



Submitted by Eric Sabolsice  
at 9/21/15 Board Meeting

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Item 13

September 21, 2015

Kristi Markey, Chair  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 93942

Declaration of MPWMD as Groundwater Sustainability Agency for the Carmel Valley Alluvial Aquifer

Dear Ms. Markey:

California American Water has been following recent activity relating to the Monterey Peninsula Water Management District and the implementation of the Sustainable Groundwater Management Act ("SGMA"), including the proposal to adopt Resolution 2015-17 on this evening's agenda. There appears to be some confusion regarding the applicability of SGMA to water resources on the Monterey Peninsula.

**1. SGMA Doesn't Apply to Adjudicated Areas of the Seaside Basin**

We are informed of claims that the Seaside Basin Watermaster cannot serve as the groundwater sustainability agency for the Seaside Basin, and that such duties fall on the MPWMD. Water Code section 10720.8(a)(21) makes clear that the SGMA doesn't apply to the adjudicated areas of the Seaside Basin, and therefore, there is no requirement for a GSA to be appointed for those adjudicated areas. Instead, groundwater within those areas will continue to be managed by the Watermaster. To the extent that the boundaries in Bulletin 118 do not match the physical boundaries of the basin as specified in the adjudication, then the basin boundaries should be modified to match those within the adjudication. The Department of Water Resources has recently adopted regulations for the purpose of ensuring Bulletin 118 boundaries are correct for SGMA purposes.

**2. SB 13 Requires Groundwater Sustainability Agencies To Include Water Corporations That Have Significant Operations In Groundwater Basins**

On September 3, 2015, the Governor signed into law SB 13 (Pavley). SB 13 is one of many SGMA "clean up bills," intended to resolve implementation concerns with the original SGMA legislation. SB 13 amended subdivision (b) of Water Code section 10723.6 to remove the requirement that local agencies approve participation of CPUC-regulated water corporations in a groundwater sustainability agency, but instead only requires a form of legal agreement for water corporations to participate. This amendment was included at the behest of other large, investor-owned utilities that are some of the largest, if not the largest, public water systems in portions of

California's Central Valley. Despite their size and expertise, these utilities were being entirely excluded from SGMA implementation in their respective areas.

Attached to this letter are: (1) a copy of SB 13 as chaptered; (2) a copy of SB 13 showing the amendments to Water Code section 10723.6; and (3) a letter from Senator Pavely, the author of SB 13, that is scheduled to be published in the Senate Daily Journal as an expression of legislative intent. This letter makes clear that the intent of SB 13 is, in part, to ensure that CPUC-regulated water utilities are included in groundwater sustainability agencies.

Due to this amendment, California American Water – and possibly Canada Woods Water Company – must be included in forming the groundwater sustainability agency for the Carmel Valley Alluvial Aquifer. This assumes that SGMA applies to the Carmel Valley Alluvial Aquifer in the first instance.

### **3. The Carmel Valley Alluvial Aquifer Doesn't Contain Groundwater As Defined By The SGMA**

As noted in Resolution 2015-17, the Sustainable Groundwater Management Act is aimed at managing "groundwater." Groundwater is a defined term. Subdivision (g) of Water Code section 10721 expressly excludes "water that flows in a known and definite channel" from the definition of groundwater. The need for this is apparent to avoid a conflict with the jurisdiction of the State Water Resources Control Board, whose jurisdiction, by virtue of Water Code section 1200, includes "subterranean streams flowing through known and definite channels." We understand Order 95-10 and Decision 1632 both find that the Carmel River Alluvial Aquifer flows through a known and definite channel. As such, water from the Carmel Valley Alluvial Aquifer is not "groundwater" as defined by the SGMA, and therefore is not subject to regulation under that law. Thus, Resolution 2015-17 would not appear to be authorized by the SGMA.

### **Conclusion**

Based on these three aspects of the SGMA, the MPWMD should not adopt Resolution 2015-17 at this time, but should instead convene meetings with the various water corporations to facilitate agreement on the form of the groundwater sustainability agency for the Carmel River Alluvial Aquifer, including whether such an agency is even necessary.

In addition, as a water corporation with a statewide presence, we are active in SGMA implementation, and look forward to collaborating with the MPWMD in SGMA implementation within the Monterey Peninsula.

Best Regards,



Tim Miller

cc: David Soltdt  
David Laredo  
Alan Williams  
Barbara Evoy

enc.

AMENDED IN SENATE APRIL 23, 2015  
AMENDED IN SENATE FEBRUARY 24, 2015

**SENATE BILL**

**No. 13**

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**Introduced by Senator Pavley**

December 1, 2014

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An act to amend Sections 5202, 10723, 10723.6, 10723.8, 10724, 10733.3, 10735.2, 10735.4, 10735.6, and 10933 of the Water Code, relating to groundwater.

LEGISLATIVE COUNSEL'S DIGEST

SB 13, as amended, Pavley. Groundwater.

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. The act authorizes the State Water Resources Control Board to designate a basin as a probationary basin if the state board makes a certain determination and to develop an interim plan for the probationary basin. The act requires a local agency or groundwater sustainability agency to have 90 or 180 days, as prescribed, to remedy the deficiency if the board designates the basin as a probationary basin.

This bill would specify that the board is authorized to designate a high- or medium-priority basin as a probationary basin. This bill would provide a local agency or groundwater sustainability agency 90 or 180

days, as prescribed, to remedy certain deficiencies that caused the board to designate the basin as a probationary basin. This bill would authorize the board to develop an interim plan for certain probationary basins one year after the designation of the basin as a probationary basin.

*Existing law authorizes a combination of local agencies to form a groundwater sustainability agency by a joint powers agreement, memorandum of agreement, or other legal agreement, and authorizes a water corporation regulated by the Public Utilities Commission to participate in a groundwater sustainability agency if the local agencies approve.*

*This bill would authorize a mutual water company to participate in a groundwater sustainability agency and would provide that a water corporation or a mutual water company may participate through a memorandum of agreement or other legal agreement.*

Existing law establishes a groundwater monitoring program pursuant to which specified entities, including a groundwater sustainability agency, may propose to be designated by the department as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a groundwater basin or subbasin. Existing law requires the department to identify the extent of monitoring of groundwater elevations that is being undertaken in groundwater basins and subbasins, and if the department determines that all or part of a basin or subbasin is not being monitored, to determine whether there is sufficient interest in establishing a groundwater management plan, an integrated regional water management plan, or a groundwater monitoring association.

This bill, if the department determines that all or part of a basin or subbasin is not being monitored, would require the department to determine whether there is sufficient interest in establishing a groundwater sustainability plan.

Existing law requires a local agency or combination of local agencies that elect to be a groundwater sustainability agency for a basin to submit a prescribed notice of intent to the Department of Water Resources. Existing law requires the department to post the notice on its Internet Web site within 15 days of receipt.

This bill would eliminate these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5202 of the Water Code is amended to  
2 read:

3 5202. (a) This section applies to a person who does either of  
4 the following:

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

8 (2) Extracts groundwater on or after July 1, 2017, in an area  
9 within a high- or medium-priority basin subject to the requirements  
10 of subdivision (a) of Section 10720.7 that is not within the  
11 management area of a groundwater sustainability agency and where  
12 the county does not assume responsibility to be the groundwater  
13 sustainability agency, as provided in subdivision (b) of Section  
14 10724.

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

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

22 (1) An extraction by a de minimis extractor.

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

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

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

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

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

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

3 SEC. 2. Section 10723 of the Water Code is amended to read:

4 10723. (a) Except as provided in subdivision (c), any local  
5 agency or combination of local agencies overlying a groundwater  
6 basin may opt to become a groundwater sustainability agency for  
7 that basin.

8 (b) ~~Before opting to become a groundwater sustainability~~  
9 agency, and after publication of notice pursuant to Section 6066  
10 of the Government Code, the local agency or agencies shall hold  
11 a public hearing in the county or counties overlying the basin.

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

16 (A) Alameda County Flood Control and Water Conservation  
17 District, Zone 7.

18 (B) Alameda County Water District.

19 (C) Desert Water Agency.

20 (D) Fox Canyon Groundwater Management Agency.

21 (E) Honey Lake Valley Groundwater Management District.

22 (F) Long Valley Groundwater Management District.

23 (G) Mendocino City Community Services District.

24 (H) Mono County Tri-Valley Groundwater Management  
25 District.

26 (I) Monterey Peninsula Water Management District.

27 (J) Ojai Groundwater Management Agency.

28 (K) Orange County Water District.

29 (L) Pajaro Valley Water Management Agency.

30 (M) Santa Clara Valley Water District.

31 (N) Sierra Valley ~~Water~~ *Groundwater Management* District.

32 (O) Willow Creek Groundwater Management Agency.

33 (2) An agency identified in this subdivision may opt out of  
34 becoming the exclusive groundwater management agency within  
35 its statutory boundaries by sending a notice to the department,  
36 which shall be posted pursuant to Section 10733.3. If an agency  
37 identified in paragraph (1) opts out of becoming the exclusive  
38 groundwater management agency, any other local agency or  
39 combination of local agencies operating within the statutory

1 boundaries of the agency that has opted out may opt to become  
2 the groundwater sustainability agency.

3 (3) A local agency listed in paragraph (1) may comply with this  
4 part by meeting the requirements of Section 10733.6 or opting to  
5 become a groundwater sustainability agency pursuant to this  
6 section. A local agency with authority to implement a basin-specific  
7 management plan pursuant to its principal act shall not exercise  
8 any authorities granted in this part in a manner inconsistent with  
9 any prohibitions or limitations in its principal act unless the  
10 governing board of the local agency makes a finding that the  
11 agency is unable to sustainably manage the basin without the  
12 prohibited authority.

13 *SEC. 3. Section 10723.6 of the Water Code is amended to read:*

14 10723.6. (a) A combination of local agencies may form a  
15 groundwater sustainability agency by using any of the following  
16 methods:

17 (1) A joint powers agreement.

18 (2) A memorandum of agreement or other legal agreement.

19 (b) A water corporation regulated by the Public Utilities  
20 Commission or a mutual water company may participate in a  
21 groundwater sustainability agency ~~if the local agencies approve~~  
22 *through a memorandum of agreement or other legal agreement.*  
23 *The authority provided by this subdivision does not confer any*  
24 *additional powers to a nongovernmental entity.*

25 ~~SEC. 3.~~

26 *SEC. 4. Section 10723.8 of the Water Code is amended to read:*

27 10723.8. (a) Within 30 days of deciding to become or form a  
28 groundwater sustainability agency, the groundwater sustainability  
29 agency shall inform the department of its decision and its intent  
30 to undertake sustainable groundwater management. The notification  
31 shall include the following information, as applicable:

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

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

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

38 (4) A list of interested parties developed pursuant to Section  
39 10723.2 and an explanation of how their interests will be  
40 considered in the development and operation of the groundwater

1 sustainability agency and the development and implementation of  
2 the agency's sustainability plan.

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

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

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

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

16 ~~SEC. 4.~~

17 *SEC. 5.* Section 10724 of the Water Code is amended to read:

18 10724. (a) In the event that there is an area within a high- or  
19 medium-priority basin that is not within the management area of  
20 a groundwater sustainability agency, the county within which that  
21 unmanaged area lies will be presumed to be the groundwater  
22 sustainability agency for that area.

23 (b) A county described in subdivision (a) shall provide  
24 notification to the department pursuant to Section 10723.8 unless  
25 the county notifies the department that it will not be the  
26 groundwater sustainability agency for the area. Extractions of  
27 groundwater made on or after July 1, 2017, in that area shall be  
28 subject to reporting in accordance with Part 5.2 (commencing with  
29 Section 5200) of Division 2 if the county does either of the  
30 following:

31 (1) Notifies the department that it will not be the groundwater  
32 sustainability agency for an area.

33 (2) Fails to provide notification to the department pursuant to  
34 Section 10723.8 for an area on or before June 30, 2017.

35 ~~SEC. 5.~~

36 *SEC. 6.* Section 10733.3 of the Water Code is amended to read:

37 10733.3. The department shall post all notices it receives  
38 pursuant to Section 10723.8 on its Internet Web site within 15  
39 days of receipt.



1     ~~SEC. 6.~~

2     *SEC. 7.* Section 10735.2 of the Water Code is amended to read:

3     10735.2. (a) The board, after notice and a public hearing, may  
4 designate a high- or medium-priority basin as a probationary basin,  
5 if the board finds one or more of the following applies to the basin:

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

7     (A) A local agency has decided to become a groundwater  
8 sustainability agency that intends to develop a groundwater  
9 sustainability plan for the entire basin.

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

14    (C) A local agency has submitted an alternative that has been  
15 approved or is pending approval pursuant to Section 10733.6. If  
16 the department disapproves an alternative pursuant to Section  
17 10733.6, the board shall not act under this paragraph until at least  
18 180 days after the department disapproved the alternative.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (b) In making the findings associated with paragraph (3) or (5)  
24 of subdivision (a), the department and board may rely on periodic  
25 assessments the department has prepared pursuant to Chapter 10  
26 (commencing with Section 10733). The board may request that  
27 the department conduct additional assessments utilizing the  
28 regulations developed pursuant to Chapter 10 (commencing with  
29 Section 10733) and make determinations pursuant to this section.  
30 The board shall post on its Internet Web site and provide at least  
31 30 days for the public to comment on any determinations provided  
32 by the department pursuant to this subdivision.

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

1 (2) The determination may require reporting of a class or  
2 category of extractions that would otherwise be exempt from  
3 reporting pursuant to paragraph (1) of subdivision (c) of Section  
4 5202 if those extractions are likely to have a substantial impact on  
5 basin withdrawals or requiring reporting of those extractions is  
6 reasonably necessary to obtain information for purposes of this  
7 chapter.

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

13 (4) The determination may modify the water year or reporting  
14 date for a report of groundwater extraction pursuant to Section  
15 5202.

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

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

27 ~~SEC. 7.~~

28 *SEC. 8.* Section 10735.4 of the Water Code is amended to read:

29 10735.4. (a) If the board designates a basin as a probationary  
30 basin pursuant to paragraph (1), (2), or (4) of subdivision (a) of  
31 Section 10735.2, a local agency or groundwater sustainability  
32 agency shall have 180 days to remedy the deficiency. The board  
33 may appoint a mediator or other facilitator, after consultation with  
34 affected local agencies, to assist in resolving disputes, and  
35 identifying and implementing actions that will remedy the  
36 deficiency.

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

1 (c) The board may develop an interim plan pursuant to Section  
2 10735.8 for the probationary basin at the end of the period provided  
3 by subdivision (a) or any extension provided pursuant to  
4 subdivision (b), if the board, in consultation with the department,  
5 determines that a local agency has not remedied the deficiency  
6 that resulted in designating the basin as a probationary basin.

7 ~~SEC. 8.~~

8 ~~SEC. 9.~~ Section 10735.6 of the Water Code is amended to read:

9 10735.6. (a) If the board designates a basin as a probationary  
10 basin pursuant to paragraph (3) or (5) of subdivision (a) of Section  
11 10735.2, the board shall identify the specific deficiencies and  
12 identify potential actions to address the deficiencies. The board  
13 may request the department to provide local agencies, within 90  
14 days of the designation of a probationary basin, with technical  
15 recommendations to remedy the deficiencies.

16 (b) The board may develop an interim plan pursuant to Section  
17 10735.8 for the probationary basin one year after the designation  
18 of the basin pursuant to paragraph (3) or (5) of subdivision (a) of  
19 Section 10735.2, if the board, in consultation with the department,  
20 determines that a local agency has not remedied the deficiency  
21 that resulted in designating the basin a probationary basin.

22 ~~SEC. 9.~~

23 ~~SEC. 10.~~ Section 10933 of the Water Code is amended to read:

24 10933. (a) The department shall commence to identify the  
25 extent of monitoring of groundwater elevations that is being  
26 undertaken within each basin and subbasin.

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

31 (1) The population overlying the basin or subbasin.

32 (2) The rate of current and projected growth of the population  
33 overlying the basin or subbasin.

34 (3) The number of public supply wells that draw from the basin  
35 or subbasin.

36 (4) The total number of wells that draw from the basin or  
37 subbasin.

38 (5) The irrigated acreage overlying the basin or subbasin.

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

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

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

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

10 (1) Attempt to contact all well owners within the area not being  
11 monitored.

12 (2) Determine if there is an interest in establishing any of the  
13 following:

14 (A) A groundwater sustainability plan pursuant to Part 2.74  
15 (commencing with Section 10720).

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

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

22 (D) A voluntary groundwater monitoring association pursuant  
23 to Section 10935.

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

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

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

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

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

**Senate Bill No. 13**

**CHAPTER 255**

An act to amend Sections 5202, 10720.5, 10720.7, 10722.2, 10722.4, 10723, 10723.6, 10723.8, 10724, 10726.8, 10730.2, 10733.2, 10735.2, 10735.4, 10735.6, and 10933 of, to add Section 10729.2 to, and to repeal Section 10733.3 of, the Water Code, relating to groundwater.

[Approved by Governor September 3, 2015. Filed with Secretary of State September 3, 2015.]

**LEGISLATIVE COUNSEL'S DIGEST**

**SB 13, Pavley. Groundwater.**

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. The act authorizes the State Water Resources Control Board to designate a basin as a probationary basin if the state board makes a certain determination and to develop an interim plan for the probationary basin. The act requires a local agency or groundwater sustainability agency to have 90 or 180 days, as prescribed, to remedy the deficiency if the board designates the basin as a probationary basin.

This bill would specify that the board is authorized to designate a high- or medium-priority basin as a probationary basin. This bill would provide a local agency or groundwater sustainability agency 90 or 180 days, as prescribed, to remedy certain deficiencies that caused the board to designate the basin as a probationary basin. This bill would authorize the board to develop an interim plan for certain probationary basins one year after the designation of the basin as a probationary basin.

Existing law authorizes a combination of local agencies to form a groundwater sustainability agency by a joint powers agreement, memorandum of agreement, or other legal agreement, and authorizes a water corporation regulated by the Public Utilities Commission to participate in a groundwater sustainability agency if the local agencies approve.

This bill would authorize a mutual water company to participate in a groundwater sustainability agency and would provide that a water corporation or a mutual water company may participate through a memorandum of agreement or other legal agreement.

Existing law establishes a groundwater monitoring program pursuant to which specified entities, including a groundwater sustainability agency, may propose to be designated by the department as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a groundwater basin or subbasin. Existing law requires the department to identify the extent of monitoring of groundwater elevations that is being undertaken in groundwater basins and subbasins, and if the department determines that all or part of a basin or subbasin is not being monitored, to determine whether there is sufficient interest in establishing a groundwater management plan, an integrated regional water management plan, or a groundwater monitoring association.

This bill, if the department determines that all or part of a basin or subbasin is not being monitored, would require the department to determine whether there is sufficient interest in establishing a groundwater sustainability plan.

Existing law requires a local agency or combination of local agencies that elect to be a groundwater sustainability agency for a basin to submit a prescribed notice of intent to the department that includes the proposed boundaries of the basin and requires the department to post the notice on its Internet Web site within 15 days of receipt.

This bill would eliminate these provisions.

Existing law requires a groundwater sustainability agency to inform the department of its election or formation and its intent to undertake sustainable groundwater management within 30 days of forming or electing to be a groundwater sustainability agency and requires the notice to include specified information such as the service area boundaries and requires the department to post the notice on its Internet Web site within 15 days of receipt. Existing law provides that the groundwater sustainability agency is presumed the exclusive groundwater sustainability agency 90 days following the posting of notice, provided that no other notice was submitted.

This bill would require local agencies to seek to reach agreement to allow prompt designation of a groundwater sustainability agency. This bill would require a new notice to be submitted and the department to post notice if agreement is reached by the local agencies involving a material change from the information in the posted notice. This bill would require the department to post only complete notices it receives.

Existing law requires the department to categorize each basin as high, medium, low, or very low priority and authorizes a local agency to request that the department revise the boundaries of a basin. Existing law provides that a local agency has 2 years from the date of a reprioritization that elevates a basin to a medium- or high-priority basin to either establish a groundwater sustainability agency or submit an alternative to the department and 5 years from the date of reprioritization to adopt a groundwater sustainability plan, as prescribed.

This bill would extend the deadline for a basin that is elevated to a medium- or high-priority basin before January 31, 2017, and is not subject to critical conditions of overdraft to be managed under a groundwater sustainability plan to January 31, 2022.



Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would state that a guideline, criterion, bulletin, or other technical or procedural analysis or guidance prepared by the department as required by the Sustainable Groundwater Management Act is not subject to the Administrative Procedure Act, except as prescribed.

*The people of the State of California do enact as follows:*

SECTION 1. Section 5202 of the Water Code is amended to read:

5202. (a) This section applies to a person who does either of the following:

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

(2) Extracts groundwater on or after July 1, 2017, in an area within a high- or medium-priority basin subject to the requirements of subdivision (a) of Section 10720.7 that is not within the management area of a groundwater sustainability agency and where the county does not assume responsibility to be the groundwater sustainability agency, as provided in subdivision (b) of Section 10724.

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

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

(1) An extraction by a de minimis extractor.

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

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

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

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

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

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

SEC. 2. Section 10720.5 of the Water Code is amended to read:

10720.5. (a) Groundwater management pursuant to this part shall be consistent with Section 2 of Article X of the California Constitution. Nothing in this part modifies rights or priorities to use or store groundwater consistent with Section 2 of Article X of the California Constitution, except that in basins designated medium- or high-priority basins by the department, no extraction of groundwater between January 1, 2015, and the date of adoption of a groundwater sustainability plan pursuant to this part or the approval by the department of an alternative submitted pursuant to Section 10733.6, whichever is sooner, may be used as evidence of, or to establish or defend against, any claim of prescription.

(b) Nothing in this part, or in any groundwater management plan adopted pursuant to this part, determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.

SEC. 3. Section 10720.7 of the Water Code is amended to read:

10720.7. (a) (1) By January 31, 2020, all basins designated as high- or medium-priority basins by the department that have been designated in Bulletin 118, as it may be updated or revised on or before January 1, 2017, as basins that are subject to critical conditions of overdraft shall be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans pursuant to this part.

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

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

SEC. 4. Section 10722.2 of the Water Code is amended to read:

10722.2. (a) A local agency may request that the department revise the boundaries of a basin, including the establishment of new subbasins. A local agency's request shall be supported by the following information:

(1) Information demonstrating that the proposed adjusted basin can be the subject of sustainable groundwater management.

(2) Technical information regarding the boundaries of, and conditions in, the proposed adjusted basin.

(3) Information demonstrating that the entity proposing the basin boundary adjustment consulted with interested local agencies and public water systems in the affected basins before filing the proposal with the department.

(4) Other information the department deems necessary to justify revision of the basin's boundary.

(b) By January 1, 2016, the department shall adopt regulations regarding the information required to comply with subdivision (a), including the methodology and criteria to be used to evaluate the proposed revision. The

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

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

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

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

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

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

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

SEC. 5. Section 10722.4 of the Water Code is amended to read:

10722.4. (a) Pursuant to Section 10933, for the purposes of this part the department shall categorize each basin as one of the following priorities:

- (1) High priority.
- (2) Medium priority.
- (3) Low priority.
- (4) Very low priority.

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

(c) Any time the department updates Bulletin 118 boundaries pursuant to subdivision (b) of Section 12924, the department shall reassess the prioritization pursuant to Section 10933.

(d) If the department changes priorities pursuant to Section 10933 to elevate a basin from a low- or very low priority basin to a medium- or high-priority basin after January 31, 2015, the agency formation and planning deadlines of this part shall be extended as follows:

(1) A local agency shall have two years from the date of reprioritization to either establish a groundwater sustainability agency pursuant to Chapter 4 (commencing with Section 10723) or two years to satisfy the requirements of Section 10733.6.

(2) A groundwater sustainability agency shall have five years from the date of reprioritization to meet the requirements of subdivision (a) of Section 10720.7, except that if the reprioritization occurs before January 31, 2017, a groundwater sustainability agency subject to paragraph (2) of subdivision (a) of Section 10720.7 shall have until January 31, 2022.

SEC. 6. Section 10723 of the Water Code is amended to read:

10723. (a) Except as provided in subdivision (c), any local agency or combination of local agencies overlying a groundwater basin may decide to become a groundwater sustainability agency for that basin.

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

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

(A) Alameda County Flood Control and Water Conservation District, Zone 7.

(B) Alameda County Water District.

(C) Desert Water Agency.

(D) Fox Canyon Groundwater Management Agency.

(E) Honey Lake Valley Groundwater Management District.

(F) Long Valley Groundwater Management District.

(G) Mendocino City Community Services District.

(H) Mono County Tri-Valley Groundwater Management District.

(I) Monterey Peninsula Water Management District.

(J) Ojai Groundwater Management Agency.

(K) Orange County Water District.

(L) Pajaro Valley Water Management Agency.

(M) Santa Clara Valley Water District.

(N) Sierra Valley Groundwater Management District.

(O) Willow Creek Groundwater Management Agency.

(2) An agency identified in this subdivision may opt out of being the exclusive groundwater management agency within its statutory boundaries by sending a notice to the department, which shall be posted on the department's Internet Web site within 15 days of receipt. If an agency identified in paragraph (1) opts out of being the exclusive groundwater management agency, any other local agency or combination of local agencies operating within the statutory boundaries of the agency that has opted out may notify the department pursuant to Section 10723.8 of its decision to be the groundwater sustainability agency.

(3) A local agency listed in paragraph (1) may comply with this part by meeting the requirements of Section 10733.6 or opting to become a groundwater sustainability agency pursuant to this section. A local agency with authority to implement a basin-specific management plan pursuant to its principal act shall not exercise any authorities granted in this part in a manner inconsistent with any prohibitions or limitations in its principal act unless the governing board of the local agency makes a finding that the agency is unable to sustainably manage the basin without the prohibited authority.

(d) The decision of a local agency or combination of agencies to become a groundwater sustainability agency shall take effect as provided in Section 10723.8.

SEC. 7. Section 10723.6 of the Water Code is amended to read:

10723.6. (a) A combination of local agencies may form a groundwater sustainability agency by using any of the following methods:

(1) A joint powers agreement.

(2) A memorandum of agreement or other legal agreement.

(b) A water corporation regulated by the Public Utilities Commission or a mutual water company may participate in a groundwater sustainability agency through a memorandum of agreement or other legal agreement. The authority provided by this subdivision does not confer any additional powers to a nongovernmental entity.

SEC. 8. Section 10723.8 of the Water Code is amended to read:

10723.8. (a) Within 30 days of deciding to become or form a groundwater sustainability agency, the local agency or combination of local agencies shall inform the department of its decision and its intent to undertake sustainable groundwater management. The notification shall include the following information, as applicable:

(1) The service area boundaries, the boundaries of the basin or portion of the basin the agency intends to manage pursuant to this part, and the other agencies managing or proposing to manage groundwater within the basin.

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

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

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

(b) The department shall post all complete notices received under this section on its Internet Web site within 15 days of receipt.

(c) The decision to become a groundwater sustainability agency shall take effect 90 days after the department posts notice under subdivision (b) if no other local agency submits a notification under subdivision (a) of its intent to undertake groundwater management in all or a portion of the same area. If another notification is filed within the 90-day period, the decision shall not take effect unless the other notification is withdrawn or modified to eliminate any overlap in the areas proposed to be managed. The local

agencies shall seek to reach agreement to allow prompt designation of a groundwater sustainability agency. If agreement is reached involving a material change from the information in the posted notice, a new notification shall be submitted under subdivision (a) and the department shall post notice under subdivision (b).

(d) Except as provided in subdivisions (e) and (f), after the decision to be a groundwater sustainability agency takes effect, the groundwater sustainability agency shall be presumed to be the exclusive groundwater sustainability agency within the area of the basin within the service area of the local agency that the local agency is managing as described in the notice.

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

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

SEC. 9. Section 10724 of the Water Code is amended to read:

10724. (a) In the event that there is an area within a high- or medium-priority basin that is not within the management area of a groundwater sustainability agency, the county within which that unmanaged area lies will be presumed to be the groundwater sustainability agency for that area.

(b) A county described in subdivision (a) shall provide notification to the department pursuant to Section 10723.8 unless the county notifies the department that it will not be the groundwater sustainability agency for the area. Extractions of groundwater made on or after July 1, 2017, in that area shall be subject to reporting in accordance with Part 5.2 (commencing with Section 5200) of Division 2 if the county does either of the following:

(1) Notifies the department that it will not be the groundwater sustainability agency for an area.

(2) Fails to provide notification to the department pursuant to Section 10723.8 for an area on or before June 30, 2017.

SEC. 10. Section 10726.8 of the Water Code is amended to read:

10726.8. (a) This part is in addition to, and not a limitation on, the authority granted to a local agency under any other law. The local agency may use the local agency's authority under any other law to apply and enforce any requirements of this part, including, but not limited to, the collection of fees.

(b) Nothing in this part shall be construed as authorizing a local agency to make a binding determination of the water rights of any person or entity, or to impose fees or regulatory requirements on activities outside the boundaries of the local agency.

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

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

(e) Except as provided in subdivision (d), this part does not authorize a local agency to impose any requirement on the state or any agency,

department, or officer of the state. State agencies and departments shall work cooperatively with a local agency on a voluntary basis.

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

SEC. 11. Section 10729.2 is added to the Water Code, to read:

10729.2. With the exception of regulations required by Sections 10722.2 and 10733.2, a guideline, criterion, bulletin, or other technical or procedural analysis or guidance prepared by the department as required by this part is not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 12. Section 10730.2 of the Water Code is amended to read:

10730.2. (a) A groundwater sustainability agency that adopts a groundwater sustainability plan pursuant to this part may impose fees on the extraction of groundwater from the basin to fund costs of groundwater management, including, but not limited to, the costs of the following:

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

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

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

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

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

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

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

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

SEC. 13. Section 10733.2 of the Water Code is amended to read:

10733.2. (a) (1) By June 1, 2016, the department shall adopt regulations for evaluating groundwater sustainability plans, the implementation of groundwater sustainability plans, and coordination agreements pursuant to this chapter.

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

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

(2) The regulations adopted pursuant to paragraph (1) of subdivision (a) shall identify appropriate methodologies and assumptions for baseline conditions concerning hydrology, water demand, regulatory restrictions that affect the availability of surface water, and unreliability of, or reductions in, surface water deliveries to the agency or water users in the basin, and the impact of those conditions on achieving sustainability. The baseline for measuring unreliability and reductions shall include the historic average reliability and deliveries of surface water to the agency or water users in the basin.

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

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

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

SEC. 14. Section 10733.3 of the Water Code is repealed.

SEC. 15. Section 10735.2 of the Water Code is amended to read:

10735.2. (a) The board, after notice and a public hearing, may designate a high- or medium-priority basin as a probationary basin, if the board finds one or more of the following applies to the basin:

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

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

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

(C) A local agency has submitted an alternative that has been approved or is pending approval pursuant to Section 10733.6. If the department



disapproves an alternative pursuant to Section 10733.6, the board shall not act under this paragraph until at least 180 days after the department disapproved the alternative.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

additional assessments utilizing the regulations developed pursuant to Chapter 10 (commencing with Section 10733) and make determinations pursuant to this section. The board shall post on its Internet Web site and provide at least 30 days for the public to comment on any determinations provided by the department pursuant to this subdivision.

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

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

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

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

(d) If the board finds that litigation challenging the formation of a groundwater sustainability agency prevented its formation before July 1, 2017, pursuant to paragraph (1) of subdivision (a) or prevented a groundwater sustainability program from being implemented in a manner likely to achieve the sustainability goal pursuant to paragraph (2), (3), (4), or (5) of subdivision (a), the board shall not designate a basin as a probationary basin for a period of time equal to the delay caused by the litigation.

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

SEC. 16. Section 10735.4 of the Water Code is amended to read:

10735.4. (a) If the board designates a basin as a probationary basin pursuant to paragraph (1), (2), or (4) of subdivision (a) of Section 10735.2, a local agency or groundwater sustainability agency shall have 180 days to remedy the deficiency. The board may appoint a mediator or other facilitator, after consultation with affected local agencies, to assist in resolving disputes, and identifying and implementing actions that will remedy the deficiency.

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

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

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

SEC. 17. Section 10735.6 of the Water Code is amended to read:

10735.6. (a) If the board designates a basin as a probationary basin pursuant to paragraph (3) or (5) of subdivision (a) of Section 10735.2, the board shall identify the specific deficiencies and identify potential actions to address the deficiencies. The board may request the department to provide local agencies, within 90 days of the designation of a probationary basin, with technical recommendations to remedy the deficiencies.

(b) The board may develop an interim plan pursuant to Section 10735.8 for the probationary basin one year after the designation of the basin pursuant to paragraph (3) or (5) of subdivision (a) of Section 10735.2, if the board, in consultation with the department, determines that a local agency has not remedied the deficiency that resulted in designating the basin a probationary basin.

SEC. 18. Section 10933 of the Water Code is amended to read:

10933. (a) The department shall commence to identify the extent of monitoring of groundwater elevations that is being undertaken within each basin and subbasin.

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

- (1) The population overlying the basin or subbasin.
- (2) The rate of current and projected growth of the population overlying the basin or subbasin.
- (3) The number of public supply wells that draw from the basin or subbasin.
- (4) The total number of wells that draw from the basin or subbasin.
- (5) The irrigated acreage overlying the basin or subbasin.
- (6) The degree to which persons overlying the basin or subbasin rely on groundwater as their primary source of water.
- (7) Any documented impacts on the groundwater within the basin or subbasin, including overdraft, subsidence, saline intrusion, and other water quality degradation.
- (8) Any other information determined to be relevant by the department, including adverse impacts on local habitat and local streamflows.

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

- (1) Attempt to contact all well owners within the area not being monitored.
- (2) Determine if there is an interest in establishing any of the following:
  - (A) A groundwater sustainability plan pursuant to Part 2.74 (commencing with Section 10720).

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

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

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

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

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

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

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

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

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

September 11, 2015

Mr. Daniel Alvarez  
Secretary of the California State Senate  
State Capitol, Room 3044  
Sacramento, CA 95814

Dear Mr. Alvarez:

As the author of Senate Bill No. 13, I am requesting the inclusion into the Senate Daily Journal my statement to clarify the intent of the bill as it relates to water corporations regulated by the Public Utilities Commission (PUC).

SB 13, a bill that makes numerous technical and cleanup amendments to the Sustainable Groundwater Management Act (SGMA), includes an amendment that removes a major impediment to participation in the new SGMA institution, Groundwater Sustainability Agencies (GSAs). Previously, SGMA required local agency approval for public water systems that happen to be water corporations regulated by the PUC to participate fully in GSAs. SB 13's amended provision in Section 10723.6 (b) now enables PUC-regulated public water systems to participate in a GSA through a memorandum of agreement or other legal agreement without conferring undo powers to such a nongovernmental entity.

Section 10723.6 (b) achieves two important outcomes: (1) it properly precludes the ability of local agencies to deny membership and participation in a GSA by these regulated public water systems, and (2) ensures that when a regulated or mutual water supplier has large groundwater operations in a basin or subbasin subject to SGMA's requirements, the GSA in question will have the benefit of that urban supplier's experience, management expertise and technical prowess.

Section 10723.6 (b) is intended to prevent local agencies from excluding PUC-regulated water corporations from an executive management role in a GSA, to give these regulated public water suppliers the authority necessary to fully participate in a GSA and to clarify that public agency approval is not necessary. Any GSA that includes a geographic area where water is provided by a water corporation regulated by the Public Utilities Commission, should include these water utilities as full participating members. Indeed, for many years, the Sacramento Groundwater Authority has successfully managed groundwater resources in the region through a joint powers authority whose members have long included PUC-regulated water corporations.

In short, successful implementation of the Sustainable Groundwater Management Act will require coordination and collaboration by all local agencies, water corporations regulated by the PUC and mutual water companies in a basin regardless of their ownership or organizational structure.

Thank you for your attention to this request.

Sincerely,

Fran Pavley  
Senator – 27<sup>th</sup> District