

PAUMA VALLEY COMMUNITY SERVICES DISTRICT

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March 31, 2016

California Department of Water Resources (DWR)
Attn: Ms. Lauren Bisnett, Public Affairs Officer
PO Box 942836
Sacramento, CA 94236

Charles Mathews
President/Treasurer

Dick Nolan
Vice President

Heidi Person
Director

Sam Logan
Director

Bill Winn
Director

Mindy Houser
Administrator

Re: Comments on DWR Draft Groundwater Sustainability Plan Regulations

Dear Ms. Bisnett:

Pauma Valley Community Services District (PVCSD), in cooperation with other interested water agencies and public water systems in what is currently designated by DWR as the San Luis Rey Valley Groundwater Basin,¹ submits the following comments on DWR's proposed draft regulations² (hereinafter, the "Regulations") for the preparation/implementation of Groundwater Sustainability Plans (GSP) under the Sustainable Groundwater Management Act of 2014 (SGMA). While the Regulations reflect DWR put much time and effort into the development of the draft Regulations, there are significant aspects of the Regulations that deviate materially from the statutory language of SGMA—potentially frustrating local control and implementation flexibility that are a critical path for accomplishing the aggressive sustainability objectives of SGMA.

For the reasons provided in this letter, a letter which the Yuima Municipal Water District, the Rainbow Municipal Water District, and the Rancho Pauma Mutual Water Company—the primary water producers and suppliers in the upper and middle reaches of the approximately 60 mile long SLR Basin—join, DWR should revise the Regulations in the manner recommended in the redlined document attached hereto as Exhibit B. If the changes requested in Exhibit B are made, DWR

¹ The San Luis Rey Valley Groundwater Basin, Basin No. 9-7, abbreviated hereafter as the "SLR Basin," is depicted in Exhibit A attached hereto. Also depicted in Exhibit A are the Pauma and Pala Sub-Basins of the larger SLR Basin. The Pala and Pauma Sub-basins were the subject of the State Water Resources Control Board, or "Board" Decision No. WR 1645. Board Decision 1645 determined that waters of the SLR Basin in the Pauma Valley above the Agua Tibia Narrows at Frey Creek were percolating groundwater, and all waters in the SLR Basin below the Agua Tibia Narrows were surface water subject to Board permitting jurisdiction. See Board Decision 1645 at pp. 2-4, 23-26.

² Proposed as 23 CCR §§ 350-358.6.

can help ensure “maximum local control” to GSAs, as required by Water Code § 10725, eliminate regulatory requirements that are arguably inconsistent with SGMA, while preventing redundant regulation of subterranean streams, regulation that not only fall outside the statutory ambit of SGMA, but potentially frustrates the Board in fulfilling its existing obligation to regulate appropriations of surface water.

Definitional Clarification and Applicability of SGMA:

The term “Basin” is undefined in the current draft of the Regulations, and this creates ambiguity throughout the Regulations on whether DWR means a “Basin,” a “Sub-Basin,” or both when the term Basin is used. In order to clarify the scope of responsibilities of “submitting agencies” and “coordinating agencies,” and how far their respective responsibilities extend geographically, DWR should clarify what a “Basin” is. The proposed revisions suggested in Exhibit “B” by our legal counsel would provide clarify on this issue using the definitions from SGMA. Our recommendations would also clarify, as SGMA (Water Code § 10721 (b), (g)) does, that “Basin” does not include subterranean streams since such streams are not “groundwater,” and the term “basin” can only apply to groundwater. We’ve also suggested revisions regarding coordination of DWR and the Board on matters pertaining to subterranean streams in Section 355.2 of the proposed Regulations.

Similarly, although we do not agree with the coordinating agency structure as currently proposed in the Regulations (e.g., SGMA neither states, nor implies, that there be only one lead GSA with the ability to submit GSPs for each basin), if the current framework remains, substantial definitional clarification will be needed as to the currently redundant roles of the “coordinating agency” and the “submitting agency,” which are the only authorized “voice” to communicate with DWR in each basin. Since “Agency” is defined as a “Groundwater Sustainability Agency” or “GSA” in the Regulations, and “Plan” is defined as a GSP, DWR needs to clarify that an alternative plan agency can also be a “coordinating agency,” as indeed SGMA appears to have intended. Also, DWR needs to clarify that a submitting agency is the coordinating agency in any basin where Intrabasin Agreements are required since right now the two terms appear redundant. Additionally, section 357.4 of the Regulations can be read to give a “submitting agency” (which must be a GSA), and which is currently the only agency in the basin that may speak with DWR, primacy over a local agency that is, per Water Code § 10723 (c)(1), the exclusive groundwater manager within its statutory service area. Thus, per the current regulations, a submitting agency arguably can exercise plenary authority in

the GSP context over areas that the Legislature specifically entrusted in a different agency that submitted an Alternative Plan.

Management of Entire Basin as Condition for Plan Approval:

SGMA requires a GSA to manage and implement sustainable groundwater management within its service area—individually or in concert with other agencies. SB 13 clarified that such management authority does not extend beyond a GSA’s existing service area, unless authority is exercised via a joint powers authority or other legal agreement. However, unlike the proposed Regulations, SGMA **does not require** joint management of entire basins by one agency. The draft Regulations improperly propose that entire basins must be managed **by one overriding agency** (the “coordinating agency”), which in effect shifts all power in the basin to the coordinating agency. According to proposed Section 355.10 (a) of the Regulations, the coordinating agency would have the quasi-judicial power to adjudicate disputes between different GSAs and to make decisions on behalf of entire basins. This approach is problematic for several reasons.

First, it encroaches on the maximum local control specified under SGMA.³ The SLR Basin is approximately sixty miles long. If a GSA on the coast is mandated to manage groundwater use at the top of the SLR Basin, the management implemented at the top of the watershed will not be “local” decision-making in any sense. In large counties, the entity managing a particular basin could be hundreds of miles away under the proposed Regulations. While DWR may have desired a more “top down” approach to groundwater management—which the Regulations seek to impose via the coordinating agency construct—this is not the approach that the Legislature took when it passed SGMA. DWR should require coordination agreements for GSPs to meet the statutory criteria imposed by SGMA for

³ SGMA section 10725 (a) states that a “groundwater sustainability agency has and may use the powers in this chapter to provide the maximum degree of local control and flexibility consistent with the sustainability goals of this part.” Similarly, SGMA section 10725.2 states that a “groundwater sustainability agency may perform any act necessary or proper to carry out the purposes of this part.” Forcing GSAs to subordinate themselves to other GSAs for the purpose of administrative convenience in DWR interface does not seem consistent with the plain language or the purposes of the statute to facilitate maximum local control over sustainable groundwater management.

coordination agreements in Water Code § 10727.6, but should give GSAs the choice whether they want to create a coordinating agency construct like that currently mandated under the Regulations.

Second, the Regulations in Section 355.4 require as a condition of GSP approval that an entire Basin be managed under one coordinated GSP or Alternative Plan. In some basins, such as the SLR Basin, meeting this requirement will be impossible—or nearly so. Several Indian tribes overlie portions of the SLR Basin. Other portions are overlain by federal agencies (such as Marine Corps Base Camp Pendleton). While such tribes and federal enclaves have been willing to participate in coordination forums with other SLR Basin water users in the past, it is very unlikely they will be willing to forego their tribal or federal sovereignty and submit to the requirements of a GSP and the authority of a coordinating agency. No GSA has authority to mandate groundwater management actions on tribal reservation lands or other federal lands that overlie Bulletin 118 Basins outside the context of a basin-wide adjudication—and even then such authority would be exercised by a court, likely through a watermaster, not through a GSA. Thus, if the ability to manage an entire basin is a prerequisite for “Plan” acceptance under proposed Section 355.4, then plans in numerous parts of California can never be accepted—even though the basin is being sustainably managed. This is not what SGMA intended. To address this concern, we have proposed a revision to Section 355.4 that would allow GSP approval where all portions of a basin that can be “legally managed” per state law are being sustainably managed under one or more GSPs.

Third, as previously indicated, in the SLR Basin approximately two thirds of the Basin has already been officially declared by the Board to be a subterranean stream. Requiring “surface water” portions of an existing Bulletin 118 Basin to be managed under a GSP would arguably usurp the existing authority of the Board—raising questions of whether the Board could even initiate enforcement on existing water rights permittees (who might be fully compliant with the terms of a GSP and coordinating agreement but not their own Board issued water rights permit) without going through the process of designating a basin as probationary. This problem can and should be avoided in the Regulations by DWR simply using the plain language provided by the Legislature in SGMA. If water flows through known and definite channels, it should not be subject to SGMA or the GSP Regulations. The State Board has already acknowledged this point, see http://www.waterboards.ca.gov/water_issues/programs/gmp/faqs.shtml, and DWR should do likewise in the Regulations. We have proposed revisions in Exhibit B to proposed Sections 355.2 and 355.8 that would address this concern.

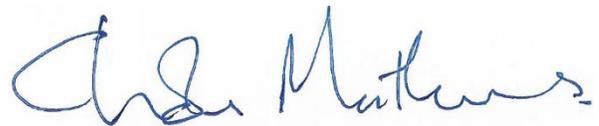
Intrabasin Coordination:

We recognize that intrabasin coordination is important in GSP development so that all GSPs can utilize similar assumptions and data in furtherance of sustainable groundwater management. Having one coordinating agency that takes a lead role may be desirable in some basins—particularly where there is one GSA that overlies the vast majority of the basin or already manages the basin sustainably under existing statutory authority. However, *mandating* only one agency to perform this role in every medium or high priority basin is problematic for the reasons previously discussed. We have proposed changes to Section 357.4(b) that would provide additional flexibility in allowing more than one coordinating agency in basins such as the SLR Basin where requiring only one coordinating agency may have the effect of frustrating sustainable groundwater management.

Thank you again for the ability to comment on the Regulations. They are, to be sure, a start in the right direction. However, further refinement, along the lines recommended in Exhibit B attached to this letter, will go a long way towards ensuring SGMA can be implemented fairly and legally via GSPs and Alternative Plans governed by the Regulations. Should you have questions or comments about this letter and its exhibits, please do not hesitate to contact me.

Respectfully,

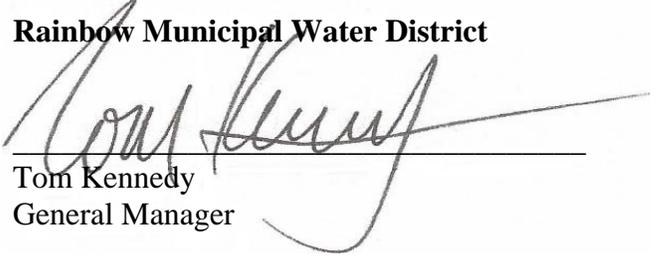
**Pauma Valley Community Services
District**



Charles A. Mathews
President

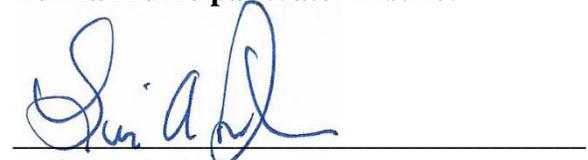
CONCURRING AGENCIES AND
PUBLIC WATER SYSTEMS:

Rainbow Municipal Water District



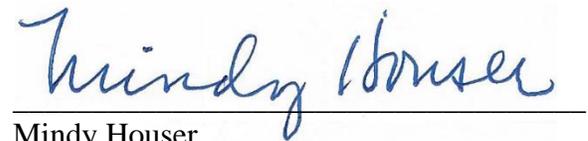
Tom Kennedy
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Lori A. Johnson
General Manager

Rancho Pauma Mutual Water Company



Mindy Houser
Administrator

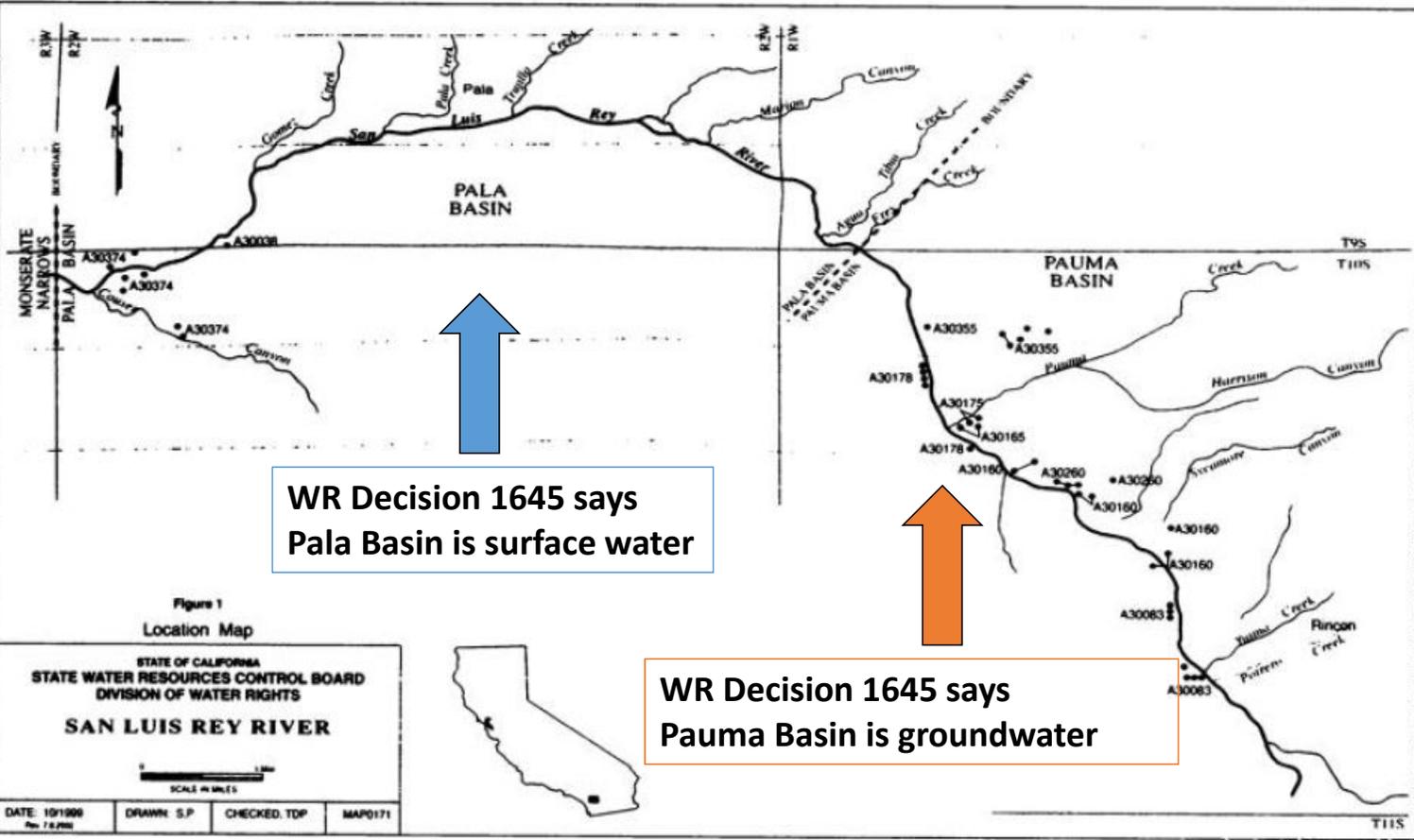
cc: Jeremy Jungreis, Rutan & Tucker LLP
James Bennett, County of San Diego
Cari Dale, City of Oceanside



SAN LUIS REY VALLEY GROUNDWATER BASIN
Basin No. 9-07

Exhibit A

From: SWRCB DECISION WR 1645
In Re Applications 30038, 30083, 30160, 30165, 30175, 30178, 30260, 30355, 30374:
Determination of the Legal Classification of Groundwater
in the Pauma and Pala Basins of the San Luis Rey River



ARTICLE 2. Definitions

§ 351. Definitions

In addition to terms defined in the Sustainable Groundwater Management Act and in Bulletin 118, and terms defined in Subchapter 1 of this Chapter, which definitions apply to these regulations, the following terms used in this Subchapter have the following meanings:

(a) “Agency” refers to a groundwater sustainability agency as defined in the Act.

New Definition: “Alternative Submittal Agency” refers to an agency that complies with the requirements of the Act via submission of an Alternative to the Department in accordance with Water Code 10733.6.

(b) “Agricultural water management plan” refers to a plan adopted pursuant to the Agricultural Water Management Planning Act as described in Part 2.8 of Division 6 of the Water Code, commencing with Section 10800 et seq.

(c) “Alternative” refers to any alternative to a Plan described in Water Code Section 10733.6.

(d) “Annual report” refers to the report required by Water Code Section 10728.

“Basin” means a groundwater basin or sub basin identified and defined in Bulletin 118 or as modified pursuant to Chapter 3 of SGMA. The term “Basin” as used herein does not include waters that have been determined by the State Water Resources Control Board to flow through known and definite channels.

(e) “Baseline” or “baseline conditions” refer to historic information used to project future conditions for hydrology, water demand, and availability of surface water and to evaluate potential sustainable management practices of a basin.

(f) “Best available information” refers to information that is accurate, applicable, actionable, and accessible.

(g) “Best available science” refers to the use of high-value information and data, specific to the decision being made and the time frame available for making that decision, that is consistent with scientific and engineering professional standards of practice.

(h) “Best management practice” refers to a practice, or combination of practices, that are designed to achieve sustainable groundwater management and have been determined to be technologically and economically effective, practicable, and based on best available

Commented [JNJ1]: This is the definition from SGMA that clarifies a sub-basin is also a “basin” for purposes of SGMA.

The clarification re groundwater and subterranean streams is required to accord with existing California law.

Per the State Water Resources Control Board website, at : http://www.waterboards.ca.gov/water_issues/programs/gmp/faqs.shtml

“What is a subterranean stream? A subterranean stream is a body of groundwater flowing through known and definite channels. When a body of groundwater has been designated a subterranean stream, access to that groundwater is subject to the same permitting requirements as diversions from surface streams. The State Water Board has adopted a number of decisions and orders identifying specific subterranean stream locations.

*Subterranean streams are regulated by California’s surface water rights system; **SGMA does not apply to groundwater that has been designated a subterranean stream.**”*

science.

- (i) “Coordinating agency” refers to a groundwater sustainability agency or other authorized entity, including an Alternative Submittal ~~that~~ Agency, that represents two or more Agencies, ~~or Plans, or Alternatives,~~ for a basin and is ordinarily the primary ~~sole~~ point of contact for a basin with the Department.
- (j) “Critical parameter” refers to chronic lowering of groundwater levels indicating a depletion of supply if continued over the planning and implementation horizon, reduction of groundwater storage, sea water intrusion, degraded water quality, land subsidence that substantially interferes with surface land uses, and depletions of surface water that have adverse impacts on beneficial uses of surface water that may lead to undesirable results, as described in Water Code Section 10721(x).
- (k) “Groundwater flow” refers to the volume and direction of groundwater movement into, out of, or throughout a basin.
- (l) “Interested parties” refers to all persons and entities on the list of interested persons established by the Agency pursuant to Water Code § 10723.4.
- (m) “Interconnected surface water” refers to conditions where surface water and the underlying aquifer are hydraulically connected by a continuous saturated zone and the overlying surface water is not completely depleted.
- (n) “Interim milestone” refers to a target value for management actions or measurable groundwater conditions set by an Agency as part of Plan implementation.
- (o) “Management area” refers to areas within a basin where conditions such as water use sector, water source type, geology, aquifer characteristics, or critical parameters related to undesirable results are significantly different from basin conditions as a whole, and justify different minimum thresholds, measurable objectives, monitoring and management actions.
- (p) “Measurable objectives” refer to specific, quantifiable goals for the maintenance or improvement of specified groundwater conditions that have been included in an adopted Plan to achieve the sustainability goal in a basin.
- (q) “Minimum threshold” refers to the point at which groundwater conditions for a given critical parameter are significant and unreasonable.
- (r) “NAD83” refers to the North American Datum of 1983 computed by the National Geodetic Survey.
- (s) “NAVD88” refers to the North American Vertical Datum of 1988 computed by the National Geodetic Survey.
- (t) “Plain Language” ~~means language that the intended audience can readily understand~~

§ 354.6. Agency Information

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:

- (a) The name and mailing address of the Agency.
- (b) Documentation of the organization and management structure of the Agency. The documentation shall identify persons with management authority for implementation of the Plan.
- (c) The name and contact information, including phone number, mailing address and electronic mail address, of the plan manager.
- (d) The legal authority of the Agency with specific reference to citations setting forth the duties, powers, and responsibilities of the Agency, including information demonstrating that the Agency has the necessary legal authority to implement the Plan.
- (e) A description of anticipated revenues and costs of implementing the Plan, including programs, projects, contracts, administrative expenses and other expected costs, and information demonstrating that the Agency has the necessary financial ability to implement the Plan.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Sections 10723.8, 10733.2, Water Code.

§ 354.8. Description of Plan Area

Each Plan shall include a description of the geographic areas covered, including the following information:

- (a) One or more maps of the basin that depict the following:
 - (1) The area managed by the Plan and name and location of any adjacent basins or waters that have been determined to be flowing in known and definite channels.
 - (2) Jurisdictional boundaries of federal land, state land, tribal land, cities and counties and other land use agencies, and all general plans.

(f) Information provided by the Department pursuant to this Subchapter shall be provided on the Department's Internet Web site.

(g) The Agency may utilize other data in addition to or in lieu of information provided by the Department if the Agency is able to demonstrate that the data is of sufficient quality.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Section 10727.2, 10733.2, Water Code.

§ 354.20. Management Areas

Each Agency may define one or more management areas within a basin if local conditions for one or more critical parameters differ significantly from those of the basin at large, and if the Agency has determined that subdivision into management areas will facilitate implementation of the Plan. Management areas may have different minimum thresholds and be operated to different measurable objectives than the basin at large, provided that the goal of the Plan is to achieve sustainable management for the entire basin by the target date and that operation to different standards within a management area does not produce undesirable results elsewhere.

(a) Plans that include management areas shall describe the following:

(1) The basis for the formation of each management area.

(2) The minimum thresholds and measurable objectives appropriate to each management area.

(3) The appropriate level of monitoring and analysis for each management area based on documented differences between the area and the basin at large.

(b) If a Plan creates one or more management areas, the descriptions, maps, and cross-sections required by this Subarticle shall include information about those areas.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Section 10733.2, 10733.4, Water Code.

of contaminant plumes that impair water supplies, 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.

(5) Land subsidence. The minimum threshold for land subsidence shall be the rate of subsidence that substantially interferes with surface land uses. Minimum thresholds for land subsidence shall be supported by the following:

(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 those uses and interests were determined and considered, and the rationale for how minimum thresholds were established in light of those effects.

(B) Maps and graphs showing the extent and rate of land subsidence in the basin that defines the minimum threshold, interim milestones, and measurable objectives.

(6) Depletions of interconnected surface water. The minimum threshold for depletions of interconnected surface water shall be the volume of surface water depletions caused by groundwater use that has significant and unreasonable adverse impacts on beneficial uses of the surface water that would not otherwise occur in the absence of upstream groundwater use. The minimum threshold established for depletions of interconnected surface water shall be supported by the following:

(A) The location, quantity, and timing of depletions of interconnected surface water. If sufficient data to quantify depletions of interconnected surface water is not available, the Plan shall describe how the Agency will acquire sufficient information no later than the first five-year assessment.

(B) A description of the groundwater-surface water model used to quantify surface water depletion. If a groundwater-surface water model is not used to estimate surface water depletion, the Plan shall identify and describe an equally effective method or tool to accomplish this requirement, or identify provisions for developing a groundwater-surface water model capable of quantifying surface water depletion no later than the first five-year assessment.

(d) An Agency, after consultation with the Department, may establish a representative minimum threshold for groundwater elevation to serve as the minimum threshold value for multiple critical parameters, as appropriate. The Agency shall demonstrate that the representative minimum threshold is a reasonable and effective surrogate for multiple individual minimum thresholds and is supported by clear and convincing evidence in the Plan.

(e) If the Agency determines that minimum thresholds are not required for seawater intrusion, land subsidence, depletions of interconnected surface water, or water quality, the Plan shall support this determination with clear and convincing evidence.

Commented [JNJ2]: If the adverse impacts would occur anyway, e.g., because of dry conditions or other surface water diversions, then the groundwater users should not have to mitigate for such effects in a GSP.

ARTICLE 6. Evaluation and Assessment

§ 355. Introduction to Evaluation and Assessment

This Article describes the methodology and criteria for the evaluation and assessment of a Plan, which shall also be applied, as appropriate, to the periodic evaluation and assessment of Plans undertaken by the Agency or by the Department, as well as to any amendments to a Plan previously approved by the Department.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Section 10733.2, Water Code.

§ 355.2. Department Review of Initial Adopted Plan

Upon adoption of a Plan the Agency shall submit a copy of the initial adopted Plan to the Department for evaluation.

- (a) Upon receipt of an adopted Plan, the Department shall assign a submittal date to the Plan based on the day the Plan is received.
- (b) The Department shall post the adopted Plan, submittal date, and all materials submitted by the Agency on the Department's Internet Web site within 20 days of receipt.
- (c) The Department shall establish a period of no less than 60 days to receive public comments on the adopted plan, as described in Section 353.8.
- (d) If the Board has jurisdiction over the basin or a portion of the basin pursuant to section 10735.2 or other legal authority, the Department, after consultation with the Board, may proceed with an evaluation of a Plan. However, in basins where the Board has determined that some or all of the waters to be managed under a Plan are a subterranean stream, the Department shall not review the Plan without first obtaining the Board's concurrence.
- (e) The Department shall evaluate a Plan within two years of its submittal date and issue a written assessment of the Plan that includes a description supporting the assessment, which will be posted on the Department's website. The Department may include recommended corrective actions to address any deficiencies identified in the assessment. When Department review is final, the assessment will include a determination of whether the Plan as one the following:
 - (1) Adequate. The Department has determined that the Plan satisfies the goals of the Act and is in substantial compliance with this Subchapter.

substantial compliance with this Subchapter. Substantial compliance means that the Agency has attempted to comply with these regulations in good faith, that the supporting information is sufficiently detailed and the analyses sufficiently thorough and reasonable, in the judgment of the Department, to permit evaluation of the Plan, and the Department determines that any discrepancy would not materially affect the ability of the Agency to achieve the sustainability goal or of the Department to evaluate the likelihood of the Plan to attain that goal.

(a) An initial Plan will be deemed inadequate unless it satisfies all of the following conditions:

(1) The Plan was submitted within the statutory period established by Water Code Section 10720.7, if applicable.

(2) The Plan is complete and includes all information required by the Act and this Subchapter, including a legally adequate coordination agreement, if necessary.

(3) The Plan covers the entire basin, [or all portions of a basin that are legally subject to management under state law, individually or in combination with an Alternative submitted by an Alternative Submittal Agency.](#)

(4) The Agency has taken corrective actions, within the period described in Section 355.2, to address deficiencies in the Plan identified by the Department.

(b) The Department shall evaluate a Plan that satisfies the requirements of Subsection (a) to determine whether the Plan is likely to achieve the sustainability goal for the basin. When evaluating whether a Plan is likely to achieve the sustainability goal, the Department shall consider the following:

(1) Whether the Plan substantially complies with the requirements of this Subchapter.

(2) The quality of information, data, monitoring, and scientific methods upon which the Plan relies.

(3) Whether the assumptions, criteria, findings, and objectives, including the sustainability goal, undesirable results, minimum thresholds, measurable objectives, and interim milestones, are reasonable and supported by the available evidence.

(4) Whether the interests of the beneficial uses and users of groundwater have been adequately considered.

(5) The feasibility of projects and management actions, including contingency projects, and the likelihood that these actions will prevent undesirable results and ensure that the basin is operated within its sustainable yield.

- (3) Amendments to the Plan are compatible with the measurable objectives and sustainability goal.
- (4) The Agency is compliant with the annual reporting requirements and periodic evaluation requirements.
- (5) The Department concludes that the Plan and its implementation are likely to achieve the sustainability goal and not likely to adversely affect the sustainability goals of adjacent basins.
- (6) The Department may request from the Agency any information the Department deems necessary to evaluate the progress toward achieving the sustainability goal and the potential for adverse effects on adjacent basins.
- (7) The Department may identify deficiencies in a Plan or its implementation and coordinate with the Agency to correct deficiencies prior to the issuance of the assessment.
- (8) The Plan satisfies the criteria for an initial Plan as described in Section 355.4.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Sections 10728.2, 10733.2, Water Code.

§ 355.8. Consultation with Board

The Department shall consult with the Board if any of the following occur:

- (a) The Department determines that a Plan may be inadequate.
- (b) The Department determines that a groundwater sustainability program is not being implemented in a manner that will likely achieve the sustainability goal for the basin.
- (c) The Agency has not taken actions to address any deficiencies in a Plan that had been identified by the Department
- (d) [A local agency or the Board asserts that waters within a Bulletin 118 Basin flow through known and definite channels, and are therefore not subject to the requirements of SGMA.](#)

Note: Authority cited: Section 10733.2, Water Code.

§ 355.10. Resolution of Conflicts by Department

The Department shall address disputes between Agencies or other entities responsible for groundwater management as follows:

~~(a) Disputes within a basin shall be the responsibility of the Coordinating Agency or other entities responsible for managing Plans and alternatives within that basin.~~

(b) Disputes between basins which claim that the implementation of Plans or alternatives in one basin affects the ability of an adjacent basin to implement its Plan, or impedes its ability to achieve the sustainability goal, shall be resolved by the Department.

(c) In resolving disputes, the Department may require additional information from each basin, including any proprietary data used by the Agency. Information withheld will be presumed not to support the interpretations that rely on that data.

(d) If the parties are unable to resolve disputes that relate to fundamental issues of sustainable groundwater management, the Department may find the relevant Plan or Plans and alternatives to be inadequate.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Sections 10727, 10727.6, 10733.2, Water Code.

Commented [JNJ3]: Though coordination agreements are required by SGMA, this provision can be read to imbue coordinating GSAs with adjudicatory powers—which is clearly beyond what is authorized in SGMA. Disputes within a Basin should be resolved by DWR or a court.

§ 357.4. Intrabasin Coordination

- (a) Agencies intending to develop and implement Plans pursuant to Water Code Section 10727(b)(3) shall enter into a coordination agreement to ensure that the Plans are developed and implemented utilizing the same data and methodologies and that elements of the Plans necessary to achieve the sustainability goal are based upon consistent interpretations of basin conditions.
- (b) Intrabasin coordination agreements shall to the extent practicable, establish or identify a Submitting Agency that shall be the Coordinating Agency for the basin and single point of contact with the Department. However, to the extent that a basin is not suitable for coordination by one Submitting Agency due to the large size of a basin, or due to significant hydrogeologic variation between different portions of a basin (such as where portions of a basin are separated from one another by adjudicated subterranean streams), more than one local agency may perform the role of Coordinating Agency provided all of the criteria of Water Code § 10727.6 are otherwise met in the intrabasin coordination agreement.
- (c) Each Agency shall submit to the Submitting Agency all Plans, Plan amendments, supporting information, all monitoring data and other pertinent information, along with annual reports and periodic evaluations.
- (d) The Submitting Agency shall compile and rectify data and interpretations regarding basin conditions provided by the Agencies and produce a single report synthesizing and summarizing that information into a coherent and credible account of basin conditions. Reports produced by the Submitting Agency shall include the following:
- (1) An explanation of how the Plans implemented together satisfy the requirements of the Act and are in substantial compliance with this Subchapter.
 - (2) An explanation of how the Plans have been integrated using the same data and methodologies to provide useful information regarding the following:
 - (A) Hydrogeologic conceptual models, as described in Section 354.12.
 - (B) State of the basin, as described in Section 354.14.
 - (C) Water budgets, as described in Section 354.16.
 - (D) Undesirable results, minimum thresholds, measurable objectives, as described in Subarticle 3 of Article 5.
 - (E) Monitoring networks, and monitoring objectives, as described in Subarticle 4 of Article 5.

(F) Projects and management actions, as described in Subarticle 5 of Article 5.

- (3) An explanation of how the integration of information and interpretations described in this section provides useful information regarding each of the assumptions described in Water Code Section 10727.6.
- (4) Reports produced by the Submitting Agency shall accompany the initial Plan, any amendment to the Plan, annual reports, and the five-year assessment by each Agency within the basin.
- (e) Intrabasin coordination agreements shall describe the responsibilities of each Agency for meeting the terms of the agreement, the procedures for the timely exchange of information between Agencies and with the Submitting Agency, and procedures for resolving conflicts between Agencies.
- (f) Intrabasin coordination agreements shall identify adjudicated areas within the basin, and any local agencies that have adopted an alternative that has been accepted by the Department.
- (g) The intrabasin coordination agreement shall be submitted to the Department together with the Plans for the basin and, if approved, shall become part of the Plan for each participating Agency.
- (h) The Department shall evaluate the Agreement for compliance with the procedural and technical requirements of this section, to assure that the Agreement is binding on all parties, ~~and that provisions of the Agreement are sufficient to address any disputes between or among Agencies that are party to the agreement.~~
- (i) Plans subject to the requirement of this section shall not be deemed adequate without a legally binding agreement that satisfies the statutory criteria specified in Water Code § 10727.6.
- (j) Interagency agreements shall be reviewed as part of the five-year assessment, revised as necessary, dated, and signed by all parties.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Sections 10727.6, 10733, and 10733.2, Water Code.