaden Plaza Way
- Turn right (south) on Almaden Expressway
- At Via Monte (third traffic light), make a U-turn
- Proceed north on Almaden Expressway approximately 1,000 feet
- Turn right (east) into the campus entrance

**From Morgan Hill/Gilroy:**

- Take 101 North to 85 North
- Take 85 North to Almaden Expressway exit
- Turn left on Almaden Expressway
- Cross Blossom Hill Road
- At Via Monte (third traffic light), make a U-turn
- Proceed north on Almaden Expressway approximately 1,000 feet
- Turn right (east) into the campus entrance

**From Sunnyvale:**

- Take Highway 87 South to 85 North
- Take Highway 85 North to Almaden Expressway exit
- Turn left on Almaden Expressway
- At Via Monte (third traffic light), make a U-turn
- Proceed north on Almaden Expressway approximately 1,000 feet
- Turn right (east) into the campus entrance

**From San Francisco:**

- Take 280 South to Highway 85 South
- Take Highway 85 South to Almaden Expressway exit
- Turn left on Almaden Plaza Way
- Turn right (south) on Almaden Expressway
- At Via Monte (third traffic light), make a U-turn
- Proceed north on Almaden Expressway approximately 1,000 feet
- Turn right (east) into the campus entrance

**From Downtown San Jose:**

- Take Highway 87 - Guadalupe Expressway South
- Exit on Santa Teresa Blvd.
- Turn right on Blossom Hill Road
- Turn left at Almaden Expressway
- At Via Monte (first traffic light), make a U-turn
- Proceed north on Almaden Expressway approximately 1,000 feet
- Turn right (east) into the campus entrance

**From Walnut Creek, Concord and East Bay areas:**

- Take 680 South to 280 North
- Exit Highway 87-Guadalupe Expressway South
- Exit on Santa Teresa Blvd.
- Turn right on Blossom Hill Road
- Turn left at Almaden Expressway
- At Via Monte (third traffic light), make a U-turn
- Proceed north on Almaden Expressway approximately 1,000 feet
- Turn right (east) into the campus entrance

**WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE**

Director Nai Hsueh

Director Linda J. LeZotte, Vice Chair

Director Richard P. Santos, Chair



**AGENDA  
WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE**

**THURSDAY, FEBRUARY 23, 2017**

**10:00 a.m.**

**Santa Clara Valley Water District  
Headquarters Building Boardroom  
5700 Almaden Expressway  
San Jose, CA 95118**

**Time Certain**

**10:00 a.m.**

1. **Call to Order/Roll Call**
2. **Time Open for Public Comment on Any Item Not on the Agenda**  
*Comments should be limited to two minutes. If the Committee wishes to discuss a subject raised by the speaker, it can request placement on a future agenda.*
3. **Approval of Minutes**
  - 3.1 Approval of Minutes – January 25, 2017, meeting
4. **Discussion/Action Items**
  - 4.1 Update on Golf Course Coalition Proposal (Jerry De La Piedra/Ron Zraick)  
**Recommendation: This is an information only item and no action is required.**
  - 4.2 Update on State Water Resources Control Board (SWRCB) (Emergency Regulation; Making Water Conservation a California Way of Life) (Jerry De La Piedra)  
**Recommendation: This is an information only item and no action is required.**
  - 4.3 Update on the Evaluation of New Sustainable Groundwater Management Act (SGMA) Authorities (Vanessa De La Piedra)  
**Recommendation: This is an information only item and no action is required.**
  - 4.4 Review of Water Conservation and Demand Management Committee Work Plan, any Outcomes of Board Action or Committee Requests and Schedule the next Committee Meeting (Committee Chair)  
**Recommendation: Review the Committee work plan to guide the Committee's discussions regarding policy alternatives and implications for Board deliberation and schedule next meeting.**
5. **Clerk Review and Clarification of Committee's Requests**  
*This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during discussion of Item 4.*
6. **Adjourn:**

PLEASE ADVISE THE CLERK OF THE BOARD OFFICE OF ANY SPECIAL NEEDS BY CALLING (408) 630-2277.

Meetings of this committee will be conducted in compliance with all Brown Act requirements. All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the same time that the public records are distributed or made available to the legislative body, at the following location:

Santa Clara Valley Water District, Office of the Clerk of the Board  
5700 Almaden Expressway, San Jose, CA 95118

Water Conservation and Demand Management Committee:

Purpose: To support the Board of Directors in achieving its policy to provide a reliable water supply to meet current and future water usage by making policy recommendations related to demand management.



WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE MEETING

# DRAFT MINUTES

WEDNESDAY, JANUARY 25, 2017  
10:30 AM

(Paragraph numbers coincide with agenda item numbers)

A meeting of the Water Conservation Ad Hoc Committee was held on January 25, 2017, in the Headquarters Building Conference Room A143 at the Santa Clara Valley Water District, 5700 Almaden Expressway, San Jose, California.

**1. CALL TO ORDER/ROLL CALL**

Chair, Director Richard P. Santos called the meeting to order at 10:31 a.m.

Board Members in attendance were: Director Nai Hsueh, Director Linda J. LeZotte and Director Richard P. Santos.

Staff members in attendance were: Glenna Brambill, George Cook, Michelle Critchlow, Jerry De La Piedra, Vanessa De La Piedra, Jim Fiedler, Marty Grimes, Garth Hall, Tracy Hemmeter, Bassam Kassab, and Erick Soderlund.

**2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON AGENDA**

There was no one present who wished to speak.

**3. APPROVAL OF MINUTES**

It was moved by Director Linda J. LeZotte, seconded by Director Nai Hsueh, and unanimously carried, to approve the minutes of the December 27, 2016, Water Conservation and Demand Management Committee meeting, with correcting the adjourn time to 12:30 p.m.

**4. DISCUSSION/ACTION ITEMS**

**4.1 UPDATE ON GOLF COURSE COALITION PROPOSAL**

Mr. Jerry De La Piedra and Mr. Ron Zraick reviewed the materials as outlined in the agenda item.

Mr. Jim Fielder spoke on this agenda item.

No action was taken.

#### **4.2 STAKEHOLDER ENGAGEMENT IN EVALUATING NEW AUTHORITIES UNDER THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA)**

Mr. Garth Hall and Ms. Vanessa De La Piedra reviewed the materials as outlined in the agenda item.

Director Nai Hsueh, Director Linda J. LeZotte , Director Richard P. Santos, Mr. Doug Muirhead, a member of the public, Mr. Tim Guster, Vice President of Great Oaks, and Mr. Anthony Eulo from the City of Morgan Hill, spoke on this agenda item.

Mr. Jim Fiedler was available to answer questions.

No action was taken.

#### **4.3 PRESENTATION ON CONSERVATION AND DEMAND MANAGEMENT ELEMENTS OF THE DRAFT 2017 WATER MASTER PLAN**

Ms. Tracy Hemmeter reviewed the materials as outlined in the agenda item.

Director Nai Hsueh, Director Linda J. LeZotte, Mr. Anthony Eulo from the City of Morgan Hill, Director Richard P. Santos, and Mr. Tim Guster, Vice President of Great Oaks, spoke on this agenda item.

Mr. Jim Fiedler and Mr. Garth Hall were available to answer questions.

No action was taken.

#### **4.4 RECEIVE INFORMATION ON CONSERVATION MEASURE CONNECTIONS/OBLIGATIONS ADDRESSED IN THE CA WATERFIX**

Mr. Garth Hall reviewed the materials as outlined in the agenda item.

Director Nai Hsueh, Director Linda J. LeZotte and Mr. Erick Soderlund spoke on this agenda item.

Mr. Jim Fiedler was available to answer questions.

No action was taken.

#### **4.5 RECEIVE AN UPDATE ON THE DISTRICT'S OUTREACH CAMPAIGN (HOAS, NEIGHBORHOOD GROUPS, DEVELOPERS, PLANNING AGENCIES)**

Mr. Marty Grimes reviewed the materials as outlined in the agenda item and gave a verbal presentation on the District's Communications Programs.

Director Nai Hsueh, Director Linda J. LeZotte, Mr. Tim Guster, Vice President of Great Oaks, Mr. John Tang, Vice President of Government Relations and Corporate Communications of San Jose Water Company, and Mr. Doug Muirhead, a member of the public and spoke on this agenda item.

No action was taken.

**4.6 REVIEW OF WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE WORK PLAN AND THE OUTCOMES OF BOARD ACTION OF COMMITTEE REQUESTS**

Vice Chair LeZotte reviewed the materials as outlined in the agenda item.

Director Nai Hsueh, asked to remove #10 and add to #5 as part of today's meeting discussion. Also, removing items #'s 11, 12, and 13 and have the components included in the Master Plan under item #4 for further discussion. Correct Item #14f to read conversations instead of conservations.

The following should be on the next meeting agenda:

- ❖ Golf Course Coalition
- ❖ SWRCB Updates – Making Conservation a Way of CA Life; Emergency Reg
- ❖ SGMA Update

**5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE'S REQUESTS**

Ms. Michelle Critchlow reported there were no action items for Board consideration.

**6. ADJOURNMENT**

Vice Chair LeZotte adjourned at 12:38 p.m. to the next regular meeting, Thursday, February 23, 2017, at 10:00 a.m. in the Santa Clara Valley Water District Headquarters Board Boardroom.

Michelle Critchlow  
Office of the Clerk of the Board

Approved:







Committee:	Water Conservation and Demand Management
Meeting Date:	02/23/17
Agenda Item No.:	4.1
Unclassified Manager:	Garth Hall
Email:	<a href="mailto:Ghall@valleywater.org">Ghall@valleywater.org</a>
Est. Staff Time:	5 Minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Update on Golf Course Coalition Proposal

**RECOMMENDED ACTION:**

This is an information only item and no action is required.

**SUMMARY:**

At the request of the Water Conservation and Demand Management Committee (Committee), staff has discussed the draft Golf Course Coalition proposal, titled "Alternative Means of Compliance for Golf Courses and Sports Fields" with the water retailers at their October Water Retailers Meeting as well as a November Water Conservation Subcommittee (Subcommittee) meeting. District staff has since worked with the Subcommittee to initiate a small working group to discuss this concept further. The small working group has provided comments to the proposal, which will be shared with the full Subcommittee on March 16, 2017. Once the Subcommittee has a chance to review/comment, staff will discuss the updated version, and next steps, with the Golf Course Coalition's representatives.

**BACKGROUND:**

Golf courses, typically a target of the public during a drought, have each responded in their own way to the ongoing drought. In many cases the response is dependent on their water provider and the restrictions in place, which can vary significantly from one jurisdiction to the next. To address this imbalance, as well as other issues, the majority of golf courses in Santa Clara County have organized to form a Golf Course Coalition (Coalition). The Coalition has been tasked with developing and promoting uniform requirements throughout the county for large landscapes that utilize potable water. This would include consistent water use reduction targets, reporting requirements, and potential consequences for non-compliance (e.g. fines). The specifics, including the definition of "large landscape", are still to be determined.

**ATTACHMENT(S):**

None





Committee: Water Conservation and Demand Management  
Meeting Date: 02/23/17  
Agenda Item No.: 4.2  
Unclassified Manager: Garth Hall  
Email: [Ghall@valleywater.org](mailto:Ghall@valleywater.org)  
Est. Staff Time: 10 Minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Update on State Water Resources Control Board (SWRCB) (Emergency Regulation; Making Water Conservation a California Way of Life)

### RECOMMENDED ACTION:

This is an information only item and no action is required.

### SUMMARY:

On May 18, 2016, the State Water Resources Control Board (State Board) extended and amended its Emergency Regulation (ER) to include locally developed water use reduction standards, and required water retailers to self-certify the availability of water supplies assuming three additional dry years. The amendment also called for wholesale water agencies such as the District to provide retailers with the supplies they anticipate being able to deliver in each of the three years. Other provisions, such as monthly reporting and various water waster prohibitions, were continued. The current ER is in place through February 28, 2017, and the State Board is expected to discuss the expiring ER on February 8, 2017. Staff will provide the Committee a verbal update at their February 23, 2017 meeting.

In addition to the state's drought response efforts, on May 9, 2016, the Governor issued Executive Order (EO) B-37-16 directing state agencies to establish a long-term framework for water conservation and drought planning. The intent is to address four key themes:

1. Use water more wisely
2. Eliminate water waste
3. Strengthen local drought resilience
4. Improve agriculture water use efficiency and drought planning

The proposed framework "Making Water Conservation a California Way of Life" was released by the state on November 30, 2016, with comments due by December 19, 2016. The State Agencies updated the proposed framework based on comments received, and submitted a final draft to the Governor's office on January 20, 2017. Staff will provide a verbal update on February 23, 2017 regarding any action from the Governor's office.

### BACKGROUND:

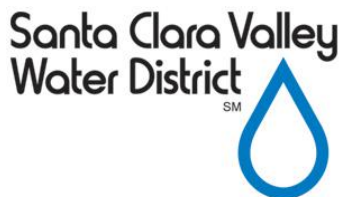
In 2009 the Governor signed SBx 7-7, the Water Conservation Act of 2009, which requires retail water agencies throughout the state to reduce their gallons per capita per day (GPCD) water use 20 percent by the year 2020. An Urban Stakeholder Committee was formed, which the District participated in, to develop the

methodologies retail agencies could use to develop their targets as well as to determine compliance. The state is now proposing a new standard to build off the conservation achieved during the recent drought as well as the efforts to comply with SBx 7-7.

The proposed framework also addresses drought resiliency by recommending some prohibitions be permanent (e.g. hosing of sidewalks, driveways, and other hardscapes; watering lawns in a manner that causes runoff; irrigating ornamental turf on public street medians, etc.) and that Water Shortage Contingency Plans be strengthened. Finally, the proposed framework recommends that agriculture water suppliers develop an annual water budget; identify water management objectives and implementation plans; quantify measures to increase efficiency; and develop an adequate drought plan.

**ATTACHMENT(S):**

None



Committee:	Water Conservation and Demand Management
Meeting Date:	02/23/17
Agenda Item No.:	4.3
Unclassified Manager:	Garth Hall
Email:	<a href="mailto:ghall@valleywater.org">ghall@valleywater.org</a>
Est. Staff Time:	15 minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Update on the Evaluation of New Sustainable Groundwater Management Act (SGMA) Authorities

### RECOMMENDED ACTION:

This is an information only item and no action is required.

### SUMMARY:

The Sustainable Groundwater Management Act (SGMA) provides the District with various authorities to ensure groundwater sustainability. Per the District's 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP), the District will evaluate the regulation of pumping and collection of different fee types as potential tools that may be needed to ensure continued sustainability. The Board referred related stakeholder engagement to the Water Conservation and Demand Management Committee (Committee).

On January 25, 2017, the Committee concurred with staff's proposed approach to engage stakeholders in the evaluation of new SGMA authorities. There are no substantive updates at this time, as the related analysis is just beginning. Staff proposes to present general information on groundwater rights and related SGMA issues at the Committee's next meeting.

### BACKGROUND:

On December 9, 2016, the Committee discussed the GWMP public comment letters. Several retailers present indicated a need to clearly define the process to evaluate SGMA authorities and involve stakeholders, as these authorities have potentially significant impacts on water retailer operations.

On January 25, 2017, the Committee discussed staff's proposed stakeholder engagement plan (plan) and received stakeholder input. The Committee directed staff to implement the plan as proposed, to provide regular updates to the Committee, and to expedite the analysis if feasible. Under the plan, staff will present preliminary findings on new SGMA authorities to the Committee in late summer 2017 and the draft implementation framework in December 2017. Stakeholders present were generally supportive of the plan.

Staff maintains a list of stakeholders interested in GWMP implementation, and will continue to provide notification of upcoming Committee items related to SGMA authorities.

### ATTACHMENT(S):

None.





Committee: Water Conservation and Demand Management  
Meeting Date: 02/23/17  
Agenda Item No.: 4.4  
Unclassified Manager: Michele King  
Email: [mking@valleywater.org](mailto:mking@valleywater.org)  
Est. Staff Time: 5 Minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Review of Water Conservation and Demand Management Committee Work Plan, any Outcomes of Board Action or Committee Requests and Schedule the next Committee Meeting

### RECOMMENDED ACTION:

Review the Committee work plan to guide the Committee's discussions regarding policy alternatives and implications for Board deliberation.

### SUMMARY:

The attached Work Plan outlines the topics for discussion to be able to prepare policy alternatives and implications for Board deliberation. The work plan is agendaized at each meeting as accomplishments are updated and to review additional work plan assignments by the Board.

### BACKGROUND:

#### Governance Process Policy-8:

The District Act provides for the creation of advisory boards, committees, or commissions by resolution to serve at the pleasure of the Board.

The Board Ad Hoc Committee is comprised of less than a quorum of the Board and/or external members having a limited term, to accomplish a specific task, is established in accordance with the Board Ad Hoc Committee procedure (Procedure No. W723S01), and will be used sparingly. Annually, the purpose of an established Ad Hoc Committee will be reviewed to determine its relevance.

In keeping with the Board's broader focus, Board Committees will not direct the implementation of District programs and projects, other than to receive information and provide advice and comment.

### ATTACHMENT(S):

Attachment 1: Water Conservation and Demand Management Committee 2017 Work Plan





# 2017 Work Plan: Water Conservation and Demand Management Committee

Update: February 2017

ITEM #	WORK PLAN ITEM	MEETING	ACTION/DISCUSSION OR INFORMATION ONLY	ACCOMPLISHED OUTCOMES
1	Update on Golf Course Coalition Proposal	1-25-17 2-23-17	Discussion/Action Item	<b>Accomplished January 25, 2017:</b> The Committee received an update on Golf Course Coalition Proposal and took no action.
2	Receive Information on Conservation Measure Connections/Obligations addressed in the CA Waterfix	1-25-17	Discussion/Action Item	<b>Accomplished January 25, 2017:</b> The Committee received information on conservation measure connections/Obligations addressed in the CA Waterfix and took no action.
3	Consideration of potential approaches for receiving input from key stakeholders on development of plans, where necessary, for implementation of authorities available to the District under the Sustainable Groundwater Management Act (SGMA)	1-25-17	Discussion/Action Item	<b>Accomplished January 25, 2017:</b> The Committee considered potential approaches for receiving input from key stakeholders on development of plans, where necessary, for implementation of authorities available to the District under the Sustainable Groundwater Management Act (SGMA) and took no action.
4	<p>Presentation On Conservation And Demand Management Elements of the Draft 2017 Water Master Plan Include in the plan:</p> <p>Water Use Efficiency Standards and Requirements</p> <ul style="list-style-type: none"> <li>• Green Business Program</li> <li>• LEED certification</li> <li>• CalGreen</li> <li>• Ordinances</li> </ul> <p>Information on new technology related to water conservation, including:</p> <ul style="list-style-type: none"> <li>• Smart metering (AMI),</li> <li>• Leak detection/repair</li> <li>• Others?</li> </ul> <p>If needed, invite experts to present to the</p>	1-25-17	Discussion/Action Item	<b>Accomplished January 25, 2017:</b> The Committee received a presentation on conservation and demand management elements of the Draft 2017 Water Master Plan and took no action.

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

Attachment 1

Page 1 of 3

# 2017 Work Plan: Water Conservation and Demand Management Committee

Update: February 2017

ITEM #	WORK PLAN ITEM	MEETING	ACTION/DISCUSSION OR INFORMATION ONLY	ACCOMPLISHED OUTCOMES
	<p>Committee</p> <p>Should District invest/get involved in development of new local water, i.e.</p> <ul style="list-style-type: none"> <li>• Rainwater harvesting</li> <li>• On-site storm water retention</li> <li>• Infiltration of high quality storm water</li> <li>• Gray Water</li> </ul> <p><i>Committee to review the issue question, and include working with cities on building codes and future planning, offering incentives, and identifying District role.</i></p>			
5	<p>Receive an Update on the District's Outreach Campaign (HOAs, Neighborhood Groups, Developers, Planning Agencies)</p>	1-25-17	Discussion/Action Item	<p><b>Accomplished January 25, 2017:</b> The Committee received an update on the District's Outreach Campaign (HOAs, Neighborhood Groups, Developers, Planning Agencies and took no action.</p>
6	<p>Review of 2017 Water Conservation Ad Hoc Committee Work Plan and the Outcomes of Board Action of Committee Requests</p>	1-25-17 2-23-17	Discussion/Action Item	<p><b>Accomplished January 25, 2017:</b> The Committee reviewed their work plan for 2017 and added Safe, Clean Water Conservation Grant Research Results to their work plan. Joined items #11, 12 and 13 to #4 Water Master Plan and correct #14f to read hold conversations.</p>
7	<p>Update on State Water Resources Control Board (SWRCB) (Emergency Regulation; Making Water Conservation a California Way of Life)</p>	2-23-17	Discussion/Action Item	
8	<p>Update on the Evaluation of New Sustainable Groundwater Management Act (SGMA) Authorities</p>	2-23-17	Discussion/Action Item	

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

Attachment 1

Page 2 of 3

ITEM #	WORK PLAN ITEM	MEETING	ACTION/DISCUSSION OR INFORMATION ONLY	ACCOMPLISHED OUTCOMES
9	Pending Legislation Relating to Water Conservation and Demand Management	TBD	Discussion/Action Item	
10	Water Budget-based rates	TBD	Discussion/Action Item	
11	Upcoming Board Agenda Item related to Water Conservation and Demand Management	TBD	Discussion/Action Item	
12	<p>Change from "Water Conservation is only necessary during drought," to "Water Conservation is a way of life."</p> <p><b><u>Strategies/Opportunities:</u></b></p> <ul style="list-style-type: none"> <li>A. Legislative Mandates</li> <li>B. Local Governmental Partnerships</li> <li>C. Local Governmental Mandates</li> <li>D. Education</li> <li>E. Promote Smart Meters-New Technology</li> <li>F. Hold conversations with cities and development communities on demand management and micro-storage</li> <li>G. Promote new startups in demand management (innovative). District should volunteer for pilots when possible.</li> </ul> <p><i>Assigned to Committee for review and recommendation to full Board.</i></p>	TBD	Discussion/Action Item	

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

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# Handouts

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# GREAT OAKS WATER CO.

20 Great Oaks Blvd., Suite 120, San Jose, California 95119  
Mail To: P.O. Box 23490 San Jose, California 95153  
Phone: (408) 227-9540 Office hours: 8:00am-5:00pm  
www.greatoakswater.com  
Phone Payment: † 1 (844) 508-6489



## Billing Invoice

Account No. [REDACTED]

Service Address: [REDACTED]

Due and Payable Upon Receipt  
Will be Past Due: 03/10/2017

Service From 12/06/2016 to 02/14/2017

Present Meter Read: 4257  
Previous Meter Read: 4229  
Consumed: 28  
Consumed Last Year:  
Meter Size: 5/8" X 3/4"

## Invoice Detail:

FROM 12/06/2016 TO 02/14/2017	
Service Charge 70 Days @ \$8.15/mo	18.77
Quantity 14.97 CCF @ \$2.6275/CCF	39.33
Quantity 13.03 CCF @ \$2.8458/CCF	37.08
WRAM Surchg: 17.6 CCF @ \$0.1195/CCF <sup>17</sup>	2.10
LICAP Acct Surchg: 28 CCF @ \$0.0275/CCF <sup>18</sup>	0.77
Pump Tax Surchg: 28 CCF @ \$0.3298/CCF <sup>19</sup>	9.23
SUB-TOTAL	107.28
California PUC Surcharge 1.44 %	1.54
SUB-TOTAL	108.82
San Jose City Utility Tax 5.0 %	5.44
AMOUNT DUE	114.26

114.26

**CONSERVATION IS A WAY OF LIFE**  
**Please maintain conservation efforts**  
**This year vs. 2013: 22.22% Reduction**  
**This Year vs. Last Year: 24.32% Reduction**  
**Mandatory Allocations Discontinued**

<sup>17</sup> For Single Family Residential Users, a WRAM Surcharge of \$0.1195 applies to each CCF of water from 1/19/2016 to 1/18/2017.

<sup>18</sup> A LICAP Surcharge of \$0.0275 applies to each CCF of water for non-LICAP Users starting 7/1/2016.

<sup>19</sup> A Pump Tax Surcharge of \$0.3298 applies to each CCF of water starting 7/1/2016.

### 2015 Consumer Confidence Report (CCR)

This year Great Oaks Water will post its CCR electronically. To view our report go to the following URL:  
[www.greatoakswater.com/2015ccr.pdf](http://www.greatoakswater.com/2015ccr.pdf)

This notice contains important information about your drinking water. Translate it, or speak with someone who understands it. If you cannot access this report on the Internet you can pick one up at our office or call us and our friendly staff will mail you one.

Este informe contiene información muy importante sobre su agua potable. Tradúzcalo o habla con alguien que lo entiende bien.

Chi tiết này thật quan trọng. Xin nhờ người dịch cho quý vị.

--- Payments by cash, check ‡, money order, Surepay, Credit Card, Debit Card, ACH and Phone Payments † ---

† A convenience fee applies on all Credit Card, Debit Card, ACH or Phone Payments. Convenience fees are not refundable and are paid by the customer directly to the vendor and not to Great Oaks Water Company.

‡ Your Check payment may be processed as a one-time electronic ACH transaction where funds may be withdrawn from your account on the same day we receive your payment and you will not receive your check back from your financial institution.

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110 W. Taylor Street  
San Jose, CA 95110-2131

February 16, 2017

Trevor Joseph  
Sup. Engineering Geologist  
Sustainable Groundwater Management Chief  
California Department of Water Resources  
901 P. Street, Room 213  
P.O. Box 942836  
Trevor.Joseph@water.ca.gov  
Sacramento, California 94236

Uploaded through SGMA's Alternative Portal and submitted via email to:  
Trevor.Joseph@water.ca.gov

**RE: San Jose Water Company's Comments on Santa Clara Valley Water District's Submitted Alternative Groundwater Sustainability Plan**

Dear Mr. Joseph:

San Jose Water Company ("SJWC") presents these comments regarding Santa Clara Valley Water District's ("District") submission of its recently amended groundwater management plan ("GWMP") to the Department of Water Resources' ("DWR") as an alternative groundwater sustainability plan ("Alternative Plan") under the Sustainable Groundwater Management Act ("SGMA"). The District submitted this Alternative Plan on December 21, 2016 ("Submitted Alternative") for the Santa Clara Valley Groundwater Basin (DWR Basin No. 2-9.02) ("Basin") under SGMA and subsequent emergency regulations (23 CCR § 350 *et seq.*) ("GSP Regulations"), which allow a local agency governing a medium- or high-priority groundwater basin to forego developing a groundwater sustainability plan ("Plan") by submitting a "functionally equivalent" Alternative Plan that has been in existence since January 1, 2015 and demonstrates the ability to meet SGMA's goals and objectives.

SJWC is a public water system, regulated by the California Public Utilities Commission. SGMA requires Groundwater Sustainability Agencies ("GSA") to consider the interests of beneficial uses and users of groundwater. Those "interests" specifically include public water systems. (Wat. Code § 10723.2; see also CCR § 354.10(a).) SJWC was formed in 1866, and now provides a reliable water supply to more than 1 million people for largely domestic and municipal and industrial uses. (Wat. Code §106 (domestic use is the highest and best use).)

Through over a century of continuous beneficial use, SJWC has developed appropriative and prescriptive rights to groundwater in the Basin that it conjunctively uses in coordination with District programs. In reliance on these water rights, SJWC has made

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substantial investments and developed groundwater infrastructure and well capacity sufficient to withdraw approximately 290,000 acre-feet per year from the Basin. These proprietary rights are statutorily protected against loss or diminishment through the actions of third parties. (Civ. Code § 1007.) Groundwater is a critical resource for SJWC and the broader community it serves. Accordingly, SJWC has a substantial interest in the shared governance and sustainability of this Basin and standing to contest DWR's approval of the Submitted Alternative.

As described more fully below, the Submitted Alternative does not meet the requirements of SGMA, nor of the GSP Regulations, and should not be accepted as an Alternative Plan by DWR.

**I. General Comments on the District's Submitted Alternative**

**A. The Submitted Alternative is Not an Acceptable Alternative Under SGMA**

SGMA sets forth three potential Alternative Plans that a local agency may submit in place of a Plan, including an existing GWMP developed pursuant to Part 2.75 of the Water Code or other law authorizing groundwater management. (Wat. Code § 10733.6.) The Water Code specifically prohibits, however, a new GWMP from being adopted, or an existing GWMP from being "renewed" or amended after January 1, 2015. (Wat. Code § 10750.1(a).) The Water Code further states that "this [prohibition] does not apply to a [GWMP] submitted as an [Alternative Plan] pursuant to Section 10733.6, unless the department has not determined that the alternative satisfies the objectives of [SGMA] on or before January 31, 2020, or [DWR] later determines that the [Alternative Plan] does not satisfy the objectives of that part." (Wat. Code § 10750.1(c).) Therefore, the Water Code prohibits a local agency from adopting or amending a GWMP until after DWR accepts the GWMP as functionally equivalent to a Plan. The rationale behind this rule is to avoid allowing GSAs to fast-track an existing groundwater management plan simply by updating it without allowing for sufficient coordination and collaboration with interested stakeholders, as mandated by SGMA.

In violation of this prohibition, the District amended its GWMP, originally adopted in 2012, on November 22, 2016, two days before Thanksgiving, and less than three weeks after it provided a draft for public review and comment on its website. It then submitted its amended GWMP to DWR as an Alternative Plan. As set forth above, however, the Water Code explicitly prohibits an amended GWMP from being submitted as an Alternative Plan under SGMA and only authorizes DWR to review and accept GWMPs adopted prior to January 1, 2015. Further, the District's hasty release and approval of the plan avoided any meaningful collaboration and coordination in violation of SGMA. For this reason, SJWC strongly urges DWR to reject the District's Submitted Alternative because its action undermines the SGMA objectives of coordination and collaboration.

**B. The Submitted Alternative Undermines Collaboration Among Basin Stakeholders**

In addition to being invalid for circumventing the prescribed process, the Submitted Alternative also disregards repeated efforts by the Basin's various water retailers to

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directly collaborate with the District on the preparation and submittal of a Plan, or an Alternative Plan. Since July 2016, SJWC has repeatedly corresponded and met with the District to share its concerns over the adequacy of the District's GWMP, both prior to its amendment and as amended, and to suggest development and inclusion of a shared governance model in any Plan or Alternative Plan submitted to DWR. This proposal would not have required an amendment to the Submitted Alternative; rather, it would have constituted a further contemplated action. (*See* Wat. Code § 10723.6.) To this end, SJWC developed and presented to the District a draft memorandum of agreement and provided comments on the District's amended GWMP (attached hereto as Attachment A), which the District did not take into account prior to submitting its Submitted Alternative. These efforts at collaboration have been met with resistance from the District.

Instead, District representatives have pointed to past voluntary cooperation and coordination among the District and the Basin's other water retailers ("Water Retailers") as an example of how decisions *might* be made under SGMA. The District has also stated that it will start engaging stakeholders in 2017, but if DWR accepts the District's Submitted Alternative, any engagement will be too late. Because the District's process for making SGMA-related decisions is not set forth in the Submitted Alternative, SJWC is concerned that the District may elect to pursue actions independently and without regard to interests of the Water Retailers. In so doing, the District's actions may diminish the value and reliability of the Water Retailers' water rights and undermine their ability to meet the needs of their constituents.

## **II. Comments on Specific Deficiencies in the Submitted Alternative**

If DWR decides to review the Submitted Alternative despite the late amendments to the plan, we have provided specific comments detailing how and why the Submitted Alternative with the included amendments is *not* the functional equivalent of a Plan. A summary of these key deficiencies is provided below. We have also added more detailed comments to the District's "Demonstration of Functional Equivalency," chart which it submitted to DWR to demonstrate the Submitted Alternative's functional equivalence to a Plan (see Attachment B).

### **A. The Submitted Alternative Fails to Comply with SGMA's Notice and Communication Requirements.**

In order to be functionally equivalent to a Plan, the Submitted Alternative must include (1) an explanation of the District's decision-making process and (2) identification of opportunities for public engagement and a discussion of how public input and responses will be used. (23 CCR § 354.10(d)(1), (2).) The Submitted Alternative does not satisfy either of these requirements.

Although the Submitted Alternative includes a section titled "Groundwater Management Partners and Stakeholders," this section does not satisfy the requirement to provide an explanation of how the District will make decisions pertaining to groundwater management affecting the Basin's stakeholders, specifically the Water Retailers who hold water rights to the Basin's groundwater. The closest the Submitted Alternatives comes to describing the District's decision-making process is a statement that "[o]ngoing strong

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partnership and collaboration will be essential to meet future water supply challenges.” (Submitted Alternative, pp. 1-14, 1-15.) This hoped-for collaboration between the District and the Water Retailers, however, is contradicted by the Submitted Alternative’s description of the role of Water Retailers in groundwater management, which makes no reference to any decision-making responsibility. (Submitted Alternative, p. 1-16.) No process is explained and no explanation is provided for how input and comments from Water Retailers will be used, if at all, when decisions are made that impact, or potentially impact, groundwater rights and Water Retailer operations. The District’s failure to satisfy its notice and communication requirements undermines one of SGMA’s key objectives— to ensure that groundwater management remains a collaborative, stakeholder driven process.

**B. The Submitted Alternative Does Not Include a Current or Projected Water Budget for the Basin.**

The GSP Regulations require Plans (and Alternative Plans) to provide a historical, current, and projected water budget for their basin(s). (23 CCR § 354.18.) Although the District’s Submitted Alternative includes a historical groundwater budget identifying the average inflows and outflows from 2003 through 2012, it does not quantify this information for current inflows and outflows nor provides a projected water budget going forward. Inclusion of this information in any SGMA-authorized plan is necessary to provide the foundation for understanding the state of a basin and informing management activities and programs. The District’s failure to provide a current or projected water budget for the Basin calls into question the remainder of the Submitted Alternative, including the District’s assessment of the Basin’s conditions and its proposed management actions.

**C. The Submitted Alternative Fails to Define Undesirable Results.**

One of SGMA’s key objectives is the avoidance of undesirable results. To prevent undesirable results, they must first be expressly identified. It is actually hard to imagine a valid Plan under SGMA that does not identify the undesirable results that the management strategy aspires to avoid or minimize. Indeed, this is the entire objective of SGMA: manage basins for sustainability to avoid harm.

The GSP Regulations outline the requirements governing how undesirable results should be defined; including requiring a local agency to describe the process and criteria relied upon to define and quantify undesirable results for its specific basin. (23 CCR § 354.26.) Although the District’s “Demonstration of Functional Equivalency” chart references multiple chapters in the Submitted Alternative complying with this requirement, the Submitted Alternative never actually uses the term “undesirable results,” or sets forth the groundwater conditions from which they would occur. While the Submitted Alternative discusses storage levels, water quality indicators, and subsidence, the District does not describe: (1) the “processes and criteria relied upon to define undesirable results;” (2) the “cause of groundwater conditions...that would lead to...undesirable results;” (3) the “criteria used to define when and where the effects of groundwater conditions cause undesirable results;” (4) and whether some undesirable results “are not present and are not likely to occur....” (23 CCR § 354.26.) The failure to satisfy this cornerstone requirement

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of SGMA means DWR should summarily reject the Submitted Alternative as functionally equivalent.

**D. The Submitted Alternative Does Not Satisfy the GSP Regulation’s Requirements for the Establishment of Minimum Thresholds.**

In order to be functionally equivalent, the GSP Regulations require that an Alternative Plan establish quantitative minimum thresholds for each sustainability indicator present in a basin. (23 CCR § 354.28.) Although the Submitted Alternative establishes basin-wide “key performance measures” that the District refers to as “outcome measures” for four of the six SGMA-defined undesirable results, it fails to demonstrate why the other two undesirable results—depletions of interconnected surface water and chronic lowering of groundwater levels—are not present in the basin and thus do not need to be addressed.

The GSP Regulations also require an Alternative Plan to include additional information regarding how and why the minimum thresholds were established. This must include how the minimum thresholds in each sub-basin have been selected to avoid causing undesirable results in the adjacent sub-basin and how the minimum thresholds may affect the interests of beneficial uses and users of groundwater or land uses and property interests overlying the Basin. The Submitted Alternative fails to address *any* of these requirements. For these reasons, DWR should find that the Submitted Alternative is not functionally equivalent.

**E. The Submitted Alternative Fails to Establish Measurable Objectives.**

In addition to undesirable results and minimum thresholds, the GSP Regulations also require an Alternative Plan to establish and describe quantitative measurable objectives for the Basin. The Submitted Alternative does not even attempt to address this requirement. Based on the District’s “Demonstration of Functional Equivalency” chart (submitted with its Submitted Alternative), the District appears to believe that this requirement is not applicable, or “N/A,” to the Basin. The District does not provide any justification for why the Basin, or itself, may be exempt from complying with this requirement. Based on this lack of compliance, DWR must find the Submitted Alternative is not functionally equivalent.

**F. Monitoring Network Described in Submitted Alternative Does Not Meet Requirements of GSP Regulations.**

Another important requirement set forth in the GSP Regulations is the inclusion of a robust monitoring system in order to keep abreast of changing conditions in the basin and react accordingly to ensure that the basin is sustainably managed. Although the Submitted Alternative includes a chapter devoted to describing the District’s monitoring network, the monitoring network still falls short of the requirements in the GSP Regulations. For example, although the monitoring network monitors groundwater levels throughout the basin, it does not appear to be designed to monitor all of the additional elements required by the GSP Regulations, including: groundwater flow directions, hydraulic gradients, depletions of interconnected surface waters, and changes in annual groundwater storage. Instead, the Submitted Alternative attempts to skirt these monitoring requirements without explaining why they are unnecessary or inapplicable to the Basin. The Submitted

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Alternative also fails to satisfy the requirement in the GSP Regulations to provide information about the District's monitoring protocols, technical standards, and data collection methods.

The Submitted Alternative also fails to identify data gaps in the District's monitoring network. As noted in our comments above, however, there are many deficiencies in the District's current monitoring network. The District's failure to describe a functionally equivalent monitoring system, or to identify any data gaps within its monitoring network, weighs against the Submitted Alternative satisfying the functionally equivalent standard.

III. **Conclusion**

Based on a fair review of the District's Submitted Alternative—and as described above—the Submitted Alternative does not qualify as an eligible Alternative Plan under SGMA and it is not functionally equivalent to a Plan developed under the GSP Regulations. For these reasons, DWR must reject the Submitted Alternative as an ineligible submission, or alternatively, find that the Submitted Alternative fails to meet the substantive standards of SGMA. While SJWC remains committed to the long-term sustainable management of groundwater, SGMA requires better definitions and firmer commitments than those set forth in the District's Submitted Alternative. In the end, a Plan that fosters collaboration and coordination among Water Retailers and the District is far more likely to achieve SGMA's statutory objectives.

Sincerely,



Andrew R. Gere, P.E.  
President and Chief Operating Officer

cc: Timothy Guster, Great Oaks Water Company  
Jim Simunovich, California Water Service Company  
Gary Kremen, District Board Member  
John Varela, District Board Chair  
Linda LeZotte, District Board Member  
Nai Hsueh, District Board Member  
Richard Santos, District Board Member  
Tony Estremera, District Board Member  
Barbara Keegan, District Board Member  
Norma Camacho, District CEO  
Jim Fiedler, District COO



110 W. Taylor Street  
San Jose, CA 95110-2131

November 18, 2016

Santa Clara Valley Water District  
Attention: Barbara Keegan, Board Chair  
5750 Almaden Expressway  
San Jose, CA 95118-3686

Re: Submittal of an Alternative Plan Pursuant to the Sustainable Groundwater Management Act

Dear Ms. Keegan:

After more than a century without comprehensive groundwater regulation in California, the Legislature adopted the Sustainable Groundwater Management Act (SGMA), effective January 1, 2015, and established criteria for the adoption of Groundwater Sustainability Plans (GSPs). As the designated Groundwater Sustainability Agency (GSA) under SGMA, the Santa Clara Valley Water District (District) was empowered to either prepare a GSP in compliance with SGMA<sup>1</sup> or submit an existing Alternative Plan that meets all the requirements of SGMA as the functional equivalent required by Articles 5 and 7 of the Department of Water Resources' (DWR) SGMA Regulations.<sup>2</sup> The Alternative Plan must fully "demonstrate the ability of the Alternative to achieve the objectives of the Act."<sup>3</sup>

San Jose Water Company (SJWC) writes to express our support for sustainable groundwater management and the District moving forward with an Alternative Groundwater Sustainability Plan (Alternative Plan). However, we must also make you aware of our opposition to the District's submitting its 2012 Ground Water Management Plan (GWMP), with amendments,<sup>4</sup> as an Alternative Plan without your having first concurrently embraced the important role of the region's Public Water Systems (Water Systems)<sup>5</sup> in the shared oversight of

<sup>1</sup> SGMA and related regulations (jointly referred to as "SGMA Requirements").

<sup>2</sup> Cal. Code Regs. (CCR) Tit. 23, Div. 2, Ch. 1.5, Sub Ch. 2, approved by the California Water Commission on May 18, 2016.

<sup>3</sup> 23 CCR 358.2(d).

<sup>4</sup> According to SGMA, however, "[b]eginning January 1, 2015, a new [GWMP] shall not be adopted and an existing [GWMP] shall not be renewed pursuant to [the Water Code]." (Wat. Code § 10750.1.)

<sup>5</sup> "Public water system" has the same meaning as defined in Section 116275 of the Health and Safety Code (Wat. Code § 10721(s)), which defines "Public water system" as "a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year." Health & Safety Code, § 116275.

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2016

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certain provisions that ensure sustainability.<sup>6</sup> We believe this shared responsibility among the Water Systems will enable the District to adopt effective sustainability goals, while also allowing those assuming the greatest burden and interest in a successful outcome the opportunity to develop the strategy for achieving compliance.

Incorporated in 1866, SJWC is a public water system, regulated by the California Public Utilities Commission (CPUC), and has an approved Urban Water Management Plan. It has faithfully discharged its duty to provide a high quality and reliable water supply to more than 1 million people. In furtherance of this duty, it has developed a portfolio of water supplies and efficiently managed the distribution of its water for over 150 years. No water supply is more important to SJWC and the broader community it serves than its groundwater.

Toward that end, SJWC has developed appropriative and prescriptive rights to groundwater that it conjunctively uses in coordination with the District's programs as a private steward of an important public resource. In reliance on these vested proprietary water rights, SJWC has made substantial investments and developed groundwater infrastructure and well capacity sufficient to withdraw approximately 290,000 acre-feet in a single year.

Since July 2016, we have repeatedly corresponded and met with District management and staff<sup>7</sup> in a good faith effort to share our concerns over the adequacy of the GWMP and to suggest a shared governance model among Water Systems that may facilitate the approval of the GWMP by DWR and will improve its efficacy. Specifically, the GWMP fails to acknowledge the proprietary groundwater rights held by the Water Systems within the management area (including SJWC) and the need to directly involve such systems in defining responsive actions consistent with their vested rights.<sup>8</sup> SGMA requires GSAs to consider the interests of beneficial uses and users of groundwater. Those interests specifically include Water Systems.<sup>9</sup> Consequently, the GWMP is not yet a functional equivalent of a GSP as required under applicable law. Even if it were, it holds open the question of future enforcement and will serve to undermine future planning and water supply development.

The Legislature has clearly declared that sustainable groundwater management must respect proprietary rights to groundwater.<sup>10</sup> In fact, it was the expressed intent of the Legislature to "preserve the security of water rights in the state to the greatest extent possible consistent with the sustainable management of groundwater."<sup>11</sup>

SGMA requires management of groundwater within the sustainable yield of the basin.<sup>12</sup> GSPs and functionally equivalent Alternative Plans must have mechanisms to ensure

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<sup>6</sup> Wat. Code § 10735.2(a)(3)-(5)

<sup>7</sup> July 7, 2016 correspondence; 2016 Meetings: September 9, October 7, 12 and 20.

<sup>8</sup> While the Amended Plan acknowledges that pursuant to SGMA, local agencies may not determine water rights in regulating pumping, it does not define the proprietary water rights in the Basin, explain how these rights will be protected, or what the process will be to respect those rights.

<sup>9</sup> Water Code § 10723.2.

<sup>10</sup> Wat. Code § 113(b)(4); Wat. Code § 10720(b)(4).

<sup>11</sup> Wat. Code § 10720.1(b).

<sup>12</sup> Wat. Code § 10721(v).



sustainability,<sup>13</sup> and the District's GWMP is lacking. If the District adopts a sustainable yield and ultimately corresponding methods to limit groundwater production within the plan area, then the burden of implementing strategies will be borne almost entirely by the sovereign Water Systems. These Water Systems have already dedicated this groundwater to a public use and have accrued proprietary groundwater rights.<sup>14</sup> Either a future amendment to the GWMP will address the subject of plan enforcement and its consistency with these vested rights, or a court is likely to do so. We believe the Water Systems, pursuant to a memorandum of agreement with the District, can collaboratively develop water budgets and curtailment strategies that will provide certainty and enhance efficient use.

Under the District's GWMP, Water Systems within the planning area are forced to guess as to how and when the District will move to adopt provisions to ensure sustainability that may dramatically impact their ability to plan and provide water service to their customers in the future. This uncertainty adds to the lack of regional water supply reliability, and will result in increased costs and waste, and is otherwise contrary to the public interest.

Despite requests from SJWC and other Water Systems, the District has not stated what actions it will take to ensure that sustainability objectives are achieved, or provided assurance that its actions will be consistent with vested water rights and, thus far it has been unwilling to acknowledge that measures that curtail the quantity of available groundwater are best left to the entities with the primary responsibility for distribution of groundwater. **We ask that the District agree now to a shared governance among Water Systems on the question of how any allocation of groundwater or curtailing use be borne and implemented.<sup>15</sup> Only this way can the District ensure that its achievement of a sustainability goal will be consistent with the vested rights cumulatively held by these entities and not resisted by them at a later date.**

Specifically, in reviewing the District's GWMP and comparing it to the standards of a GSP,<sup>16</sup> we wish to point out the following deficiencies:

- o **Failure to Describe Basin Conditions in Required Detail.** The District's GWMP fails to describe the current status and conditions of the Santa Clara Sub-basin (Basin) with the level of detail mandated by the SGMA Requirements. The GWMP's multiple maps and other graphics depicting the Basin also fall short of providing the required information and details. These basic deficiencies suggest that the GWMP lacks sufficient baseline data to successfully, and sustainably, manage the Basin pursuant to the SGMA Requirements.

<sup>13</sup> 23 CCR 354.24 requires that "[t]he [GSP] shall include a description of the sustainability goal, including information from the basin setting used to establish the sustainability goal, [and] a discussion of the measures that will be implemented to ensure that the basin will be operated within its sustainable yield."

<sup>14</sup> These rights are statutorily protected against loss or diminishment by third-party conduct. Civ. Code § 1007; see *Wright v. Goleta Water District* (1985) 174 Cal.App.3d 71.

<sup>15</sup> A proposal for shared public water system governance by a Memorandum of Agreement is attached hereto.

<sup>16</sup> 23 CCR 358.2(d).

- **No Express Identification of Basin's Beneficial Users.** The District's GWMP fails to specifically identify individual beneficial users of the Basin's groundwater resources, which is required under the SGMA Requirements. Failure to identify specific Basin users also indicates that the District's GWMP lacks important, and required, data about the status of the Basin's groundwater supplies. It also may result in incomplete and an unfair distribution of enforcement burdens and one that fails to honor and protect vested rights.
- **Failure to Include Basin's Projected Water Budget.** To be functionally equivalent, a GWMP must include a basin's water budget under historical, current and future conditions. Although the District's GWMP includes a graphic illustrating the Basin's historical average annual water budget, this graphic does not include the information nor level of detail required under the SGMA Requirements. The GWMP does not include any discussion regarding the quantification of the Basin's current or future groundwater budget nor provide whether there are limitations on expanded or even existing production.
- **GWMP Fails to Identify All Required Undesirable Results or Establish Sufficient Minimum Thresholds.** Although the District's GWMP briefly identifies multiple undesirable results present in the Basin, discussion of these conditions is insufficient to meet the SGMA Requirements. In addition to this deficiency, the District's GWMP also fails to quantify current groundwater conditions and establish adequate minimum thresholds to determine when conditions in the Basin necessitate action. The four "Outcome Measures" in the Amended Plan do not meet the extensive requirements for minimum thresholds and measurable objectives for each applicable sustainability indicator. Failure to satisfy this cornerstone requirement of SGMA means that the District's GWMP is not functionally equivalent.
- **No Identification of GWMP's Data Gaps.** To be deemed functionally equivalent, a GWMP is required to identify both uncertainty and existing gaps in the data that informs the hydrogeological model within the SGMA Requirements. The District's GWMP fails to expressly identify any data gaps within either its monitoring network or the data provided about the Basin, which is a key requirement under the SGMA Requirements.

Although the District's recent draft amendment to its GWMP attempts to address these deficiencies in its 2012 GWMP, it does not fully satisfy SGMA's requirements. Moreover, SGMA prohibits local agencies in medium- and high-priority basins from adopting a new GWMP or

*amending an existing GWMP as of January 1, 2015.*<sup>17</sup> A fair reading of the plain meaning of Water Code § 10750.1(a) suggests that an amended GWMP is not eligible for consideration as an Alternative Plan.

As stated above and in all of our prior communications, SJWC supports sustainable groundwater management. We agree the District is best situated to develop sustainability goals. However, allocating groundwater among interests and requiring curtailment to achieve sustainability goals is a matter that is best left to the vested right holders in the planning area.

Based upon our review of the District’s GWMP—and as described above—we do not believe the GWMP qualifies as an Alternative Plan. It does not provide sufficient clarity as to how the GWMP will result in sustainable management or how water budget/allocations will be addressed and any curtailment enforced.

Should the District move forward with submitting its GWMP as an Alternative Plan without first acknowledging the need for shared governance on the key areas of water budget/allocations and curtailment, we are prepared to submit a comprehensive comment letter to DWR detailing the GWMP’s lack of functional equivalency as summarized above and stating our opposition to its adoption at this time.

SJWC urges the District Board of Directors to defer adoption of an amended GWMP until its deficiencies are corrected and the shared governance issues identified in this letter are appropriately addressed and incorporated into the plan. SJWC looks forward to the cooperation of the District to resolve these concerns and stands ready to help develop workable solutions that balance the needs and rights of Water Systems with achieving the important basin sustainability goals required by SGMA.

Respectfully,

Andrew R. Gere, P.E.  
President and Chief Operating Officer

- Cc: Gary Kremen, District Board Member
- John Varela, District Board Member
- Linda LeZotte, District Board Member
- Nai Hsueh, District Board Member
- Richard Santos, District Board Member
- Tony Estremera, District Board Member
- Norma Camacho, District CEO
- Jim Fiedler, District COO

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<sup>17</sup> Wat. Code § 10750.1(a)

**MEMORANDUM OF AGREEMENT ("MOA")  
BETWEEN PUBLIC WATER RETAILERS AND THE SANTA CLARA VALLEY WATER  
DISTRICT ("DISTRICT") REGARDING THE IMPLEMENTATION OF THE 2012**

Public Water Retailers are "public water systems" that produce groundwater within Santa Clara County and are required to prepare and file Urban Water Management Plans ("UWMP") with the California Department of Water Resources;

**WHEREAS**, the District is a multi-purpose water management district with the powers set forth in its authorizing act and is the agency designated as the Groundwater Sustainability Agency ("GSA") for purposes of preparing a Groundwater Sustainability Plan ("GSP") and implementing the California Sustainable Groundwater Management Act ("SGMA") within Santa Clara County for the Santa Clara and Llagas subbasins ("subbasins");

**WHEREAS**, since the 1930's, the District's water supply strategy has been to maximize conjunctive use, the coordinated management of surface and groundwater;<sup>1</sup>

**WHEREAS**, Tables ES-1 and ES-2 of the District 2012 Groundwater Management Plan ("2012 GMP") acknowledge the shared responsibility and cooperation with others that is required to effectively manage groundwater within these areas;<sup>3</sup>

**WHEREAS**, Section 2.2 of the 2012 GMP states that "[n]early half of the water used in Santa Clara County is pumped from groundwater, one of the county's greatest natural resources," and that UWMP of the public water systems demonstrate that these water retailers show a continued reliance upon groundwater to meet the needs of their customers;<sup>4</sup>

**WHEREAS**, Section 1.3 of the 2012 GMP reflects the District's intention to be a regional partner in groundwater management;

**WHEREAS**, Section 4.1.4 of the 2012 GMP acknowledges that the subbasins in Santa Clara County are not adjudicated and the District does not legally control the operation of groundwater wells or the amount of groundwater that wells can produce;

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<sup>1</sup> 2012 Groundwater Management Plan, ES-1.

<sup>3</sup> 2012 Groundwater Management Plan, Tables ES-1 and ES-2.

<sup>4</sup> 2012 Groundwater Management Plan, Section 4.1.5 and 1.3.

**WHEREAS**, a key component of the water supply reliability performance under the 2012 GMP and approved UWMP depends on the cooperation between the District and its water retailers, which is "critical during times of shortage;"<sup>5</sup>

**WHEREAS**, the District resolved to continue and enhance further groundwater management partnerships;<sup>6</sup>

**WHEREAS**, the District has announced its intention to submit its 2012 GMP as an Alternative Plan in lieu of a GSP in compliance with SGMA, and to qualify Alternative Plans must fulfill the objectives of a GSP;

**WHEREAS**, groundwater management pursuant to SGMA must be consistent with Section 2 of Article X of the California Constitution and nothing within SGMA may modify the priorities of common law water rights<sup>7</sup> and the statutory protection of those rights;<sup>8</sup>

**WHEREAS**, SGMA requires GSAs to consider the interests of beneficial uses and users of groundwater within the plan area and those "interests" specifically include public water systems<sup>9</sup>; and

**WHEREAS**, SGMA provides that a GSA may implement a plan pursuant to legal agreement in a manner consistent with Recommendation 7-5 of the District 2012 GMP, pursuant to an MOA.

**NOW THEREFORE**, the Parties hereby agree that a Water Rights Committee with the foregoing powers and authority shall be formed to guide implementation of the 2012 GMP as an Alternative Plan or a GSP as either the 2012 GMP or GSP may be amended and approved by DWR from time to time.

**1. Water Rights Committee.**

A "Water Rights Committee" ("WRC") is hereby established by written agreement among the signatory Water Retailers and the District. This WRC will wield the responsibility for coordinating and facilitating implementation of the 2012 GMP or a GSP (collectively hereinafter the "SGMA Plan") with regard to the following subjects in the manner described:

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<sup>5</sup> 2012 Groundwater Management Plan, Section 4-1-4 at p. 4-5.

<sup>6</sup> 2012 Groundwater Management Plan, Recommendation: 7-3(5) at pp. 7.4-7.5

<sup>7</sup> Water Code § 10720.5.

<sup>8</sup> See. e.g. Civil Code § 1007, Water Code §§ 106, 106.5; Public Utilities Code § 851.

<sup>9</sup> Water Code § 10723.2; Section 354.10 of the GSP Regulations ("Notice and Communication").

(a) Curtailment/Appportionment. In the event that either the District determines that curtailment of groundwater production or an appportionment of groundwater (allocation) within the subbasins is required to avoid causing undesirable results under a SGMA Plan, then:

- (i) The District will notify the WRC in writing of the need for a curtailment/apportionment plan to avoid causing undesirable results;
- (ii) At any time on its own initiative, the WRC may, or within twelve (12) months of its receipt of written notice from the District, the WRC will prepare a curtailment/apportionment plan;
- (iii) The methodology to curtail existing extractions or apportionment of groundwater shall be developed by the WRC in its complete discretion;
- (iv) Any WRC curtailment/apportionment plan shall be presented to the District for its consideration and inclusion in any SGMA Plan;
- (v) The District will accept and include the WRC curtailment/apportionment plan developed by the WRC in the SGMA Plan unless, after a good faith evaluation, the District finds that the WRC allocation/curtailment plan, including proposed mitigation measures, do not provide reasonable assurance that "undesirable results" will be avoided;
- (vi) In the event the District disagrees with the WRC curtailment/apportionment plan pursuant to (v) above, the District may seek to set aside the adoption of the WRC plan pursuant to Code of Civil Procedure (CCP) § 1085;
- (vii) The Parties will exercise good faith and reasonable efforts to coordinate the implementation of any interim measures required to protect against "undesirable results" during the WRC's development of a curtailment/apportionment plan;
- (viii) If after twelve (12) months from the date of the District's notice required in paragraph (a)(i) above, the WRC fails to complete a curtailment/apportionment plan and present the plan to the District for approval, then the District may prepare its own curtailment/apportionment plan. If the WRC disagrees with the District's plan, then the WRC may seek to set aside the adoption of the District's curtailment/apportionment plan pursuant to CCP § 1085.

(b) Transfer and Carry-Over. If water allocations are created pursuant to section 1(a) of this MOA, the WRC may, in its complete discretion, develop a transfer and carry-over plan further implementing a SGMA Plan that will establish rules and conditions for the transfer, conservation, and carry-over of any unused allocation between and among the public water systems.

- (i) The WRC will notify the District in writing of its intent to prepare a transfer and carry-over plan, and thereafter the WRC will exercise good faith and reasonable diligence in preparing a transfer and carry-over plan;
- (ii) The methodology for transfer and carry-over of any allocations shall be developed by the WRC in its complete discretion, subject to the express requirement that the transfer and carry-over plan will not cause or threaten to cause unmitigated "undesirable results;"
- (iii) The District will accept and include a WRC transfer and carry-over plan in the SGMA Plan unless, after a good faith evaluation, the District finds that the WRC transfer and carry-over plan, including proposed mitigation measures, do not provide reasonable assurances against causing or threatening to cause "undesirable results;"
- (iv) In the event the District disagrees with the WRC transfer and carry-over plan pursuant to (b)(iii) above, the District may seek to set aside the adoption of the WRC plan pursuant to CCP § 1085.

(c) Storage and recovery of imported water. The District will submit any plan that will limit or condition the ability of public water systems to import foreign (out of County, out of watershed) supplemental water into the subbasins for storage and recovery by the public water systems to the WRC for its review and consideration.

- (i) The District will provide written notice to the WRC of its intent to prepare a storage and recovery plan;
- (ii) The storage and recovery plan shall not impair the operating ability of a public water system or cause or threaten to cause "undesirable results;"
- (iii) The District will seek the WRC's approval of any storage and recovery plan prior to inclusion in any SGMA Plan;
- (iv) If the WRC disagrees with the District's plan, then the WRC may seek to set aside the District's adoption of its storage and recovery plan pursuant to CCP § 1085;
- (v) Alternatively, if the District has not issued a notice of its intention to prepare a storage plan pursuant to (c)(i) above, the WRC may independently develop a plan for the storage and recovery of imported water to enhance local water supply reliability. The WRC will present any WRC plan for the storage and recovery of water to the District for inclusion in a SGMA Plan. The District will accept and include the WRC storage and recovery plan unless, after a good faith

evaluation, it finds that storage and recovery of imported water will cause or threatens to cause “undesirable results” or will directly interfere with existing District operations or replenishment programs;

- (vi) The WRC may challenge the District’s decision not to include the storage and recovery plan in a SGMA Plan pursuant to CCP § 1085.

(d) Well Permits / Well Location. The District will not restrict or seek to regulate a public water system’s ability to produce groundwater for public consumption by an existing, replacement or new well unless there is a direct and immediate threat to the health, safety and welfare that is separate, discrete and distinguishable from groundwater production in the subbasin as a whole. If the District determines in its discretion that such an immediate and direct threat to the health, safety, and welfare of the community exists, it may act by an urgency ordinance to reasonably condition the new wells but only for so long as the actual emergency condition exists. The District will exercise good faith and reasonable efforts to coordinate with the WRC to develop a consensus on reasonable conditions to protect public health and safety and to avoid undesirable results. The WRC may challenge the District’s plan to limit or condition well permits and well location pursuant to CCP §1085.

**2. Water Rights Committee Representation.**

The WRC shall be comprised of representatives appointed by each of the Public Water Retailers and drawn from its membership.

Voting: Except as specifically otherwise provided herein, the vote of a majority of the members of the WRC present at any regular, adjourned or special meeting shall be sufficient to pass or act upon any matter properly before the WRC, and each member of the WRC shall have one vote.

Groundwater Weighted Voting: Upon the call and request of any WRC member, present and able to vote, and a quorum being present, a weighted voting formula shall apply for any vote to be taken by the WRC, with each member having one or more votes based upon the groundwater pumping set forth in Exhibit A. In order for the WRC to take action under the provisions of this section two requirements must be fulfilled:

- a) A majority of the votes weighted by groundwater pumping must be cast in favor of the action, provided that not less than two member agencies vote in favor of the action; and
- b) A majority of the members vote in favor of the action. In the event a simple majority vote on a question has previously been taken, and a weighted vote is subsequently called; a roll call vote will be taken that tabulates both the weighted vote and the members voting. The vote weighted by a majority of



those voting representing a majority of the groundwater pumping shall supersede the previous simple majority vote, provided that the vote of a single member may not defeat an action.

Groundwater Pumping: For the purposes of determining the weighted vote of water retailers or the At-Large representative, the weighted vote by groundwater use shall be based on the historical groundwater pumping range set forth in Exhibit A, which may be updated annually by the WRC to reflect the actual increase in a WRC member's groundwater use.

The Public Water Retailers agree to form the WRC by January 15, 2017.

(a) **Quorum.** A majority of the voting power of the WRC shall constitute a quorum for the transaction of affairs and the approval or disapproval of plans and actions set forth in paragraph 1(a)-1(d) above. Any action or recommendation of the WRC shall be transmitted to the District in writing.

(b) **Organizational Meeting.** At its first meeting each year, the WRC shall elect a chairperson and vice-chairperson from its membership. It shall also elect a secretary and treasurer as may be appropriate, and the positions need not be from its membership.

(c) The WRC shall conduct its business in accordance with Robert's Rules of Order and the California Open Meetings Law, and shall establish further governing rules and procedures as may be necessary and convenient for the WRC.

**4. Binding on All Plans.**

The commitments set forth in this MOA shall apply to any SGMA Plan.

**5. Effective Date.**

The MOA is effective upon execution of the Parties.

**EXHIBIT A**

Method: All Retailers Represented with Weighting except that use <400 AFY<sup>1</sup>.  
One At-Large representative to be appointed from among parties that use <400 AFY.

Retailer	# of Votes	Range in AF		# of Votes
San Jose Water Company	10	55,800	62,000	10
Santa Clara	3	49,600	55,800	9
Great Oaks <sup>2</sup>	3	43,400	49,600	8
Gilroy	2	37,200	43,400	7
Morgan Hill	2	31,000	37,200	6
Cal Water	1	24,800	31,000	5
Sunnyvale	1	18,600	24,000	4
San Jose	1	12,400	18,600	3
Mountain View	1	6,200	12,400	2
<i>Total</i>		0	6,200	1

$\Sigma = \text{Total GW}/\#\text{votes}$   
 Total GW = 155,000  
 votes = 25

**GROUNDWATER USE IN AF**

	2010 UWMP	% Total
San Jose Water Company	60,500	39.0%
Santa Clara	14,800	9.5%
Great Oaks	12,300	7.9%
Gilroy	8,500	5.5%
Morgan Hill	7,800	5.0%
Cal Water	5,200	3.4%
Sunnyvale	1,200	0.8%
San Jose	400	0.3%
Mountain View	400	0.3%
Stanford	200	0.1%
Independent Santa Clara	9,800	6.3%
Independent Coyote Valley	5,000	3.2%
Independent Llagas	28,900	18.6%
<i>Total</i>	155,000	100.0%

<sup>1</sup> SCVWD 2010 UWMP

<sup>2</sup> Great Oaks rounded up to 12,400

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DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
<b>Article 5. Subarticle 1: Administrative Information</b>			
<b>Introduction to Administrative Information (§ 354.2)</b>			
§ 354.2	This Subarticle describes information in the Plan relating to administrative and other general information about the Agency that has adopted the Plan and the area covered by the Plan.	§§ 1.2, 1.3	
<b>General Information (§ 354.4)</b>			
§ 354.4(a)	Each Plan shall include the following general information: (a) An executive summary written in plain language that provides an overview of the Plan and description of groundwater conditions in the basin.	Executive Summary	
§ 354.4(b)	(b) A list of references and technical studies relied upon by the Agency in developing the Plan. Each Agency shall provide to the Department electronic copies of reports and other documents and materials cited as references that are not generally available to the public.	References	
§ 354.6(a)	When submitting an adopted Plan to the Department, the Agency shall include a copy of the information provided pursuant to Water Code Section 10723.8, with any updates, if necessary, along with the following information: The name and mailing address of the Agency.	§ 1.1	
§ 354.6(b)	The organization and management structure of the Agency, identifying persons with management authority for implementation of the Plan.	§§ 1.1, 1.3	
§ 354.6(c)	The name and contact information, including the phone number, mailing address and electronic mail address, of the plan manager.	§ 1.1	
§ 354.6(d)	The legal authority of the Agency, with specific reference to citations setting forth the duties, powers, and responsibilities of the Agency, demonstrating that the Agency has the legal authority to implement the Plan.	§ 1.3	Although the Submitted Alternative identifies various legal authorities authorizing the District to undertake groundwater management generally, it fails to acknowledge that its Submitted Alternative—a recently amended GWMP—does not fall within one of the three potential types of Alternative Plans identified in SGMA. Under SGMA, local agencies in medium- or high-priority basins (such as the Basin) are explicitly prohibited from adopting a new GWMP or amending an existing GWMP after January 1, 2015. (Wat. Code § 10750.1.) The District’s Submitted Alternative, therefore is not eligible for

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
			acceptance by DWR as an Alternative Plan because it was amended in 2016.
§ 354.6(e)	An estimate of the cost of implementing the Plan and a general description of how the Agency plans to meet those costs.	§ 1.3	Although the Submitted Alternative identifies an annual budget for one of the District’s numerous divisions, it does not provide any information as to an estimate of the cost of implementing the Submitted Alternative, or a general description of how the District plans to meet those costs.
<b>Description of Plan Area (§ 354.8)</b>			
§ 354.8(a)	<p>Each Plan shall include a description of the geographic areas covered, including the following information:</p> <p>(a) One or more maps of the basin that depict the following, as applicable:</p> <p>(1) The area covered by the Plan, delineating areas managed by the Agency as an exclusive Agency and any areas for which the Agency is not an exclusive Agency, and the name and location of any adjacent basins.</p> <p>(2) Adjudicated areas, other Agencies within the basin, and areas covered by an Alternative.</p> <p>(3) Jurisdictional boundaries of federal or state land (including the identity of the agency with jurisdiction over that land), tribal land, cities, counties, agencies with water management responsibilities, and areas covered by relevant general plans.</p> <p>(4) Existing land use designations and the identification of water use sector and water source type.</p> <p>(5) The density of wells per square mile, by dasymetric or similar mapping techniques, showing the general distribution of agricultural, industrial, and domestic water supply wells in the basin, including de minimis extractors, and the location and extent of communities dependent upon groundwater, utilizing data provided by the Department, as specified in Section 353.2, or the best available information.</p>	Figures 1-1, 2-1, 3-1, 4-8, 4-10	The Submitted Alternative does not provide maps depicting all of the details required by 23 CCR 354.8(a), including (1) existing land use designations and (2) the identification of water use sector and water source type and the density of wells per square mile.
§ 354.8(b)	(b) A written description of the Plan area, including a summary of the jurisdictional areas and other features depicted on the map.	§§ 1.2, 2.1, 3.1	Although the Submitted Alternative includes a written description of the covered area, it does not include a description of all of the features required to be depicted on the maps pursuant to 23 CCR 354.8(a).
§ 354.8(c)	(c) Identification of existing water resource monitoring and management programs, and description of any such programs	Chapters 6, 7	

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	the Agency plans to incorporate in its monitoring network or in development of its Plan.		
§ 354.8(d)	(d) A description of how existing water resource monitoring or management programs may limit operational flexibility in the basin, and how the Plan has been developed to adapt to those limits.	Chapter 6	
§ 354.8(e)	(e) A description of conjunctive use programs in the basin.	§§ 4.3, 6.1	
§ 354.8(f)	<p>(f) A plain language description of the land use elements or topic categories of applicable general plans that includes the following:</p> <p>(1) A summary of general plans and other land use plans governing the basin.</p> <p>(2) A general description of how implementation of existing land use plans may change water demands within the basin or affect the ability of the Agency to achieve sustainable groundwater management over the planning and implementation horizon, and how the Plan addresses those potential effects.</p> <p>(3) A general description of how implementation of the Plan may affect the water supply assumptions of relevant land use plans over the planning and implementation horizon.</p> <p>(4) A summary of the process for permitting new or replacement wells in the basin, including adopted standards in local well ordinances, zoning codes, and policies contained in adopted land use plans.</p> <p>(5) To the extent known, the Agency may include information regarding the implementation of land use plans outside the basin that could affect the ability of the Agency to achieve sustainable groundwater management.</p>	§§ 1.4, 5.3, 6.1, 6.2	The Submitted Alternative does not provide a description of all of the items required by 23 CCR354.8(f), including a summary of general plans and other land use plans overlying the Basin, how implementation of existing land use plans may change water demands within the Basin or affect the District’s ability to achieve sustainable groundwater management over the planning and implementation horizon, and a general description of how its implementation may affect water supply assumptions of relevant land use plans over the planning and implementation horizon.
§ 354.8(g)	(g) A description of any of the additional Plan elements included in Water Code Section 10727.4 that the Agency determines to be appropriate.	§§ 1.4, 5.3, Chapter 6	
<b>Notice and Communication (§ 354.10)</b>			
§ 354.10(a)	<p>Each Plan shall include a summary of information relating to notification and communication by the Agency with other agencies and interested parties including the following:</p> <p>(a) A description of the beneficial uses and users of</p>	Appendix A	

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	groundwater in the basin, including the land uses and property interests potentially affected by the use of groundwater in the basin, the types of parties representing those interests, and the nature of consultation with those parties.		
§ 354.10(b)	(b) A list of public meetings at which the Plan was discussed or considered by the Agency.	Appendix A	
§ 354.10(c)	(c) Comments regarding the Plan received by the Agency and a summary of any responses by the Agency.	Appendix A	
§ 354.10(d)	(d) A communication section of the Plan that includes the following: (1) An explanation of the Agency’s decision-making process. (2) Identification of opportunities for public engagement and a discussion of how public input and response will be used. (3) A description of how the Agency encourages the active involvement of diverse social, cultural, and economic elements of the population within the basin. (4) The method the Agency shall follow to inform the public about progress implementing the Plan, including the status of projects and actions.	§§ 1.4, 1.5, Appendix A	Although the Submitted Alternative includes a section titled “Groundwater Management Partners and Stakeholders,” this section does satisfy the requirement to provide an explanation of how the District will make decisions pertaining to groundwater management that affect Water Retailers, especially the largest water-producing retailers.
<b>Article 5. Subarticle 2: Basin Setting</b>			
<b>Introduction to Basin Setting (§ 354.12)</b>			
§ 354.12	This Subarticle describes the information about the physical setting and characteristics of the basin and current conditions of the basin that shall be part of each Plan, including the identification of data gaps and levels of uncertainty, which comprise the basin setting that serves as the basis for defining and assessing reasonable sustainable management criteria and projects and management actions. Information provided pursuant to this Subarticle shall be prepared by or under the direction of a professional geologist or professional engineer.	Chapters 2, 3	
<b>Hydrogeologic Conceptual Model (§ 354.14)</b>			
§ 354.14(a)	(a) Each Plan shall include a descriptive hydrogeologic conceptual model of the basin based on technical studies and qualified maps that characterizes the physical components and interaction of the surface water and groundwater systems in the basin.	Chapters 2, 3	
§ 354.14(b)	(b) The hydrogeologic conceptual model shall be summarized	Chapters 2, 3	Although the Submitted Alternative provides a general

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	<p>in a written description that includes the following:</p> <p>(1) The regional geologic and structural setting of the basin including the immediate surrounding area, as necessary for geologic consistency.</p> <p>(2) Lateral basin boundaries, including major geologic features that significantly affect groundwater flow.</p> <p>(3) The definable bottom of the basin.</p> <p>(4) Principal aquifers and aquitards, including the following information:</p> <p>(A) Formation names, if defined.</p> <p>(B) Physical properties of aquifers and aquitards, including the vertical and lateral extent, hydraulic conductivity, and storativity, which may be based on existing technical studies or other best available information.</p> <p>(C) Structural properties of the basin that restrict groundwater flow within the principal aquifers, including information regarding stratigraphic changes, truncation of units, or other features.</p> <p>(D) General water quality of the principal aquifers, which may be based on information derived from existing technical studies or regulatory programs.</p> <p>(E) Identification of the primary use or uses of each aquifer, such as domestic, irrigation, or municipal water supply.</p> <p>(5) Identification of data gaps and uncertainty within the hydrogeologic conceptual Model.</p>		<p>description of the physical properties of the aquifer and aquitards found in the Basin, it does not include all of the required details, including a description of the aquifer's , hydraulic conductivity, and storativity. The Submitted Alternative also fails to identify the primary use or uses of each aquifer, such as domestic, irrigation, or municipal water supply or any potential data gaps and uncertainty within the hydrogeologic conceptual model.</p>
§ 354.14(c)	<p>(c) The hydrogeologic conceptual model shall be represented graphically by at least two scaled cross-sections that display the information required by this section and are sufficient to depict major stratigraphic and structural features in the basin.</p>	<p>Figures 2-4, 2-5, 3-4, 3-5, 3-6</p>	
§ 354.14(d)	<p>(d) Physical characteristics of the basin shall be represented on one or more maps that depict the following:</p> <p>(1) Topographic information derived from the U.S. Geological Survey or another reliable source.</p> <p>(2) Surficial geology derived from a qualified map including the locations of cross sections required by this Section.</p> <p>(3) Soil characteristics as described by the appropriate Natural Resources Conservation Service soil survey or other applicable studies.</p>	<p>Figures 1-3, 2-1, 2-2, 2-4, 2-5, 2-6, 2-14, 3-1, 3-2, 3-4, 3-5, 3-6</p>	<p>Although the Submitted Alternative includes various maps, it does not include a map depicting the Basin's topography, the Basin's soil characteristics, or the source and point of delivery for imported water supplies.</p>

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	<p>(4) Delineation of existing recharge areas that substantially contribute to the replenishment of the basin, potential recharge areas, and discharge areas, including significant active springs, seeps, and wetlands within or adjacent to the basin.</p> <p>(5) Surface water bodies that are significant to the management of the basin.</p> <p>(6) The source and point of delivery for imported water supplies.</p>		
<b>Groundwater Conditions (§ 354.16)</b>			
§ 354.16(a)	<p>Each Plan shall provide a description of current and historical groundwater conditions in the basin, including data from January 1, 2015, to current conditions, based on the best available information that includes the following:</p> <p>(a) Groundwater elevation data demonstrating flow directions, lateral and vertical gradients, and regional pumping patterns, including:</p> <p>(1) Groundwater elevation contour maps depicting the groundwater table or potentiometric surface associated with the current seasonal high and seasonal low for each principal aquifer within the basin.</p> <p>(2) Hydrographs depicting long-term groundwater elevations, historical highs and lows, and hydraulic gradients between principal aquifers.</p>	<p>§§ 2.2, 3.2, Appendix C</p> <p>Figures 2-8, 2-9, 2-10, 2-11, 3-8, 3-9, 3-10</p>	
§ 354.16(b)	<p>(b) A graph depicting estimates of the change in groundwater in storage, based on data, demonstrating the annual and cumulative change in the volume of groundwater in storage between seasonal high groundwater conditions, including the annual groundwater use and water year type.</p>	<p>§§ 4.4</p> <p>Figures 4-9, 4-10, 4-13</p>	
§ 354.16(c)	<p>(c) Seawater intrusion conditions in the basin, including maps and cross- sections of the seawater intrusion front for each principal aquifer.</p>	<p>§ 2.2</p> <p>Figure 2-21</p>	<p>Although the Submitted Alternative provides a map depicting the extent of sea water intrusion in the principal aquifer, it does not include a cross section, as is also required.</p>
§ 354.16(d)	<p>(d) Groundwater quality issues that may affect the supply and beneficial uses of groundwater, including a description and map of the location of known groundwater contamination sites and plumes.</p>	<p>§§ 2.2, 3.2, 6.2</p> <p>Figures 6-1, 6-2</p>	
§ 354.16(e)	<p>(e) The extent, cumulative total, and annual rate of land subsidence, including maps depicting total subsidence,</p>	<p>§ 2.2</p>	



DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	utilizing data available from the Department, as specified in Section 353.2, or the best available information.	Figure 2-13	
§ 354.16(f)	(f) Identification of interconnected surface water systems within the basin and an estimate of the quantity and timing of depletions of those systems, utilizing data available from the Department, as specified in Section 353.2, or the best available information.	§§ 2.2, 3.2	Although the Submitted Alternative identifies interconnected surface water systems within the Basin, it does not provide an estimate of the quantity and timing of those systems as required.
§ 354.16(g)	(g) Identification of groundwater dependent ecosystems within the basin, utilizing data available from the Department as specified in Section 353.2, or the best available information.	§§ 2.2, 3.2	
<b>Water Budget (§ 354.18)</b>			
§ 354.18(a)	(a) Each Plan shall include a water budget for the basin that provides an accounting and assessment of the total annual volume of groundwater and surface water entering and leaving the basin, including historical, current and projected water budget conditions, and the change in the volume of water stored. Water budget information shall be reported in tabular and graphical form.	§§ 4.4, 4.5	
§ 354.18(b)	(b) The water budget shall quantify the following, either through direct measurements or estimates based on data: (1) Total surface water entering and leaving a basin by water source type. (2) Inflow to the groundwater system by water source type, including subsurface groundwater inflow and infiltration of precipitation, applied water, and surface water systems, such as lakes, streams, rivers, canals, springs and conveyance systems. (3) Outflows from the groundwater system by water use sector, including evapotranspiration, groundwater extraction, groundwater discharge to surface water sources, and subsurface groundwater outflow. (4) The change in the annual volume of groundwater in storage between seasonal high conditions. (5) If overdraft conditions occur, as defined in Bulletin 118, the water budget shall include a quantification of overdraft over a period of years during which water year and water supply conditions approximate average conditions. (6) The water year type associated with the annual supply,	§ 4.4	The Submitted Alternative does not identify the water year type associated with the annual supply, demand, and change in groundwater stored.

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	demand, and change in groundwater stored. (7) An estimate of sustainable yield for the basin.		
§ 354.18(c) (1) and (2)	<p>(c) Each Plan shall quantify the current, historical, and projected water budget for the basin as follows:</p> <p>(1) Current water budget information shall quantify current inflows and outflows for the basin using the most recent hydrology, water supply, water demand, and land use information.</p> <p>(2) Historical water budget information shall be used to evaluate availability or reliability of past surface water supply deliveries and aquifer response to water supply and demand trends relative to water year type. The historical water budget shall include the following:</p> <p>(A) A quantitative evaluation of the availability or reliability of historical surface water supply deliveries as a function of the historical planned versus actual annual surface water deliveries, by surface water source and water year type, and based on the most recent ten years of surface water supply information.</p> <p>(B) A quantitative assessment of the historical water budget, starting with the most recently available information and extending back a minimum of 10 years, or as is sufficient to calibrate and reduce the uncertainty of the tools and methods used to estimate and project future water budget information and future aquifer response to proposed sustainable groundwater management practices over the planning and implementation horizon.</p> <p>(C) A description of how historical conditions concerning hydrology, water demand, and surface water supply availability or reliability have impacted the ability of the Agency to operate the basin within sustainable yield. Basin hydrology may be characterized and evaluated using water year type.</p>	§§ 4.4, 4.5	<p>Although the Submitted Alternative includes a historical groundwater budget identifying quantifies the average inflows and outflows from 2003 through 2012, it does not quantify this information for current inflows and outflows. The Submitted Alternative’s historical water budget also does not include an evaluation of the availability or reliability of historical surface water supply deliveries as a function of the historical versus actual annual surface water deliveries.</p>
§ 354.18(c) (3)	(3) Projected water budgets shall be used to estimate future baseline conditions of supply, demand, and aquifer response to Plan implementation, and to identify the uncertainties of these projected water budget components. The projected water budget shall utilize the following methodologies and assumptions to estimate future baseline conditions concerning	§ 4.5	<p>The Submitted Alternative does not include a projected water budget.</p>

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	<p>hydrology, water demand and surface water supply availability or reliability over the planning and implementation horizon:</p> <p>(A) Projected hydrology shall utilize 50 years of historical precipitation, evapotranspiration, and streamflow information as the baseline condition for estimating future hydrology. The projected hydrology information shall also be applied as the baseline condition used to evaluate future scenarios of hydrologic uncertainty associated with projections of climate change and sea level rise.</p> <p>(B) Projected water demand shall utilize the most recent land use, evapotranspiration, and crop coefficient information as the baseline condition for estimating future water demand. The projected water demand information shall also be applied as the baseline condition used to evaluate future scenarios of water demand uncertainty associated with projected changes in local land use planning, population growth, and climate.</p> <p>(C) Projected surface water supply shall utilize the most recent water supply information as the baseline condition for estimating future surface water supply. The projected surface water supply shall also be applied as the baseline condition used to evaluate future scenarios of surface water supply availability and reliability as a function of the historical surface water supply identified in Section 354.18(c)(2)(A), and the projected changes in local land use planning, population growth, and climate.</p>		
§ 354.18(d)	<p>(d) The Agency shall utilize the following information provided, as available, by the Department pursuant to Section 353.2, or other data of comparable quality, to develop the water budget:</p> <p>(1) Historical water budget information for mean annual temperature, mean annual precipitation, water year type, and land use.</p> <p>(2) Current water budget information for temperature, water year type, evapotranspiration, and land use.</p> <p>(3) Projected water budget information for population, population growth, climate change, and sea level rise.</p>	§§ 4.4, 4.5, 6.1	The Submitted Alternative does not identify what information it relies on to develop the water budget.
§ 354.18(e)	<p>(e) Each Plan shall rely on the best available information and best available science to quantify the water budget for the basin</p>	§§ 4.4, 4.5, 7.6	Although the Submitted Alternative provides a historical water budget, the Submitted Alternative does not identify what

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	<p>in order to provide an understanding of historical and projected hydrology, water demand, water supply, land use, population, climate change, sea level rise, groundwater and surface water interaction, and subsurface groundwater flow. If a numerical groundwater and surface water model is not used to quantify and evaluate the projected water budget conditions and the potential impacts to beneficial uses and users of groundwater, the Plan shall identify and describe an equally effective method, tool, or analytical model to evaluate projected water budget conditions.</p>		<p>information it relies on to develop the water budget. The water budget included in the Submitted Alternative also does not provide any insight into—or mention—the Basin’s historical and projected hydrology, water demand, water supply, land use, population, climate change, sea level rise, groundwater and surface water interaction, and subsurface groundwater flow.</p>
<p>§ 354.18(f)</p>	<p>(f) The Department shall provide the California Central Valley Groundwater- Surface Water Simulation Model (C2VSIM) and the Integrated Water Flow Model (IWFEM) for use by Agencies in developing the water budget. Each Agency may choose to use a different groundwater and surface water model, pursuant to Section 352.4.</p>	<p>§7.6</p>	
<p><b>Management Areas (§ 354.20)</b></p>			
<p>§ 354.20(a)</p>	<p>(a) Each Agency may define one or more management areas within a basin if the Agency has determined that creation of management areas will facilitate implementation of the Plan. Management areas may define different minimum thresholds and be operated to different measurable objectives than the basin at large, provided that undesirable results are defined consistently throughout the basin.</p>	<p>Executive Summary, § 2.1</p>	
<p>§ 354.20(b)</p>	<p>(b) A basin that includes one or more management areas shall describe the following in the Plan:                      (1) The reason for the creation of each management area.                      (2) The minimum thresholds and measurable objectives established for each management area, and an explanation of the rationale for selecting those values, if different from the basin at large.                      (3) The level of monitoring and analysis appropriate for each management area.                      (4) An explanation of how the management area can operate under different minimum thresholds and measurable objectives without causing undesirable results outside the management area, if applicable.</p>	<p>Executive Summary, § 5.4</p>	

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
§ 354.20(c)	(c) If a Plan includes one or more management areas, the Plan shall include descriptions, maps, and other information required by this Subarticle sufficient to describe conditions in those areas.	Chapter 2	
<b>Article 5. Subarticle 3: Sustainable Management Criteria</b>			
<b>Introduction to Sustainable Management Criteria (§ 354.22)</b>			
§ 354.22	This Subarticle describes criteria by which an Agency defines conditions in its Plan that constitute sustainable groundwater management for the basin, including the process by which the Agency shall characterize undesirable results, and establish minimum thresholds and measurable objectives for each applicable sustainability indicator.	Chapter 5	
<b>Sustainability Goal (§ 354.24)</b>			
§ 354.24	Each Agency shall establish in its Plan a sustainability goal for the basin that culminates in the absence of undesirable results within 20 years of the applicable statutory deadline. The Plan shall include a description of the sustainability goal, including information from the basin setting used to establish the sustainability goal, a discussion of the measures that will be implemented to ensure that the basin will be operated within its sustainable yield, and an explanation of how the sustainability goal is likely to be achieved within 20 years of Plan implementation and is likely to be maintained through the planning and implementation horizon.	Chapters 5, 6, 8	Although the Submitted Alternative establishes two sustainability goals for the basin and discusses the measures that will be implemented to meet to ensure that the Basin will be operated within its sustainable yield, it does not provide a timeline for meeting the sustainability goals or explain how the sustainability goals are likely to be achieved within 20 years and maintained through the planning and implementation horizon.
<b>Undesirable Results (§ 354.26)</b>			
§ 354.26(a)	(a) Each Agency shall describe in its Plan the processes and criteria relied upon to define undesirable results applicable to the basin. Undesirable results occur when significant and unreasonable effects for any of the sustainability indicators are caused by groundwater conditions occurring throughout the basin.	Chapters 2, 3, 5	Although the Submitted Alternative contains—and discusses—outcome measures (e.g., performance measures), <i>it does not define undesirable results or the process and/or criteria relied upon to define them.</i>
§ 354.26(b)	(b) The description of undesirable results shall include the following: (1) The cause of groundwater conditions occurring throughout the basin that would lead to or has led to undesirable results based on information described in the basin setting, and other data or models as appropriate.	Chapters 2, 3, 5	<i>The Submitted Alternative does not define undesirable results, discuss groundwater conditions from which they would occur, or discuss the potential effects of undesirable results on the Basin’s beneficial users and uses.</i>

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	<p>(2) The criteria used to define when and where the effects of the groundwater conditions cause undesirable results for each applicable sustainability indicator. The criteria shall be based on a quantitative description of the combination of minimum threshold exceedances that cause significant and unreasonable effects in the basin.</p> <p>(3) Potential effects on the beneficial uses and users of groundwater, on land uses and property interests, and other potential effects that may occur or are occurring from undesirable results.</p>		
§ 354.26(c)	<p>(c) The Agency may need to evaluate multiple minimum thresholds to determine whether an undesirable result is occurring in the basin. The determination that undesirable results are occurring may depend upon measurements from multiple monitoring sites, rather than a single monitoring site.</p>	§ 5.4	The Submitted Alternative does not define undesirable results.
§ 354.26(d)	<p>(d) An Agency that is able to demonstrate that undesirable results related to one or more sustainability indicators are not present and are not likely to occur in a basin shall not be required to establish criteria for undesirable results related to those sustainability indicators.</p>	Chapters 2, 3 § 5.4	The Submitted Alternative fails to demonstrate that one or more sustainability indicators are not present and are not likely to occur in a basin and therefore is required to establish criteria for undesirable results.
<b>Minimum Thresholds (§ 354.28)</b>			
§ 354.28(a)	<p>(a) Each Agency in its Plan shall establish minimum thresholds that quantify groundwater conditions for each applicable sustainability indicator at each monitoring site or representative monitoring site established pursuant to Section 354.36. The numeric value used to define minimum thresholds shall represent a point in the basin that, if exceeded, may cause undesirable results as described in Section 354.26.</p>	§§ 2.2, 3.2, 5.4	The Submitted Alternative establishes Basin-wide quantitative thresholds (which it refers to as outcome measures) for 4 of the 6 SGMA-defined undesirable results and does not demonstrate why the other two undesirable results are not present in the Basin and thus do not need to be addressed.
§ 354.28(b)	<p>(b) The description of minimum thresholds shall include the following:</p> <p>(1) The information and criteria relied upon to establish and justify the minimum thresholds for each sustainability indicator. The justification for the minimum threshold shall be supported by information provided in the basin setting, and other data or models as appropriate, and qualified by uncertainty in the understanding of the basin setting.</p> <p>(2) The relationship between the minimum thresholds for each</p>	§§ 2.2, 3.2, 5.4, 7.2	The Submitted Alternative does not describe how the minimum thresholds in each sub-basin have been selected to avoid causing undesirable results in the adjacent sub-basin. The Submitted Alternative also only describes how the minimum thresholds may affect the District, not how they may affect the interests of beneficial uses and users of groundwater or land uses and property interests.

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	<p>sustainability indicator, including an explanation of how the Agency has determined that basin conditions at each minimum threshold will avoid undesirable results for each of the sustainability indicators.</p> <p>(3) How minimum thresholds have been selected to avoid causing undesirable results in adjacent basins or affecting the ability of adjacent basins to achieve sustainability goals.</p> <p>(4) How minimum thresholds may affect the interests of beneficial uses and users of groundwater or land uses and property interests.</p> <p>(5) How state, federal, or local standards relate to the relevant sustainability indicator. If the minimum threshold differs from other regulatory standards, the Agency shall explain the nature of and basis for the difference.</p> <p>(6) How each minimum threshold will be quantitatively measured, consistent with the monitoring network requirements described in Subarticle 4.</p>		
§ 354.28(c)(1)	<p>(c) Minimum thresholds for each sustainability indicator shall be defined as follows:</p> <p>(1) Chronic Lowering of Groundwater Levels. The minimum threshold for chronic lowering of groundwater levels shall be the groundwater elevation indicating a depletion of supply at a given location that may lead to undesirable results. Minimum thresholds for chronic lowering of groundwater levels shall be supported by the following:</p> <p>(A) The rate of groundwater elevation decline based on historical trends, water year type, and projected water use in the basin.</p> <p>(B) Potential effects on other sustainability indicators.</p>	§§ 2.2, 3.2, 5.4	<p>The Submitted Alternative does not define a minimum threshold for the chronic lowering of groundwater levels, nor demonstrate why a minimum threshold is unnecessary or inapplicable for this sustainability indicator.</p>
§ 354.28(c)(2)	<p>(2) Reduction of Groundwater Storage. The minimum threshold for reduction of groundwater storage shall be a total volume of groundwater that can be withdrawn from the basin without causing conditions that may lead to undesirable results. Minimum thresholds for reduction of groundwater storage shall be supported by the sustainable yield of the basin, calculated based on historical trends, water year type, and projected water use in the basin.</p>	§§ 2.2, 3.2, 5.4	<p>Although the Submitted Alternative defines a minimum threshold for the reduction in groundwater storage, it is unclear on what information this threshold is based. Specifically, the Submitted Alternative does not explain the relationship between the minimum threshold for the reduction in groundwater storage and the Basin’s sustainable yield, calculated based on historical trends, water year type, and projected water use.</p>
§ 354.28(c)(3)	<p>(3) Seawater Intrusion. The minimum threshold for seawater</p>	§ 2.2, 5.4	<p>The minimum threshold for seawater intrusion set forth in the</p>

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	<p>intrusion shall be defined by a chloride concentration isocontour for each principal aquifer where seawater intrusion may lead to undesirable results. Minimum thresholds for seawater intrusion shall be supported by the following:</p> <p>(A) Maps and cross-sections of the chloride concentration isocontour that defines the minimum threshold and measurable objective for each principal aquifer.</p> <p>(B) A description of how the seawater intrusion minimum threshold considers the effects of current and projected sea levels.</p>		<p>Submitted Alternative (1) is not defined by a chloride concentration isocontour, (2) does not include maps and cross-sections of the chloride concentration isocontour to support the minimum threshold for seawater intrusion, and (3) does not consider the effects of current and projected sea levels.</p>
<p>§ 354.28(c)(4)</p>	<p>(4) Degraded Water Quality. The minimum threshold for degraded water quality shall be the degradation of water quality, including the migration of contaminant plumes that impair water supplies or other indicator of water quality as determined by the Agency that may lead to undesirable results. The minimum threshold shall be based on the number of supply wells, a volume of water, or a location of an isocontour that exceeds concentrations of constituents determined by the Agency to be of concern for the basin. In setting minimum thresholds for degraded water quality, the Agency shall consider local, state, and federal water quality standards applicable to the basin.</p>	<p>§§ 2.2, 3.2, 5.4</p>	
<p>§ 354.28(c)(5)</p>	<p>(5) Land Subsidence. The minimum threshold for land subsidence shall be the rate and extent of subsidence that substantially interferes with surface land uses and may lead to undesirable results. Minimum thresholds for land subsidence shall be supported by the following:</p> <p>(A) Identification of land uses and property interests that have been affected or are likely to be affected by land subsidence in the basin, including an explanation of how the Agency has determined and considered those uses and interests, and the Agency’s rationale for establishing minimum thresholds in light of those effects.</p> <p>(B) Maps and graphs showing the extent and rate of land subsidence in the basin that defines the minimum threshold and measurable objectives.</p>	<p>§ 2.2, 5.4</p>	<p>Although the Submitted Alternative contains maps and graphs depicting the historical extent and rate of land subsidence in the Basin, it does not include a visual depiction of the minimum threshold for land subsidence, as required.</p>
<p>§ 354.28(c)(6)</p>	<p>(6) Depletions of Interconnected Surface Water. The minimum threshold for depletions of interconnected surface water shall</p>	<p>§§ 2.2, 2.3</p>	<p>The Submitted Alternative does define a minimum threshold for depletions of interconnected surface water, nor demonstrate</p>



DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	<p>be the rate or volume of surface water depletions caused by groundwater use that has adverse impacts on beneficial uses of the surface water and may lead to undesirable results. The minimum threshold established for depletions of interconnected surface water shall be supported by the following:</p> <p>(A) The location, quantity, and timing of depletions of interconnected surface water.</p> <p>(B) A description of the groundwater and surface water model used to quantify surface water depletion. If a numerical groundwater and surface water model is not used to quantify surface water depletion, the Plan shall identify and describe an equally effective method, tool, or analytical model to accomplish the requirements of this Paragraph.</p>		<p>why a minimum threshold is unnecessary or inapplicable for this sustainability indicator.</p>
§ 354.28(d)	<p>(d) An Agency may establish a representative minimum threshold for groundwater elevation to serve as the value for multiple sustainability indicators, where the Agency can demonstrate that the representative value is a reasonable proxy for multiple individual minimum thresholds as supported by adequate evidence.</p>	N/A	
§ 354.28(e)	<p>(e) An Agency that has demonstrated that undesirable results related to one or more sustainability indicators are not present and are not likely to occur in a basin, as described in Section 354.26, shall not be required to establish minimum thresholds related to those sustainability indicators.</p>	Chapters 2, 3, 5	<p>The Submitted Alternative fails to demonstrate that one or more sustainability indicators are not present and/or are not likely to occur in the Basin and therefore is required to establish minimum thresholds for each of the 6 SGMA-identified sustainability indicators.</p>
<b>Measurable Objectives (§ 354.30)</b>			
§ 354.30(a)	<p>(a) Each Agency shall establish measurable objectives, including interim milestones in increments of five years, to achieve the sustainability goal for the basin within 20 years of Plan implementation and to continue to sustainably manage the groundwater basin over the planning and implementation horizon.</p>	Executive Summary, Chapter 8	<p>Although the Submitted Alternative contains “Groundwater Management Plan Recommendations,” which will be evaluated during pursuant to the evaluation schedule set forth in SGMA, the Submitted Alternative does not discuss “measurable objectives” or describe how the basin’s sustainability goal will be met within 20 years.</p>
§ 354.30(b)	<p>(b) Measurable objectives shall be established for each sustainability indicator, based on quantitative values using the same metrics and monitoring sites as are used to define the minimum thresholds.</p>	N/A	<p>The Submitted Alternative does not establish quantitative measurable objectives for each sustainability indicator.</p>
§ 354.30(c)	<p>(c) Measurable objectives shall provide a reasonable margin of</p>	N/A	<p>The Submitted Alternative does not establish quantitative</p>

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	operational flexibility under adverse conditions which shall take into consideration components such as historical water budgets, seasonal and long-term trends, and periods of drought, and be commensurate with levels of uncertainty.		measurable objectives.
§ 354.30(d)	(d) An Agency may establish a representative measurable objective for groundwater elevation to serve as the value for multiple sustainability indicators where the Agency can demonstrate that the representative value is a reasonable proxy for multiple individual measurable objectives as supported by adequate evidence.	N/A	
§ 354.30(e)	(e) Each Plan shall describe a reasonable path to achieve the sustainability goal for the basin within 20 years of Plan implementation, including a description of interim milestones for each relevant sustainability indicator, using the same metric as the measurable objective, in increments of five years. The description shall explain how the Plan is likely to maintain sustainable groundwater management over the planning and implementation horizon.	Executive Summary, Chapter 8	Although the Submitted Alternative contains “Groundwater Management Plan Recommendations,” to maintain the basin’s groundwater resources, there is no description of interim milestones or explanation of how the Submitted Alternative is likely to maintain sustainable groundwater management over the planning and implementation horizon.
§ 354.30(f)	(f) Each Plan may include measurable objectives and interim milestones for additional Plan elements described in Water Code Section 10727.4 where the Agency determines such measures are appropriate for sustainable groundwater management in the basin.	N/A	
§ 354.30(g)	(g) An Agency may establish measurable objectives that exceed the reasonable margin of operational flexibility for the purpose of improving overall conditions in the basin, but failure to achieve those objectives shall not be grounds for a finding of inadequacy of the Plan.	N/A	
<b>Article 5. Subarticle 4: Monitoring Networks</b>			
<b>Introduction to Monitoring Networks (§ 354.32)</b>			
§ 354.32	This Subarticle describes the monitoring network that shall be developed for each basin, including monitoring objectives, monitoring protocols, and data reporting requirements. The monitoring network shall promote the collection of data of sufficient quality, frequency, and distribution to characterize groundwater and related surface water conditions in the basin and evaluate changing conditions that occur through	Chapter 7	

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
implementation of the Plan.			
<b>Monitoring Network (§ 354.34)</b>			
§ 354.34(a)	(a) Each Agency shall develop a monitoring network capable of collecting sufficient data to demonstrate short-term, seasonal, and long-term trends in groundwater and related surface conditions, and yield representative information about groundwater conditions as necessary to evaluate Plan implementation.	§§ 7.1, 7.2, 7.3, 7.4	
§ 354.34(b)	(b) Each Plan shall include a description of the monitoring network objectives for the basin, including an explanation of how the network will be developed and implemented to monitor groundwater and related surface conditions, and the interconnection of surface water and groundwater, with sufficient temporal frequency and spatial density to evaluate the affects and effectiveness of Plan implementation. The monitoring network objectives shall be implemented to accomplish the following: (1) Demonstrate progress toward achieving measurable objectives described in the Plan. (2) Monitor impacts to the beneficial uses or users of groundwater. (3) Monitor changes in groundwater conditions relative to measurable objectives and minimum thresholds. (4) Quantify annual changes in water budget components.	§§ 7.1, 7.2, 7.3, 7.4	
§ 354.34(c)(1)	(c) Each monitoring network shall be designed to accomplish the following for each sustainability indicator: (1) Chronic Lowering of Groundwater Levels. Demonstrate groundwater occurrence, flow directions, and hydraulic gradients between principal aquifers and surface water features by the following methods: (A) A sufficient density of monitoring wells to collect representative measurements through depth-discrete perforated intervals to characterize the groundwater table or potentiometric surface for each principal aquifer. (B) Static groundwater elevation measurements shall be collected at least two times per year, to represent seasonal low and seasonal high groundwater conditions.	§ 7.1	Although the monitoring network described in the Submitted Alternative monitors groundwater levels throughout the Basin, it does not appear to be designed to monitor all of the required elements, including groundwater flow directions and the hydraulic gradients and depletions of interconnected surface waters.

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
§ 354.34(c)(2)	(2) Reduction of Groundwater Storage. Provide an estimate of the change in annual groundwater in storage.	§ 7.1	The Submitted Alternative provides an estimate of the change in annual groundwater storage through modeling, not through information gained from the monitoring network.
§ 354.34(c)(3)	(3) Seawater Intrusion. Monitor seawater intrusion using chloride concentrations, or other measurements convertible to chloride concentrations, so that the current and projected rate and extent of seawater intrusion for each applicable principal aquifer may be calculated.	§ 7.3	
§ 354.34(c)(4)	(4) Degraded Water Quality. Collect sufficient spatial and temporal data from each applicable principal aquifer to determine groundwater quality trends for water quality indicators, as determined by the Agency, to address known water quality issues.	§ 7.3	
§ 354.34(c)(5)	(5) Land Subsidence. Identify the rate and extent of land subsidence, which may be measured by extensometers, surveying, remote sensing technology, or other appropriate method.	§ 7.2	
§ 354.34(c)(6)	(6) Depletions of Interconnected Surface Water. Monitor surface water and groundwater, where interconnected surface water conditions exist, to characterize the spatial and temporal exchanges between surface water and groundwater, and to calibrate and apply the tools and methods necessary to calculate depletions of surface water caused by groundwater extractions. The monitoring network shall be able to characterize the following: (A) Flow conditions including surface water discharge, surface water head, and baseflow contribution. (B) Identifying the approximate date and location where ephemeral or intermittent flowing streams and rivers cease to flow, if applicable. (C) Temporal change in conditions due to variations in stream discharge and regional groundwater extraction. (D) Other factors that may be necessary to identify adverse impacts on beneficial uses of the surface water.	§ 7.4	Although the monitoring network described in the Submitted Alternative includes monitoring protocols for surface water generally, there is not discussion regarding its ability to monitor for potential depletions of interconnected surface water as required.
§ 354.34(d)	(d) The monitoring network shall be designed to ensure adequate coverage of sustainability indicators. If management areas are established, the quantity and density of monitoring	Chapter 7	The monitoring network described in the Submitted Alternative covers 5 of the 6 SGMA-defined sustainability indicators; it does not provide data on changes to groundwater storage within

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	sites in those areas shall be sufficient to evaluate conditions of the basin setting and sustainable management criteria specific to that area.		the Basin.
§ 354.34(f)	<p>(f) The Agency shall determine the density of monitoring sites and frequency of measurements required to demonstrate short-term, seasonal, and long-term trends based upon the following factors:</p> <p>(1) Amount of current and projected groundwater use.</p> <p>(2) Aquifer characteristics, including confined or unconfined aquifer conditions, or other physical characteristics that affect groundwater flow.</p> <p>(3) Impacts to beneficial uses and users of groundwater and land uses and property interests affected by groundwater production, and adjacent basins that could affect the ability of that basin to meet the sustainability goal.</p> <p>(4) Whether the Agency has adequate long-term existing monitoring results or other technical information to demonstrate an understanding of aquifer response.</p>	Chapter 7	
§ 354.34(g)	<p>(g) Each Plan shall describe the following information about the monitoring network:</p> <p>(1) Scientific rationale for the monitoring site selection process.</p> <p>(2) Consistency with data and reporting standards described in Section 352.4. If a site is not consistent with those standards, the Plan shall explain the necessity of the site to the monitoring network, and how any variation from the standards will not affect the usefulness of the results obtained.</p> <p>(3) For each sustainability indicator, the quantitative values for the minimum threshold, measurable objective, and interim milestones that will be measured at each monitoring site or representative monitoring sites established pursuant to Section 354.36.</p>	Chapter 7	Although the Submitted Alternative provides a general description of the District’s monitoring network, the description is silent as to numerous required details, including the scientific rationale for the monitoring site selection, consistency with data and reporting standards, the quantitative values to be measured at each monitoring site, and the District’s monitoring protocols, technical standards, and data collection methods.
§ 354.34(h)	(h) The location and type of each monitoring site within the basin displayed on a map, and reported in tabular format, including information regarding the monitoring site type, frequency of measurement, and the purposes for which the monitoring site is being used.	Chapter 7, Appendix E	The Submitted Alternative does not identify the location and type of monitoring site in tabular format, as required.
§ 354.34(i)	(i) The monitoring protocols developed by each Agency shall	Chapter 7	The Submitted Alternative does not include a description of the

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	include a description of technical standards, data collection methods, and other procedures or protocols pursuant to Water Code Section 10727.2(f) for monitoring sites or other data collection facilities to ensure that the monitoring network utilizes comparable data and methodologies.		District’s monitoring protocols, technical standards, and data collection methods.
§ 354.34(j)	(j) An Agency that has demonstrated that undesirable results related to one or more sustainability indicators are not present and are not likely to occur in a basin, as described in Section 354.26, shall not be required to establish a monitoring network related to those sustainability indicators.	Chapters 2, 3, 5	The Submitted Alternative fails to demonstrate that one or more undesirable results are not present and/or are not likely to occur in the Basin and therefore is required to establish a monitoring network related to each of the 6 sustainability indicators.
<b>Representative Monitoring (§ 354.36)</b>			
§ 354.36(a)	Each Agency may designate a subset of monitoring sites as representative of conditions in the basin or an area of the basin, as follows: (a) Representative monitoring sites may be designated by the Agency as the point at which sustainability indicators are monitored, and for which quantitative values for minimum thresholds, measurable objectives, and interim milestones are defined.	Chapters 5, 7	The Submitted Alternative does not describe or designate representative monitoring sites.
§ 354.36(b)	(b) Groundwater elevations may be used as a proxy for monitoring other sustainability indicators if the Agency demonstrates the following: (1) Significant correlation exists between groundwater elevations and the sustainability indicators for which groundwater elevation measurements serve as a proxy. (2) Measurable objectives established for groundwater elevation shall include a reasonable margin of operational flexibility taking into consideration the basin setting to avoid undesirable results for the sustainability indicators for which groundwater elevation measurements serve as a proxy.	Chapters 5, 7	The Submitted Alternative does not address using groundwater elevations as a proxy for monitoring other sustainability indicators.
§ 354.36(c)	(c) The designation of a representative monitoring site shall be supported by adequate evidence demonstrating that the site reflects general conditions in the area.	Chapters 5, 7	The Submitted Alternative does not describe or designate representative monitoring sites.
<b>Assessment and Improvement of Monitoring Network (§ 354.38)</b>			
§ 354.38(a)	(a) Each Agency shall review the monitoring network and include an evaluation in the Plan and each five-year assessment, including a determination of uncertainty and	Chapter 7	

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	whether there are data gaps that could affect the ability of the Plan to achieve the sustainability goal for the basin.		
§ 354.38(b)	(b) Each Agency shall identify data gaps wherever the basin does not contain a sufficient number of monitoring sites, does not monitor sites at a sufficient frequency, or utilizes monitoring sites that are unreliable, including those that do not satisfy minimum standards of the monitoring network adopted by the Agency.	N/A	The Submitted Alternative fails to identify data gaps in the District’s monitoring program. As noted in our comments above, however, there are many deficiencies in the District’s current monitoring program, not the least of which are its current inability to monitor for required groundwater level elements, changes in groundwater storage and depletions of interconnected surface water.
§ 354.38(c)	(c) If the monitoring network contains data gaps, the Plan shall include a description of the following: (1) The location and reason for data gaps in the monitoring network. (2) Local issues and circumstances that limit or prevent monitoring.	N/A	The Submitted Alternative fails to identify obvious data gaps in the District’s monitoring network.
§ 354.38(d)	(d) Each Agency shall describe steps that will be taken to fill data gaps before the next five-year assessment, including the location and purpose of newly added or installed monitoring sites.	N/A	The Submitted Alternative fails to identify obvious data gaps in the District’s monitoring network.
<b>Introduction to Projects and Management Actions (§ 354.42)</b>			
§ 354.42	This Subarticle describes the criteria for projects and management actions to be included in a Plan to meet the sustainability goal for the basin in a manner that can be maintained over the planning and implementation horizon.	Chapter 6	
<b>Projects and Management Actions (§ 354.44)</b>			
§ 354.44(a)	(a) Each Plan shall include a description of the projects and management actions the Agency has determined will achieve the sustainability goal for the basin, including projects and management actions to respond to changing conditions in the basin.	Chapters 6, 8	
§ 354.44(b) (1) and (2)	(b) Each Plan shall include a description of the projects and management actions that include the following: (1) A list of projects and management actions proposed in the Plan with a description of the measurable objective that is expected to benefit from the project or management action. The list shall include projects and management actions that may be utilized to meet interim milestones, the exceedance of	Chapters 6, 8	Although the Submitted Alternative identifies programs and/or management actions to maintain a reliable water supply in the Basin, the programs and/or management actions are described very generally. The Submitted Alternative does not include the following required descriptions: the circumstances under which projects or management actions shall be implemented, the criteria that would trigger implementation and termination of

DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	<p>minimum thresholds, or where undesirable results have occurred or are imminent. The Plan shall include the following:</p> <p>(A) A description of the circumstances under which projects or management actions shall be implemented, the criteria that would trigger implementation and termination of projects or management actions, and the process by which the Agency shall determine that conditions requiring the implementation of particular projects or management actions have occurred.</p> <p>(B) The process by which the Agency shall provide notice to the public and other agencies that the implementation of projects or management actions is being considered or has been implemented, including a description of the actions to be taken.</p> <p>(2) If overdraft conditions are identified through the analysis required by Section 354.18, the Plan shall describe projects or management actions, including a quantification of demand reduction or other methods, for the mitigation of overdraft.</p>		<p>projects or management actions, the process by which the District shall determine that conditions requiring the implementation of particular projects or management actions have occurred, and how the District will provide notice to the public and other agencies and stakeholders that such programs and/or management actions will be taken.</p>
<p>§ 354.44(b) (3) to (8)</p>	<p>(3) A summary of the permitting and regulatory process required for each project and management action.</p> <p>(4) The status of each project and management action, including a time-table for expected initiation and completion, and the accrual of expected benefits.</p> <p>(5) An explanation of the benefits that are expected to be realized from the project or management action, and how those benefits will be evaluated.</p> <p>(6) An explanation of how the project or management action will be accomplished. If the projects or management actions rely on water from outside the jurisdiction of the Agency, an explanation of the source and reliability of that water shall be included.</p> <p>(7) A description of the legal authority required for each project and management action, and the basis for that authority within the Agency.</p> <p>(8) A description of the estimated cost for each project and management action and a description of how the Agency plans to meet those costs.</p>	<p>Chapter 6</p>	<p>The Submitted Alternative does not include the following required descriptions: the status of each program and/or management action (including a time-table for expected initiation and completion, and the accrual of expected benefits), and description of the estimated cost for each project and management action and a description of how the District plans to meet those costs.</p>
<p>§ 354.44(b) (9)</p>	<p>(9) A description of the management of groundwater extractions and recharge to ensure that chronic lowering of</p>	<p>Chapters 1, 4, 6</p>	



DWR Emergency Regulations Section	Requirement	GWMP Location	SJWC Comments
	groundwater levels or depletion of supply during periods of drought is offset by increases in groundwater levels or storage during other periods.		
§ 354.44(c)	(c) Projects and management actions shall be supported by best available information and best available science.	Chapters 1, 4, 6	
<b>Article 7 Annual Reports and Periodic Evaluations by the Agency</b>			
§ 356.2	Each Agency shall submit an annual report to the Department by April 1 of each year following the adoption of the Plan.	Chapter 7, Appendix C	
§ 356.4	Each agency shall evaluate its Plan at least every five years and whenever the Plan is amended, and provide a written assessment to the Department. The assessment shall describe whether the Plan implementation, including implementation of projects and management actions, are meeting the sustainability goal in the basin, and shall include components (a) through (k) as documented in the Emergency GSP Regulations.	Executive Summary, Chapter 8	

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**HANDOUT: AGENDA ITEM 4.3**  
**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

West Coast Region  
777 Sonoma Avenue, Room 325  
Santa Rosa, California 95404-4731

February 17, 2017

William Croyle, Acting Director  
California Department of Water Resources  
1416 9th Street  
Sacramento, California 95814

Dear Mr. Croyle:

The following transmits comments from NOAA's National Marine Fisheries Service (NMFS) regarding Santa Clara Valley Water District's (SCVWD) December 21, 2016, submission of the 2016 Groundwater Management Plan (2016 GWMP) for the Santa Clara and Llagas groundwater subbasins to the California Department of Water Resources (DWR) pursuant to the Sustainable Groundwater Management Act (SGMA) of 2014 (Part 2.74 of Division 6 of the California Water Code) and subsequent Emergency Regulations (CA Water Code 10733.2 and 10733.4). SGMA established a process which allows a local Groundwater Sustainability Agency (GSA) governing a medium or high priority groundwater basin to forgo creating a Groundwater Sustainability Plan (GSP) by submitting an Alternative Plan. By submitting the 2016 GWMP, SCVWD seeks to demonstrate the plan's sufficiency in meeting statutory requirements as outlined under SGMA. The Santa Clara Subbasin is currently classified as a "medium" priority per DWR's Bulletin 118, whereas the Llagas Subbasin is classified as a "high" priority.

California Code of Regulations (23 CCR § 358.2) states "the entity submitting an Alternative shall explain how the elements of the Alternative are functionally equivalent to the elements of a Plan required by Articles 5 and 7 of this Subchapter and are sufficient to demonstrate the ability of the Alternative to achieve the objectives of the Act". One of the objectives of SGMA is for GSAs to establish criteria that will maintain or achieve sustainable groundwater management, which is defined as "the management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results".

NMFS is responsible for protecting and conserving anadromous fish species listed under the Endangered Species Act (ESA), including threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*) residing within the Stevens Creek, Guadalupe River, and Coyote Creek watersheds that overly the Santa Clara Subbasin, and threatened South-Central California Coast (SCCC) steelhead residing within Uvas Creek and Llagas Creek overlying the Llagas Subbasin. Ongoing efforts related to the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE)<sup>1</sup> suggest that current management of surface flows in streams within the Santa Clara Subbasin adversely affect CCC steelhead. A major purpose of flow releases from reservoirs on Coyote

<sup>1</sup> The FAHCE settlement agreement was negotiated to resolve disputes regarding SCVWD's use of its water rights on Coyote, Guadalupe, and Stevens Creeks in Santa Clara County.



Creek, Guadalupe Creek, Stevens Creek, Uvas Creek, and Llagas Creek is to recharge groundwater aquifers downstream. The interaction of groundwater and surface water in these systems, in turn, influences flow-dependent habitats for CCC steelhead, SCCC steelhead, and therefore their survival and recovery.

To ensure that the SCVWD's Alternative properly analyzes and addresses this important issue, we offer the following comments and observations pertaining to the 2016 GWMP and its ability to protect and conserve instream aquatic habitat condition that support ESA-listed steelhead.

#### Integration with the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE)

Specific to the Santa Clara Subbasin, there are several locations in the document (*e.g.*, sections 6.1.1.2 and 6.3.1) that reference modifying water management practices to reflect environmental regulations or concerns. However, flow release strategies agreed to pursuant to the FAHCE settlement agreement have not been implemented by SCVWD, which suggests managing flows for fisheries has not been fully implemented. We, therefore, suggest the 2016 GWMP clarify these statements or omit them. In either case, this highlights the need to develop an integrated approach to managing surface flow and groundwater resources for the protection and recovery of ESA-listed salmonids.

Ample opportunity exists for such an integrated approach in part because SCVWD has already invested heavily in monitoring and modeling of both groundwater resources and surface water resources, through the 2016 GWMP and FAHCE process, respectively. The FAHCE effort is developing a comprehensive hydrologic model, called the Water Evaluation and Planning System (WEAP), and biological evaluation criteria to determine how well surface water flow meets specific life-stage flow needs of steelhead and Chinook salmon (*O. tshawytscha*) in Coyote Creek, Guadalupe Creek, and Stevens Creek. We recommend these tools be leveraged by those working on SCVWD's 2016 GWMP to provide a meaningful evaluation of the effects of groundwater management on fishery resources.

#### Sustainability Goals, Strategies, and Outcome Measures

Chapter 5 of the 2016 GWMP frames the SCVWD approach to managing groundwater using Sustainability Goals. The goals are followed by Strategies and Outcome Measures. Stated goals include optimizing water supply reliability, minimizing land subsidence, and protection from contamination. Because the California Water Code definition of sustained yield includes avoiding depletion of surface water flows, a critical component of salmonid habitat, we suggest adding the stated goal of protecting and restoring fisheries resources. The inclusion of this goal in the definition of sustainability should then influence subsequent Strategies and Outcome Measures in a manner that seeks to avoid "undesirable results" per SGMA. This would also support FAHCE efforts to reconcile SCVWD operations with water rights and the ESA.

The first strategy listed in the 2016 GWMP is to manage groundwater in conjunction with surface water. We understand this is a reference primarily to managed recharge; however, NMFS recommends SCVWD include in that definition, the management of groundwater and

surface water interactions. This would be an important strategy to support the goal of protecting steelhead and Chinook salmon habitat.

SGMA Emergency Regulations require GSAs to identify numeric minimum thresholds for each sustainability indicator, including depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of surface water. SCVWD's 2016 GWMP includes Outcome Measures, which are defined as "specific, quantifiable goals", but it does not include numeric thresholds for each sustainability indicator, and thus appears to be deficient with respect to this requirement.

#### Lack of a Groundwater/Surface Water Analytical Model

With regard to specific analysis required under SGMA, the Emergency Regulations § 354.18(e) states the following:

Each Alternative Plan "shall rely on the best available information and best available science to quantify the water budget for the basin in order to provide an understanding of historical and projected hydrology, water demand, water supply, land use, population, climate change, sea level rise, **groundwater and surface water interaction**, and subsurface groundwater flow. If a numerical groundwater and surface water model is not used to **quantify and evaluate the projected water budget conditions and the potential impacts to beneficial uses** and users of groundwater, the Plan shall identify and describe an equally effective method, tool, or analytical model to evaluate projected water budget conditions." (emphasis added)

SCVWD presents analysis from three separate analytical groundwater models. However, the models in question are operational, groundwater flow, and water supply system models that do not adequately analyze or inform groundwater-surface flow dynamics within the basins. To ensure compliance with SGMA, SCVWD should develop a numeric groundwater/surface water model to quantify and evaluate projected water budget conditions and potential impacts to beneficial uses (*i.e.*, aquatic habitat) and users of groundwater. This is relevant to avoiding undesirable results, such as impacts to steelhead and salmon. For example, some recharge zones may result in streamflows and water temperatures that are unlikely to support juvenile steelhead rearing.

NMFS appreciates the opportunity to provide comments regarding SCVWD's 2016 GWMP under SGMA. Groundwater management that protects surface flows is essential to ensuring that aquatic habitat and anadromous salmonids persist in streams overlying the Santa Clara Valley and Llagas subbasins. NMFS stands ready to engage with SCVWD, DWR, regulatory agencies and interested stakeholders to craft solutions to groundwater and streamflow issues in both basins.

If you have any questions, please contact Mr. Rick Rogers at the NMFS North-Central Coast Office in Santa Rosa, California (707-578-8552 or rick.rogers@noaa.gov).

Sincerely,



for

Alecia Van Atta  
Assistant Regional Administrator  
California Coastal Office

- cc. Trevor Joseph, DWR, Sacramento
- Roy Hull, DWR, Red Bluff
- Kristal Davis-Fadtke, CDFW, Water Branch, Sacramento
- Erik Ekdahl, SWRCB, Sacramento
- Vanessa De La Piedra, SCVWD

**Literature Cited**

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**Via DWR SGMA Portal and Email (Trevor.Joseph@water.ca.gov)**

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February 17, 2017

Re: Santa Clara Valley Water District's SGMA Alternative Submission

Dear Mr. Joseph,

Stanford University ("University"), an overlying groundwater rights holder in the Santa Clara Subbasin ("Subbasin"), appreciates the opportunity to provide comments on Santa Clara Valley Water District's ("District") alternative submission under the Sustainable Groundwater Management Act ("SGMA") for management of the Subbasin. As a stakeholder within the District's jurisdictional boundaries that has for many years been actively involved in groundwater management efforts in the Subbasin, the University has concerns with the District's alternative submission and related efforts to comply with and implement SGMA in the Subbasin. For the reasons set forth below, the University requests that the Department of Water Resources ("DWR") reject the District's alternative submission as being non-compliant with SGMA. The District must develop a groundwater sustainability plan ("GSP") with input from the numerous stakeholders in the Subbasin and ensure that the GSP includes the necessary elements and information required by SGMA.

Water Code section 10733.6 allows a local agency to submit an alternative to comply with SGMA in place of submitting a GSP. (Wat. Code § 10733.6 (a).) Alternatives may be any of the following: (1) a groundwater management plan developed under Water Code sections 10750 *et seq.* or other law authorizing groundwater management; (2) groundwater management pursuant to an adjudication action; and (3) an analysis demonstrating that the basin has been operated within its sustainable yield over a period of at least 10-years. (*Id.* at § 10733.6(b).) To be adequate under SGMA, an alternative must satisfy the objectives of SGMA and address various topics set forth in DWR's Groundwater Sustainability Plan Emergency Regulations ("Regulations," 23 Cal. Code Regs. §§ 350 *et seq.*). (See, Wat. Code § 10733.6(a), 23 Cal. Code Regs. §§ 350, 350.2, 358.2, 358.6.)

The District submitted its 2016 Groundwater Management Plan ("Plan") as an alternative under SGMA. The Plan relies on the District's existing asserted authority under the Santa Clara Valley Water District Act but fails to meet the requirements of SGMA in numerous ways. Specifically, the Plan fails to: (1) identify and recognize water right holders in the Subbasin and provide for measures to ensure sustainable groundwater management in a way that protects water right holders; and (2) address SGMA authorities and explain the process for how the District will exercise those authorities in a lawful manner to sustainably manage groundwater in the Subbasin.



**1. The Plan fails to identify and recognize water right holders in the Subbasin and provide for measures to ensure sustainable groundwater management in a way that protects water right holders.**

A primary objective of SGMA is to sustainably manage groundwater basins *in a manner that protects water rights, including groundwater rights*. This objective is evident in the provisions of SGMA that require local agencies to identify and recognize groundwater right holders, as well as those that describe the protected nature of water rights. (See, Water Code §§ 10720.1(b) [“It is the intent of the Legislature to preserve the security of water rights in the state to the greatest extent possible consistent with the sustainable management of groundwater”], 10720.5 (a), (b) [stating that “[n]othing in [SGMA] modifies rights or priorities to use or store groundwater consistent with Section 2 of Article X of the California Constitution” and that “[n]othing in SGMA, or in any groundwater management plan adopted pursuant to [SGMA], determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights”], 10723.2 [“The groundwater sustainability agency shall consider the interests of all beneficial uses and users of groundwater . . .”], 10726.8 (b) [“Nothing in [SGMA] shall be construed as authorizing a local agency to make a binding determination of the water rights of any person or entity”].) DWR’s Regulations acknowledge SGMA’s requirement that local agencies must recognize existing groundwater rights holders. (See, 23 Cal. Code Regs. §§ 354.10(a) [A GSP or alternative must include “[a] description of the beneficial uses and users of groundwater in the basin”], 355.4(b)(4) [noting that DWR, in evaluating whether a GSP or alternative is likely to achieve the sustainability goal for a basin, must consider “[w]hether the interests of the beneficial uses and users of groundwater in the basin, and the land uses and property interests potentially affected by the use of groundwater in the basin, have been considered”].) Thus, the District’s Plan must identify and recognize groundwater right holders in the Subbasin and describe how groundwater management will occur in a manner that respects their rights.

Here, the Plan does not identify and recognize groundwater right holders in the Subbasin, nor does it describe how the District will implement management actions in a manner that respects water rights. The District cites generally to Appendix A of the Plan as the location that includes a description of the beneficial uses and users of groundwater in the Subbasin. (Plan, Appendix B [titled “Demonstration of Functional Equivalency”], p. B-5 [specifying the location of the Plan that includes the information required by Section 354.10 of the Regulations].) However, Appendix A does not include any identification or description of the beneficial groundwater users and right holders in the Subbasin, and no such identification and description is set forth elsewhere in the Plan. The Plan accordingly also does not include any description of how groundwater management actions will be implemented in a manner that respects water rights. Therefore, the Plan is substantially deficient and fails to satisfy the objectives of SGMA.

**2. The Plan fails to address SGMA authorities and explain how the District will exercise those authorities in a lawful manner to sustainably manage groundwater in the Subbasin.**

While the Plan generally discusses the authorities provided to local agencies under SGMA, it does not address how the District will implement those authorities to sustainably manage groundwater in the Subbasin in a manner that respects water rights. (See, Plan, § 1.4.2.2 at pp. 1-11→1-13.) Instead, the Plan acknowledges that critical SGMA elements are left entirely unaddressed and explains that the District will evaluate SGMA authorities at a later date to determine how they will be exercised, including triggers for

exercise and implementation mechanisms. (See, *Id.*, § 8.3 at p. 8-5.) This approach violates SGMA for a number of reasons.

Initially, certain SGMA authorities are expressly required to be implemented and exercised through a local agency's SGMA governance document (i.e., GSP or alternative).

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

...

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

(Wat. Code § 10725.8 [emphasis added].) Thus, these authorities must be exercised through the Plan and not developed at a later time through a separate process that does not include DWR's review and approval.

Similarly, to the extent that a local agency intends to exercise SGMA authorities as part of management actions to manage a basin and/or address future conditions in a basin, DWR's Regulations require that a GSP or alternative include a description of the authorities and the management actions to be implemented pursuant thereto.

(a) Each Plan shall include a description of the projects and management actions the Agency has determined will achieve the sustainability goal for the basin, including projects and management actions to respond to changing conditions in the basin.

(b) Each Plan shall include a description of the projects and management actions that include the following:

(1) A list of projects and management actions proposed in the Plan with a description of the measurable objective that is expected to benefit from the project or management action. The list shall include projects and management actions that may be utilized to meet interim milestones, the exceedance of minimum thresholds, or where undesirable results have occurred or are imminent. The Plan shall include the following:

(A) A description of the circumstances under which projects or

management actions shall be implemented, the criteria that would trigger implementation and termination of projects or management actions, and the process by which the Agency shall determine that conditions requiring the implementation of particular projects or management actions have occurred.

(B) The process by which the Agency shall provide notice to the public and other agencies that the implementation of projects or management actions is being considered or has been implemented, including a description of the actions to be taken.

(2) If overdraft conditions are identified through the analysis required by Section 354.18, the Plan shall describe projects or management actions, including a quantification of demand reduction or other methods, for the mitigation of overdraft.

(3) A summary of the permitting and regulatory process required for each project and management action.

(4) The status of each project and management action, including a timetable for expected initiation and completion, and the accrual of expected benefits.

(5) An explanation of the benefits that are expected to be realized from the project or management action, and how those benefits will be evaluated.

(6) An explanation of how the project or management action will be accomplished. If the projects or management actions rely on water from outside the jurisdiction of the Agency, an explanation of the source and reliability of that water shall be included.

(7) A description of the legal authority required for each project and management action, and the basis for that authority within the Agency.

(8) A description of the estimated cost for each project and management action and a description of how the Agency plans to meet those costs.

(9) A description of the management of groundwater extractions and recharge to ensure that chronic lowering of groundwater levels or depletion of supply during periods of drought is offset by increases in groundwater levels or storage during other periods.

(c) Projects and management actions shall be supported by best available information and best available science.

(d) An Agency shall take into account the level of uncertainty associated with the basin setting when developing projects or management actions.

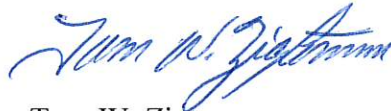
(23 Cal. Code Regs. § 354.44 [emphasis added].) Thus, an alternative must not only describe the authority supporting a management action, but the management action itself. This important substantive and procedural information cannot be left for a later date to be developed outside of DWR's review process. If the District intends to exercise authorities under SGMA as part of its groundwater management in the Subbasin, it must include the required information in the alternative for DWR to evaluate. Because the District failed to take such action, the Plan is substantially deficient and any effort by the District to later exercise SGMA authorities would be unlawful and invalid.

Finally, SGMA authorities and the manner in which they will be exercised must be addressed in a GSP or alternative because their exercise directly relates to the SGMA objective of protecting water rights (e.g., they may unlawfully infringe on groundwater rights). For example, a local agency that exercises SGMA authorities to restrict groundwater extraction (see, Water Code § 10726.4) or impose fees on groundwater extraction (see, *id.* at §§ 10730, 10730.2) could exercise those authorities in a manner that unlawfully infringes upon groundwater rights. As such, the exercise of those authorities must be detailed in the agency's groundwater management governance document (i.e., GSP or alternative) that DWR is required to review and approve in order to ensure that the local agency will sustainably manage groundwater basins in a manner that protects water rights - a primary objective of SGMA. This process is critically important with respect to the District and the Plan for three primary reasons. First, unlike other basins where groundwater sustainability agencies are being formed through collaborative processes that involve multiple agencies and stakeholders, the District was statutorily designated as the exclusive agency for the Subbasin (see, Wat. Code § 10723(m)) and will largely manage the Subbasin through unilaterally imposed management actions. Thus, groundwater right holders in the Subbasin will be left with little ability to provide meaningful input into the SGMA implementation actions in the Subbasin following approval of the District's alternative. Second, unlike most other basins where local agencies are pursuing the longer and more involved process of developing a GSP (due either by January 31, 2020 or January 31, 2022), the District developed and submitted an alternative in a truncated time period to meet SGMA's January 1, 2017 deadline. This rushed submission left the Plan deficient in many ways, as described herein. Third, the District's exercise of groundwater management authority (under the Santa Clara Valley Water District Act) is the subject of active litigation and legal disputes. Approval of a SGMA alternative that entirely fails to address the various and significant SGMA authorities and related management actions sets the Subbasin up for continued and additional disputes. Such disputes would be reduced or entirely avoided if the District develops a SGMA compliant GSP with input from stakeholders.

For the reasons discussed above, the University respectfully requests that DWR reject the District's Plan as an alternative under SGMA. The District must develop and submit a SGMA compliant GSP.

Thank you for your attention to this matter.

Sincerely,



Tom W. Zigterman  
Director – Water Resources & Civil Infrastructure

- c: Robert E. Donlan – Ellison, Schneider, Harris & Donlan  
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