Santa Clara Valley Water District

The Board adopted and approved recommendations B and C; and referred to the Water Conservation and Demand Management Committee to engage stakeholders in the evaluation of new authorities under the Sustainable Groundwater Management Act.

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File No.: 16-0768

CONFORMED COPY

Agenda Date: 11/22/2016
Item No.: 2.7.

BOARD AGENDA MEMORANDUM

SUBJECT:

RECOMMENDATION:
A. Conduct the public hearing to consider comments on the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP);
B. Adopt the Resolution ADOPTING THE 2016 GROUNDWATER MANAGEMENT PLAN FOR THE SANTA CLARA AND LLAGAS SUBBASINS;
C. Authorize the Interim Chief Executive Officer or designee to submit the resolution and 2016 GWMP to the California Department of Water Resources; and
D. Receive information on and discuss various options with regard to future stakeholder engagement in evaluating new authorities under the Sustainable Groundwater Management Act.

SUMMARY:
To meet the planning requirements prescribed by the Sustainable Groundwater Management Act (SGMA), as well as the Emergency Groundwater Sustainability Plan (GSP) Regulations adopted by the Department of Water Resources (DWR), District staff has prepared the 2016 Groundwater Management Plan (GWMP) as an alternative to a GSP (Alternative Plan). This approach builds upon the District’s previous GWMP, which was adopted by the Board in 2012. SGMA’s schedule requires Alternative Plans to be submitted to DWR by January 1, 2017.

This public hearing provides an opportunity for the public to provide input to the Board on the District’s draft 2016 GWMP (Alternative Plan) prior to adoption. The resolution setting the time and place of the public hearing was adopted by the Board on November 8, 2016. The draft 2016 GWMP was posted on the District website at <http://www.valleywater.org/groundwatermanagement> on or before November 4, 2016 for public review.

Staff recommends that the public hearing be conducted, and that the draft 2016 GWMP be adopted as the final 2016 GWMP by the Board as is or as modified per Board direction. Following Board adoption, the 2016 GWMP will be submitted to DWR as an Alternative Plan under SGMA by the
statutory deadline of January 1, 2017. Staff also requests Board direction on various stakeholder engagement options related to the evaluation of new authorities under SGMA following adoption of the 2016 GWMP.

Background

The District was formed in 1929 for the purposes of managing groundwater. Historically, unsustainable pumping in Santa Clara County resulted in chronic overdraft, land subsidence, and salt water intrusion. While similar problems persist in groundwater basins throughout California, Santa Clara County is recognized as an area where these issues have been, and continue to be, successfully addressed through sustainable groundwater management.

The District’s purposes and authorities related to groundwater management are derived from the Santa Clara Valley Water District Act. In 2014, SGMA was signed into state law by Governor Brown, establishing new state-wide requirements and authorities for groundwater management.

For each basin subject to SGMA (including the Santa Clara and Llagas Subbasins), Groundwater Sustainability Agencies (GSAs), such as the District, must develop and implement a GSP or a prescribed Alternative. (Recall that on May 24, 2016 the Board adopted a resolution whereby the District became the GSA for the Santa Clara and Llagas Subbasins.) A GSP must be submitted to DWR by January 2022 for basins not in critical overdraft. A GSA may prepare an Alternative Plan that meets SGMA objectives; however, it must be submitted to DWR by January 1, 2017. While a GSP would not be due until 2022 for the Santa Clara and Llagas Subbasins, preparing an Alternative Plan leverages the District’s comprehensive 2012 GWMP, provides maximum local control and flexibility in terms of plan content, and affirms the District as a leader in groundwater management.

2016 GWMP (Alternative Plan) Overview

The 2016 GWMP describes the District’s comprehensive groundwater management framework, which has maintained sustainable conditions in the Santa Clara and Llagas Subbasins over many decades. It describes basin conditions for the Santa Clara and Llagas Subbasins and provides information on the District’s history, groundwater management authority, and water supply system. The 2016 GWMP also documents the District’s groundwater sustainability goals, related strategies, groundwater management programs and activities, outcome measures, and recommendations. The GWMP is consistent with the intent of SGMA and addresses state requirements for Alternatives.

The 2016 GWMP includes the following sustainability goals, based on Board Water Supply Objective 2.1.1:

- Groundwater supplies are managed to optimize water supply reliability and minimize land subsidence.
- Groundwater is protected from existing and potential contamination, including salt water
The following strategies are identified to achieve the sustainability goals:

1. Manage groundwater in conjunction with surface water.
2. Implement programs to protect and promote groundwater quality.
3. Maintain and develop adequate groundwater models and monitoring networks.
4. Work with regulatory and land use agencies to protect recharge areas, promote natural recharge, and prevent groundwater contamination.

The 2016 GWMP also includes the following outcome measures to gauge performance in meeting groundwater sustainability goals:

1. Projected end of year groundwater storage is greater than 278,000 AF in the Santa Clara Plain, 5,000 in the Coyote Valley, and 17,000 AF in the Llagas Subbasin.
2. Groundwater levels are above subsidence thresholds in the Santa Clara Plain subsidence index wells.
3. At least 95% of countywide water supply wells meet primary drinking water standards and at least 90% of Coyote Valley and Llagas Subbasin wells meet Basin Plan agricultural objectives.
4. At least 90% of wells in both the shallow and principal aquifer zones have stable or decreasing concentrations of nitrate, chloride, and total dissolved solids (TDS).

The sustainability goals, strategies, and outcome measures are largely unchanged from the 2012 GWMP since they have been effective in maintaining sustainable groundwater conditions and prompting action when needed. Minor changes have been made for clarity and consistency. The 2016 GWMP includes potential actions that may be taken if outcome measure performance indicates improvement is needed.

The 2016 GWMP updates and supersedes all previous District groundwater management plans. Per SGMA, an Alternative Plan must be submitted to DWR by January 1, 2017 and every five years thereafter.

Outreach on the 2016 GWMP

As the primary groundwater pumpers within Santa Clara County, the District’s water retailers are key stakeholders in the development and implementation of the 2016 GWMP. Coordination with water retailers has been through meetings of the Water Retailer Committee, Groundwater Subcommittee, and Water Supply Subcommittee. In addition, District staff has met with several of the retailers on an individual basis. The primary interest of the retailers is to be involved as the District considers implementation of any new authorities under SGMA.

Staff has notified water retailers, local land use agencies, and interested stakeholders of the intent to update the District’s 2012 GWMP as an Alternative Plan for submittal to DWR by the January 1, 2017 statutory deadline. The District has also notified interested stakeholders about related information on the District website at <http://www.valleywater.org/groundwatermanagement> and informational
public meetings. Public meetings were held at the District's headquarters on July 21, 2016, and in Morgan Hill on August 2, 2016. Input received at those meetings was considered in preparing the draft 2016 GWMP.

Although public hearings are not required for Alternative Plans, this hearing provides an opportunity for the public to provide formal input to the Board prior to adoption of the 2016 GWMP. Notice for this public hearing was published in a newspaper of general circulation.

New SGMA Authorities and Options for Future Stakeholder Engagement

The 2016 GWMP acknowledges potential new authorities under SGMA, including the ability to: manage pumping, control well spacing or operation, and collect different types of fees. These authorities would be available upon adoption of the GWMP. However, authorities related to controlling pumping have certain constraints, and significant issues regarding the potential interference with water rights and liability associated with District regulation of pumping at individual wells must be carefully considered. District staff plans to begin evaluating these new authorities in 2017, in cooperation with water retailers and other interested stakeholders, and consider what conditions might necessitate implementation of these authorities in the future.

Potential stakeholder engagement options for evaluating the new SGMA authorities include a stakeholder committee or a formal Board advisory structure as described below. In either case, it is expected that this committee would serve on a short-term, ad-hoc basis. If the District identifies a need to implement new SGMA authorities in the future, the committee could be reinstated.

1) Stakeholder Committee Option
   To ensure broad stakeholder involvement, potential members for this staff-level committee could include representatives from the Board Advisory Committees (Agricultural Water Advisory Committee, Environmental and Water Resources Committee, and Water Commission), water retailers not represented by the Water Commission, and individual well owners.

2) Board Advisory Committee Option
   This could take the form of a new, ad-hoc committee focused on evaluating SGMA authorities, with composition similar to the stakeholder committee option above. Another option, proposed by several water retailers, is to create a subcommittee of the Water Commission to include representatives from the investor-owned utilities.

Staff is seeking Board input on potential stakeholder engagement options related to the evaluation of new SGMA authorities. Prior to formally establishing a stakeholder committee, staff proposes to come back to the Board to discuss Board principles and guidance on the evaluation of new SGMA authorities. These principles will guide development of the purpose, structure, and objectives for the stakeholder committee. Once these steps are completed, the stakeholder committee will be initiated and related evaluation will begin.

FINANCIAL IMPACT:
There is no financial impact associated with this item. Programs described in the 2016 GWMP are addressed as part of the annual District budget approved by the Board. Water utility projects
supporting the protection and augmentation of water supplies are funded through the Water Utility Enterprise fund, which includes revenue from groundwater production charges, treated water charges, and other sources.

CEQA:
This project is exempt from CEQA under CEQA Guidelines Section 15262, which exempts planning studies.

ATTACHMENTS:
Attachment 1: Resolution
Attachment 2: PowerPoint

UNCLASSIFIED MANAGER:
Garth Hall, 408-630-2750
BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT

RESOLUTION NO. 16–78

ADOPTING THE 2016 GROUNDWATER MANAGEMENT PLAN
FOR THE SANTA CLARA AND LLAGAS SUBBASINS

WHEREAS, the Santa Clara Valley Water District Act (California Water Code Appendix, Chapter 60) provides the District with broad groundwater management authority, including the authority to protect, spread, store, retain, and cause water to percolate in the soil within Santa Clara County; and

WHEREAS, the District’s statutory boundary wholly overlies the Santa Clara Subbasin and Llagas Subbasin, identified by the California Department of Water Resources as Basins 2-9.02 and 3-3.01, respectively; and

WHEREAS, on September 16, 2014, the Sustainable Groundwater Management Act (SGMA) was signed into law and adopted into the California Water Code, commencing with Section 10720; and

WHEREAS, the legislative intent of SGMA is to provide for the sustainable management of groundwater basins, to enhance local management of groundwater, to establish minimum standards for sustainable groundwater management, and to provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater; and

WHEREAS, Water Code Section 10723(c)(1)(M) identifies the Santa Clara Valley Water District (District) as one of fifteen (15) agencies created by statute to manage groundwater that shall be deemed the exclusive local agencies within their respective statutory boundaries; and

WHEREAS, on May 24, 2016, the District Board of Directors adopted Resolution 16-51 on the Decision to Become the Groundwater Sustainability Agency for the Santa Clara and Llagas Subbasins; and

WHEREAS, the Santa Clara and Llagas Subbasins are deemed to be medium-priority and high-priority basins by the California Department of Water Resources (DWR) and therefore require the development of a Groundwater Sustainability Plan or prescribed alternative; and

WHEREAS, Water Code Section 10733.6(b)(1) identifies a plan developed pursuant to Part 2.75 (commencing with Section 10750) or other law authorizing groundwater management as an acceptable alternative; and

WHEREAS, the District is committed to its legislatively-created mandate to manage the surface water and groundwater resources within its jurisdiction; and

WHEREAS, the 2016 Groundwater Management Plan describes the District’s comprehensive framework to ensure continued, sustainable groundwater conditions in the Santa Clara and Llagas Subbasins; and

WHEREAS, the District prepared and made available a draft of its 2016 Groundwater Management Plan, and noticed a public hearing regarding said plan, which was held on November 22, 2016; and
Adopting the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins
Resolution No. 16-78

WHEREAS, the District Board of Directors considered the 2016 Groundwater Management Plan during a public hearing held on November 22, 2016, and has existing statutory authority to adopt the 2016 Groundwater Management Plan under the Santa Clara Valley Water District Act.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District does hereby:

1. Adopt the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins; and

2. Authorize the Chief Executive Officer (CEO) or designee to submit the 2016 Groundwater Management Plan as an Alternative to a Groundwater Sustainability Plan to the California Department of Water Resources by January 1, 2017, as required by Section 10733.6 of the Water Code.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on November 22, 2016:

AYES: Directors J. Varela, T. Estremera, N. Hsueh, G. Kremen, L. LeZotte, R. Santos, B. Keegan

NOES: Directors None

ABSENT: Directors None

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By: [Signature]
Chair/Board of Directors

ATTEST: M CHELE L KING, CMC

[Signature]
Clerk/Board of Directors
Public Hearing on the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins

November 22, 2016

Santa Clara Valley Water District
Recommendations

- Consider public hearing input and provide direction to staff in finalizing the 2016 GWMP
- Adopt the 2016 Groundwater Management Plan
- Authorize the CEO to submit the final GWMP to DWR
- Discuss stakeholder engagement options for evaluating new SGMA authorities in 2017
Groundwater Management Plan overview

- Long-term plan required by State law
- Updates District’s 2012 plan
- Documents basin conditions, goals, and actions to ensure continued sustainability
District roots in groundwater management

Historical undesirable results:

- Long-term overdraft
- Lower water levels
- Reduced reliability
- Land subsidence
- Salt water intrusion

Alviso, before and after more than 6 feet of permanent subsidence
Investing in sustainability

SANTA CLARA COUNTY GROUNDWATER AT-A-GLANCE
a graphic representation not intended as a technical exhibit

Land Surface Elevation  Groundwater Elevation  Population

ELEVATION
100 ft
50 ft
0 ft
-50 ft
-100 ft

Natural groundwater
Land subsided about 13 feet in San Jose between 1915 and 1970
Reservoirs constructed to capture more local water
Increased deliveries of imported water (federal)

First deliveries of imported water (state)

POPULATION
2 million
1 million
0

Year
1900  1920  1940  1960  1980  2000  2020

Attachment 2
Page 5 of 12
Last updated November 13, 2015
Comprehensive groundwater management

- Basins in long-term balance due to
  - Managed recharge of local and imported water
  - In-lieu recharge (treated water deliveries, conservation, and recycling)

- Groundwater protection programs

- Coordination with other agencies and stakeholders
2016 Groundwater Management Plan

▶ Goals, strategies, outcome measures prompt effective action

▶ Updated technical information
  ▶ Basin setting and conditions
  ▶ Groundwater/surface water interaction

▶ Information on future groundwater demands

▶ New SGMA authorities acknowledged
Authorities available after GWMP adoption

- Regulation of pumping
  - Well spacing/operational requirements, pumping limitations or allocations
  - Existing water rights and potential liability must be carefully considered

- Collection of various fees
  - Fixed or tiered volumetric
  - Must comply with applicable Prop 218 provisions
Next steps

- Finalize Groundwater Management Plan
  - Incorporate Board direction based on public hearing
  - Include resolution adopting plan

- Submit plan to DWR by January 1, 2017

- Begin evaluating new SGMA authorities in 2017
Next steps: evaluation of SGMA authorities

1) Board input on options for stakeholder engagement (11/22/16)
2) Board input on principles related to new SGMA authorities (early 2017)
3) Establish stakeholder committee (mid 2017)
Stakeholder engagement options

Option 1. Stakeholder committee
Potential representatives from Board advisory committees, water retailers, and individual well owners

Option 2. Board advisory committee
New SGMA ad-hoc committee, or
New subcommittee of the Water Commission
Recommendations (recap)

- Consider public hearing input and provide direction to staff in finalizing the 2016 GWMP
- Adopt the 2016 Groundwater Management Plan
- Authorize the CEO to submit the final GWMP to DWR
- Discuss stakeholder engagement options for evaluating new SGMA authorities in 2017
November 18, 2016

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

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

Dear Ms. Keegan:

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

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

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\(^1\) SGMA and related regulations (jointly referred to as “SGMA Requirements”).

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

\(^3\) 23 CCR 358.2(d).

\(^4\) According to SGMA, however, “[b]eginning January 1, 2015, a new [GWMP] shall not be adopted and an existing [GWMP] shall not be renewed pursuant to [the Water Code].” (Wat. Code § 10750.1.)

\(^5\) “Public water system” has the same meaning as defined in Section 116275 of the Health and Safety Code (Wat. Code § 10721(s)), which defines “Public water system” as “a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.” Health & Safety Code, § 116275.
certain provisions that ensure sustainability. We believe this shared responsibility among the
Water Systems will enable the District to adopt effective sustainability goals, while also allowing
those assuming the greatest burden and interest in a successful outcome the opportunity to develop
the strategy for achieving compliance.

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

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

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

The Legislature has clearly declared that sustainable groundwater management must
respect proprietary rights to groundwater. In fact, it was the expressed intent of the Legislature
to “preserve the security of water rights in the state to the greatest extent possible consistent with
the sustainable management of groundwater.”

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

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6 Wat. Code § 10735.2(a)(3)-(5)
7 July 7, 2016 correspondence; 2016 Meetings: September 9, October 7, 12 and 20.
8 While the Amended Plan acknowledges that pursuant to SGMA, local agencies may not determine water
rights in regulating pumping, it does not define the proprietary water rights in the Basin, explain how
these rights will be protected, or what the process will be to respect those rights.
9 Water Code § 10723.2.
10 Wat. Code § 113(b)(4); Wat. Code § 10720(b)(4).
11 Wat. Code § 10720.1(b).
12 Wat. Code § 10721(v).
sustainability,\textsuperscript{13} and the District’s GWMP is lacking. If the District adopts a sustainable yield and ultimately corresponding methods to limit groundwater production within the plan area, then the burden of implementing strategies will be borne almost entirely by the sovereign Water Systems. These Water Systems have already dedicated this groundwater to a public use and have accrued proprietary groundwater rights.\textsuperscript{14} Either a future amendment to the GWMP will address the subject of plan enforcement and its consistency with these vested rights, or a court is likely to do so. We believe the Water Systems, pursuant to a memorandum of agreement with the District, can collaboratively develop water budgets and curtailment strategies that will provide certainty and enhance efficient use.

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

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

Specifically, in reviewing the District’s GWMP and comparing it to the standards of a GSP,\textsuperscript{16} we wish to point out the following deficiencies:

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

\textsuperscript{13} 23 CCR 354.24 requires that “[t]he [GSP] shall include a description of the sustainability goal, including information from the basin setting used to establish the sustainability goal, [and] a discussion of the measures that will be implemented to ensure that the basin will be operated within its sustainable yield.”

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

\textsuperscript{15} A proposal for shared public water system governance by a Memorandum of Agreement is attached hereto.

\textsuperscript{16} 23 CCR 358.2(d).
o **No Express Identification of Basin’s Beneficial Users.** The District’s GWMP fails to specifically identify individual beneficial users of the Basin’s groundwater resources, which is required under the SGMA Requirements. Failure to identify specific Basin users also indicates that the District’s GWMP lacks important, and required, data about the status of the Basin’s groundwater supplies. It also may result in incomplete and an unfair distribution of enforcement burdens and one that fails to honor and protect vested rights.

o **Failure to Include Basin’s Projected Water Budget.** To be functionally equivalent, a GWMP must include a basin’s water budget under historical, current and future conditions. Although the District’s GWMP includes a graphic illustrating the Basin’s historical average annual water budget, this graphic does not include the information nor level of detail required under the SGMA Requirements. The GWMP does not include any discussion regarding the quantification of the Basin’s current or future groundwater budget nor provide whether there are limitations on expanded or even existing production.

o **GWMP Fails to Identify All Required Undesirable Results or Establish Sufficient Minimum Thresholds.** Although the District’s GWMP briefly identifies multiple undesirable results present in the Basin, discussion of these conditions is insufficient to meet the SGMA Requirements. In addition to this deficiency, the District’s GWMP also fails to quantify current groundwater conditions and establish adequate minimum thresholds to determine when conditions in the Basin necessitate action. The four “Outcome Measures” in the Amended Plan do not meet the extensive requirements for minimum thresholds and measurable objectives for each applicable sustainability indicator. Failure to satisfy this cornerstone requirement of SGMA means that the District’s GWMP is not functionally equivalent.

o **No Identification of GWMP’s Data Gaps.** To be deemed functionally equivalent, a GWMP is required to identify both uncertainty and existing gaps in the data that informs the hydrogeological model within the SGMA Requirements. The District’s GWMP fails to expressly identify any data gaps within either its monitoring network or the data provided about the Basin, which is a key requirement under the SGMA Requirements.

Although the District’s recent draft amendment to its GWMP attempts to address these deficiencies in its 2012 GWMP, it does not fully satisfy SGMA’s requirements. Moreover, SGMA prohibits local agencies in medium- and high-priority basins from adopting a new GWMP or
amending an existing GWMP as of January 1, 2015.\footnote{Wat. Code § 10750.1(a).} A fair reading of the plain meaning of Water Code § 10750.1(a) suggests that an amended GWMP is not eligible for consideration as an Alternative Plan.

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

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

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

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

Respectfully,

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

Cc: Gary Kremen, District Board Member
    John Varela, District Board Member
    Linda LeZotte, District Board Member
    Nai Hsueh, District Board Member
    Richard Santos, District Board Member
    Tony Estremera, District Board Member
    Norma Camacho, District CEO
    Jim Fiedler, District COO
MEMORANDUM OF AGREEMENT ("MOA")
BETWEEN PUBLIC WATER RETAILERS AND THE SANTA CLARA VALLEY WATER
DISTRICT ("DISTRICT") REGARDING THE IMPLEMENTATION OF THE 2012
GROUNDWATER MANAGEMENT PLAN, ALTERNATIVE PLAN OR SUSTAINABLE
GROUNDWATER MANAGEMENT PLAN

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

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

WHEREAS, since the 1930’s, the District’s water supply strategy has been to
maximize conjunctive use, the coordinated management of surface and
groundwater; ¹

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

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

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

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

⁴ 2012 Groundwater Management Plan, Section 4.1.5 and 1.3.
WHEREAS, a key component of the water supply reliability performance under the 2012 GMP and approved UWMP depends on the cooperation between the District and its water retailers, which is "critical during times of shortage;"\(^5\)

WHEREAS, the District resolved to continue and enhance further groundwater management partnerships;\(^6\)

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

WHEREAS, groundwater management pursuant to SGMA must be consistent with Section 2 of Article X of the California Constitution and nothing within SGMA may modify the priorities of common law water rights\(^7\) and the statutory protection of those rights;\(^8\)

WHEREAS, SGMA requires GSAs to consider the interests of beneficial uses and users of groundwater within the plan area and those "interests" specifically include public water systems\(^9\); and

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

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


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

\(^5\) 2012 Groundwater Management Plan, Section 4-1-4 at p. 4-5.
\(^6\) 2012 Groundwater Management Plan, Recommendation: 7-3(5) at pp. 7.4-7.5.
\(^7\) Water Code § 10720.5.
\(^8\) See, e.g. Civil Code § 1007, Water Code §§ 106, 106.5; Public Utilities Code § 851.
\(^9\) Water Code § 10723.2; Section 354.10 of the GSP Regulations ("Notice and Communication").
(a) **Curtailment/Apportionment.** In the event that either the District determines that curtailment of groundwater production or an apportionment of groundwater (allocation) within the subbasins is required to avoid causing undesirable results under a SGMA Plan, then:

(i) The District will notify the WRC in writing of the need for a curtailment/apportionment plan to avoid causing undesirable results;

(ii) At any time on its own initiative, the WRC may, or within twelve (12) months of its receipt of written notice from the District, the WRC will prepare a curtailment/apportionment plan;

(iii) The methodology to curtail existing extractions or apportionment of groundwater shall be developed by the WRC in its complete discretion;

(iv) Any WRC curtailment/apportionment plan shall be presented to the District for its consideration and inclusion in any SGMA Plan;

(v) The District will accept and include the WRC curtailment/apportionment plan developed by the WRC in the SGMA Plan unless, after a good faith evaluation, the District finds that the WRC allocation/curtailment plan, including proposed mitigation measures, do not provide reasonable assurance that "undesirable results" will be avoided;

(vi) In the event the District disagrees with the WRC curtailment/apportionment plan pursuant to (v) above, the District may seek to set aside the adoption of the WRC plan pursuant to Code of Civil Procedure (CCP) § 1085;

(vii) The Parties will exercise good faith and reasonable efforts to coordinate the implementation of any interim measures required to protect against "undesirable results" during the WRC's development of a curtailment/apportionment plan;

(viii) If after twelve (12) months from the date of the District's notice required in paragraph (a)(i) above, the WRC fails to complete a curtailment/apportionment plan and present the plan to the District for approval, then the District may prepare its own curtailment/apportionment plan. If the WRC disagrees with the District's plan, then the WRC may seek to set aside the adoption of the District's curtailment/apportionment plan pursuant to CCP § 1085.

(b) **Transfer and Carry-Over.** If water allocations are created pursuant to section 1(a) of this MOA, the WRC may, in its complete discretion, develop a transfer and carry-over plan further implementing a SGMA Plan that will establish rules and conditions for the transfer, conservation, and carry-over of any unused allocation between and among the public water systems.
(i) The WRC will notify the District in writing of its intent to prepare a transfer and carry-over plan, and thereafter the WRC will exercise good faith and reasonable diligence in preparing a transfer and carry-over plan;

(ii) The methodology for transfer and carry-over of any allocations shall be developed by the WRC in its complete discretion, subject to the express requirement that the transfer and carry-over plan will not cause or threaten to cause unmitigated "undesirable results;"

(iii) The District will accept and include a WRC transfer and carry-over plan in the SGMA Plan unless, after a good faith evaluation, the District finds that the WRC transfer and carry-over plan, including proposed mitigation measures, do not provide reasonable assurances against causing or threatening to cause "undesirable results;"

(iv) In the event the District disagrees with the WRC transfer and carry-over plan pursuant to (b)(iii) above, the District may seek to set aside the adoption of the WRC plan pursuant to CCP § 1085.

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

(i) The District will provide written notice to the WRC of its intent to prepare a storage and recovery plan;

(ii) The storage and recovery plan shall not impair the operating ability of a public water system or cause or threaten to cause "undesirable results;"

(iii) The District will seek the WRC's approval of any storage and recovery plan prior to inclusion in any SGMA Plan;

(iv) If the WRC disagrees with the District's plan, then the WRC may seek to set aside the District's adoption of its storage and recovery plan pursuant to CCP § 1085;

(v) Alternatively, if the District has not issued a notice of its intention to prepare a storage plan pursuant to (c)(i) above, the WRC may independently develop a plan for the storage and recovery of imported water to enhance local water supply reliability. The WRC will present any WRC plan for the storage and recovery of water to the District for inclusion in a SGMA Plan. The District will accept and include the WRC storage and recovery plan unless, after a good faith
evaluation, it finds that storage and recovery of imported water will cause or threatens to cause "undesirable results" or will directly interfere with existing District operations or replenishment programs;

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

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

2. **Water Rights Committee Representation.**

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

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

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

a) A majority of the votes weighted by groundwater pumping must be cast in favor of the action, provided that not less than two member agencies vote in favor of the action; and

b) A majority of the members vote in favor of the action. In the event a simple majority vote on a question has previously been taken, and a weighted vote is subsequently called; a roll call vote will be taken that tabulates both the weighted vote and the members voting. The vote weighted by a majority of
those voting representing a majority of the groundwater pumping shall supersede the previous simple majority vote, provided that the vote of a single member may not defeat an action.

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

3. **WRC Formation and Organization.**

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

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

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

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

4. **Binding on All Plans.**

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

5. **Effective Date.**

   The MOA is effective upon execution of the Parties.
EXHIBIT A

Method: All Retailers Represented with Weighting except that use <400 AFY¹. One At-Large representative to be appointed from among parties that use <400 AFY.

<table>
<thead>
<tr>
<th>Retailer</th>
<th># of Votes</th>
<th>Range in AF</th>
<th># of Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Jose Water Company</td>
<td>10</td>
<td>55,800</td>
<td>62,000</td>
</tr>
<tr>
<td>Santa Clara</td>
<td>3</td>
<td>49,600</td>
<td>55,800</td>
</tr>
<tr>
<td>Great Oaks²</td>
<td>3</td>
<td>43,400</td>
<td>49,600</td>
</tr>
<tr>
<td>Gilroy</td>
<td>2</td>
<td>37,200</td>
<td>43,400</td>
</tr>
<tr>
<td>Morgan Hill</td>
<td>2</td>
<td>31,000</td>
<td>37,200</td>
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<tr>
<td>Cal Water</td>
<td>1</td>
<td>24,800</td>
<td>31,000</td>
</tr>
<tr>
<td>Sunnyvale</td>
<td>1</td>
<td>18,600</td>
<td>24,000</td>
</tr>
<tr>
<td>San Jose</td>
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<td>12,400</td>
<td>18,600</td>
</tr>
<tr>
<td>Mountain View</td>
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<td>6,200</td>
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<tr>
<td>At-Large</td>
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<td>6,200</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>25</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Range = Total GW/#votes
Total GW = 155,000
# votes = 25

GROUNDWATER USE IN AF

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<tr>
<th>Retailer</th>
<th>2010 UWMP</th>
<th>% Total</th>
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</thead>
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<tr>
<td>San Jose Water Company</td>
<td>60,500</td>
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<tr>
<td>Santa Clara</td>
<td>14,800</td>
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<td>Great Oaks</td>
<td>12,300</td>
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<td>Gilroy</td>
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<td>5.5%</td>
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<tr>
<td>Morgan Hill</td>
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<td>1,200</td>
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<td>400</td>
<td>0.3%</td>
</tr>
<tr>
<td>Mountain View</td>
<td>400</td>
<td>0.3%</td>
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<tr>
<td>Stanford</td>
<td>200</td>
<td>0.1%</td>
</tr>
<tr>
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<td>Independent Coyote Valley</td>
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<td>Independent Llagas</td>
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<td>18.6%</td>
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<td><strong>Total</strong></td>
<td><strong>155,000</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

¹ SCVWD 2010 UWMP
² Great Oaks rounded up to 12,400
for the Santa Clara and Llagas Subbasins
Board meeting November 22 2016
2.7. Public Hearing on 2016 Groundwater Management Plan

My compliments to the Groundwater Monitoring and Analysis Unit for a much improved 2016 plan compared to the 2012 plan. It helps greatly to have the material on each subbasin gathered into its own chapter. This makes it easier to understand where we can have common management approaches across subbasins, and where more targeted concerns must be addressed: land subsidence and salt water intrusion in North County, groundwater quality and groundwater recharge in South County.

The classification of the subbasins as medium and high priority appears in the Executive Summary but is not defined until the Introduction.

The definition does not appear in the Glossary. I had incorrectly assumed that higher priority meant a problem such as overdraft.

DWR has identified the Santa Clara Subbasin as a medium-priority subbasin and the Llagas Subbasin as a high-priority subbasin based on criteria that include overlying population, projected growth, number of wells, irrigation acreage, groundwater reliance, and groundwater impacts. Neither subbasin has been identified as being in overdraft. [pg 1-1]

Since the authorities available under SGMA would be available upon Board adoption of the 2016 GWMP [pg ES-5] (or when DWR accepts it?), it is unclear to me what the timeline will be or what sort of checkpoints will exist in defining what to do with new abilities such as regulating groundwater pumping and assessing different types of groundwater charges. In Regulation of Groundwater Pumping [pg 1-12], you may be able to "impose spacing requirements on new well construction to minimize interference". This is challenged by "Property owners and municipalities have rights to the reasonable, beneficial use of groundwater". Sustainable Management Criteria Strategy 4 says that you will "work with regulatory and land use agencies to protect recharge areas, promote natural recharge, and prevent groundwater contamination" [pg 5-5].

Since my number one priority is finding ways to increase groundwater recharge in South County, I am very interested in how you determine how and when to use your new abilities.

It would help me if you would explain what "managing your water rights" ("The District currently has 20 appropriative water rights licenses and 1 filed water right permit with the SWRCB" [pg 4-1]) means. I understand that water rights are complicated and contentious, but what does it mean in terms of day-to-day operations of the District?

In Basin Management, you mention an Injection Well Pilot. "The injection well is not currently in operation" [pg 6-3]. Was it ever used? Under what conditions would it be used in the future?

In Basin Management, under Water Banking, you say that we "withdraw" our water from the Semitropic Groundwater Bank by being "delivered imported water from the Delta that would have otherwise been delivered to the banking partner or to other SWP contractors" [pg 6-4]. You should mention that the assumption that we could get deliveries from the Delta failed us in recent years, and the District thus considered the Reverse Flow project.

I want to encourage more measurements and fewer estimates. In Basin Management, under Groundwater Production Measurement, you say
"meters are only installed at those sites determined to be economically feasible or as required to facilitate the complete and accurate collection of groundwater production revenue". "Metered wells extract the vast majority of the groundwater used. Where meters are not used, crop factors are used to determine agricultural water use and average values are used to estimate domestic use". [pg 6-6]

Under Groundwater Monitoring and Modeling Data Management, are we limited in our collection and analysis by

"Because the District's access agreements with some private well owners do not provide for public release, some information has to be summarized or obscured prior to release" [pg 7-22].

Having read the Watershed Emergency Report Team report on the Loma Fire, heard after-action reports by CalFire at HLUET and SCC OAC, and toured the area with OSA, I think post-fire issues should be addressed in Watershed Management [pg 6-20]. For example, should obstructions be removed from creeks (decrease flood risk) or remain to slow debris flows which degrade water quality downstream to local users and our reservoirs?

I will withhold judgment on whether projected future shortfalls are only of concern during multi-year droughts.

I know you all try very hard to engage with the public. And I know you mean it when you say that the public are important partners [pg 6-17]. But neither Groundwater Awareness Week nor the public input meetings for the Groundwater Management Plan received any notice in Morgan Hill. Unfortunately, I do not have any suggestions.

Thank you for your consideration,
Doug Muirhead, Morgan Hill
Hand-Delivered

Board of Directors
Santa Clara Valley Water District
5750 Almaden Expressway
San José, CA 95118

RE: Public Hearing to Consider Comments on the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins

Sustainable Groundwater Management Act
Submission of Alternative Plan

Dear Chair Keegan, Vice Chair Varela, and Board Members

On November 8, 2016, the Board of Directors (Board) of the Santa Clara Valley Water District (District) adopted a Resolution authorizing publication of a notice calling for a public hearing to consider comments on the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins Prior to its Adoption. The November 8, 2016 Resolution provides, in pertinent part:

WHEREAS, the District “intends to adopt the 2016 Groundwater Management Plan as an Alternative Plan to be submitted to the California Department of Water Resources for compliance with the Sustainable Groundwater Management Act;

Great Oaks Water Company (Great Oaks) will be directly affected by the proposed Alternative Plan and submits this letter to the Board in response to the Board’s solicitation of comments on the proposed Alternative Plan. Great Oaks respectfully requests that this letter, in its entirety, be entered into the record at the November 22, 2016 public hearing.

I apologize for not being able to present these matters in person at the November 22, 2016 hearing, but my travel plans for the Thanksgiving holiday were made prior to the District’s very recent scheduling of the hearing on this matter, and I will be in transit to be with family at the time of the hearing. For future reference, please be mindful that when scheduling hearings
on important matters such as this, full public participation is best served when the hearings are not held just before major holidays when families often travel to be together.

Submission of Alternative Plan

The Alternative Plan is ostensibly being submitted under California Water Code (Water Code) Section 10733.6(b)(1). As such, it is essential that the Alternative Plan satisfies the objectives of SGMA and each of its elements is functionally equivalent to a Groundwater Sustainability Plan (GSP) submitted required by Sections 5 and 7 of Title 23, Division 2, Chapter 1.5, Subchapter 2 of the California Code of Regulations.

Background

One of the critical legislative declarations providing rationale for the Sustainable Groundwater Management Act (SGMA) is that, "[w]hen properly managed, groundwater resources will help protect communities, farms, and the environment against prolonged dry periods and climate change, preserving water supplies for existing and potential beneficial use." Likewise, an essential element of the legislative intent behind SGMA requires the Legislature, as well as local and regional agencies acting under the authority of SGMA, "[t]o respect overlying and other proprietary rights to groundwater."

All of Great Oaks' water supplies are sourced from the Santa Clara Subbasin. Aware of the significance of SGMA, at Great Oaks' request, a meeting was held at the District on November 4, 2014 to generally discuss the ramifications of SGMA and, specifically, the portion of SGMA that provides that nothing in the new law determines or alters groundwater rights.

District staff attended the meeting together with several "water retailers" and the discussion was both constructive and robust. The parties agreed that any action taken or otherwise contemplated by the District that would have the potential to affect groundwater rights would be the subject of further discussion and, ideally, agreement. None of the attendees expressed the desire to engage in a lengthy and expensive legal action to adjudicate respective groundwater rights, but all recognized that a basin adjudication could be triggered by District action taken without proper regard for historic groundwater production and rights.

In June of 2016, District staff advised the retailers of the District's intention to update its 2012 Groundwater Management Plan (GMP) and submit the updated GMP as an Alternative Plan under SGMA. This raised immediate concerns among the retailers for several reasons.

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1 Alternative Plan, page ES-1.
2 Water Code §10733.6(a).
3 Groundwater Sustainability Plan Regulations, hereinafter referred to as GSP Regulations.
4 Uncodified findings, Sustainable Groundwater Management Act, SB 1168 (Pavley), AB 1739 (Dickinson), and SB 1319 (Pavley).
5 Id.
6 Water Code §10720.5(b).
7 The District refers to the updated 2012 GMP as the 2016 Groundwater Management Plan.
First, the submission deadline for an Alternative Plan is January 1, 2017. At the time of the announcement of the intention to submit an updated GMP as its SGMA Alternative Plan, District staff had barely begun the process and had mere months to review and update the 2012 GMP. Nothing has changed this time consideration, which has now manifested itself in a process by which the District has released its proposed Alternative Plan and scheduled a hearing on it to receive comments, all in the span of less than three weeks. As noted above, the scheduling of the public hearing on this matter just prior to the Thanksgiving holiday, after many, including the undersigned, had already made travel plans, will not result in the type of open and collaborative public process an important matter like this requires and deserves.

Next, the District and the water retailers are well aware that the 2012 GMP does not contain any formalized decision-making process to resolve or even address issues pertaining to groundwater rights in the event of District action that actually or potentially affects groundwater rights. At present, without any formally-established methodology, any such issues may or may not be addressed with retailers.

The same is true with respect to water retailer operations affected or potentially affected by District actions pertaining to the groundwater Subbasins. The District has a significant and very meaningful deficit in experience in operating a retail water business (i.e., a classic water utility), as compared to the water retailers. District groundwater actions should not be taken without a full understanding of the effects of those actions on the retailers and their customers – the residents and businesses of Santa Clara County. The 2012 GMP and its update do not provide for or establish a procedure to address these issues.

And, just as importantly, the largest water-producing retailers have no established authority to provide meaningful input, response, or advice on such District actions, except through retailer committees or subcommittees that have no Board advisory role. San Jose Water Company (SJWC), California Water Service Company (Cal Water), and Great Oaks are three of the largest water producers in the County, with SJWC being the largest by far. Yet, SJWC, Cal Water, and Great Oaks have no status on any Board advisory committee. At best, these three water retailers, serving a population larger than all other Santa Clara County water retailers combined, are relegated to voicing their concerns through District staff or through non-advisory committees and subcommittees, and hoping those concerns are heard by the Board.

Recent Actions

This last point is one of the reasons that on July 20, 2016, SJWC sent a letter to District’s Interim Chief Executive Officer Norma Camacho requesting a role for SJWC as “a constructive partner in the decision-making pertaining to [the District]’s implementation and compliance with SGMA, and the control of groundwater extractions.” SJWC invited Cal Water, Great Oaks, and the City of Santa Clara to participate in a meeting on the subject with Ms. Camacho and members of the District staff on September 14, 2016.

8 Water Code §10733.6(c).
During the course of that meeting, every effort by the retailers to forge a formalized procedure for decision-making under SGMA was met with resistance. District representatives at the meeting pointed to past voluntary cooperation and coordination among the District and the retailers as examples of how decisions might be made under SGMA. Decisions might also be made in an entirely different, without even soliciting cooperation or engaging in coordination. Simply put, the District’s process for making SGMA-related decisions is neither defined nor established.

In Ms. Camacho’s October 7, 2016 letter to SJWC following the meeting, the same examples were provided and, again, no written assurances of an established decision-making procedure were offered or provided. In short, the efforts of the retailers to establish a formalized process for SGMA decision making were rejected in favor of hoped for voluntary collaboration on groundwater management issues.

In the end, the proposed Alternative Plan fails to include any formalized procedure to address the legitimate SGMA-related concerns of water retailers, especially the non-public agency retailers. The staff presentation accompanying the proposed Alternative Plan only speaks to “stakeholder engagement options” that include potential representation on a new ad hoc Board advisory committee or through a new subcommittee of the Water Commission (which would still not include SJWC, Cal Water, and Great Oaks).

The Alternative Plan Does Not Satisfy SGMA Objectives

In a letter dated November 18, 2016, SJWC provided a comprehensive analysis of the proposed Alternative Plan (SJWC Letter). The SJWC details the many deficiencies of the proposed Alternative Plan, and Great Oaks joins with SJWC in opposition to the proposed Alternative Plan for the reasons stated in the SJWC Letter.

In addition to the deficiencies noted by SJWC, the proposed Alternative Plan also fails to include the required “Notice and Communication” section, with the necessary elements of (1) an explanation of the District’s decision-making process; and (2) identification of opportunities for public engagement and a discussion of how public input and response will be used.10

There is, of course, no “Notice and Communication” section in the Alternative Plan at all. Section 1.5 of the Alternative Plan is entitled “Groundwater Management Partners and Stakeholders,” but this section does not include an explanation of how the District will make decisions pertaining to groundwater management that affect water retailers, especially the largest water-producing retailers.

At best, the Alternative Plan references “the shared goal of protecting groundwater resources” and notes: “Ongoing strong partnership and collaboration will be essential to meet

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9 The SJWC letter is attached hereto and incorporated herein by reference.
10 California Code of Regulations, Title 23, Division 2, Chapter 1.5, Subchapter 2. Groundwater Sustainability Plans, §§354.10(d)(1) and (2).
future water supply challenges."\textsuperscript{11} This hoped-for collaboration between the District and water retailers appears to be the District’s "decision-making process." But this is contradicted by the description of the role of water retailers in groundwater management, which makes no reference to \textit{any} decision-making responsibility on the part of water retailers.\textsuperscript{12} There is no explanation of how input and response from water retailers will be used, if at all, when decisions are made that affect or potentially affect groundwater rights and water retailer operations.

Despite the claim that the information and elements of the Alternative Plan are "functionally equivalent to the elements of a [Groundwater Sustainability Plan] required by Articles 5 and 7 of the [GSP Regulations]\textsuperscript{13}, that is clearly not the case. The Alternative Plan is deficient under both SGMA and the GSP Regulations because, among other reasons, it does not satisfy the objectives of SGMA and it does not contain the required explanation of the decision-making process, including how public input and response (including that from water retailers) will be used.

As detailed above, Great Oaks has been involved in specific efforts to establish a formal procedure for making decisions that affect or potentially affect water-producing retailers. Since this is a requirement of an Alternative Plan, now is the time to include that procedure in the Alternative Plan.

\textbf{Other Issues}

SGMA generally requires all groundwater basins in the State to be managed under a Groundwater Sustainability Plan (GSP), with high and medium-high priority basins to be managed under a GSP by January 31, 2020, and all other groundwater basins to be managed under a GSP by January 31, 2022. The Santa Clara Subbasin has been determined by the State to be of medium priority, while the Llagas Subbasin has been determined to be of high priority.\textsuperscript{14} Neither the Santa Clara Subbasin nor the Llagas Subbasin is of low or very-low priority.

The proposed Alternative Plan is framed as a Groundwater Management Plan, not as a GSP under SGMA. The conclusory statements in the proposed Alternative Plan to the effect that it meets GSP objectives are unsupported, as detailed in the SJWC Letter and above. Because the Department of Water Resources will be unable to issue a determination that the Alternative Plan satisfies SGMA objectives for GSPs, the Alternative Plan will violate Water Code §10750.1(a).

Since, through its own decisions, the District has left itself very little time to cure the deficiencies in its proposed Alternative Plan, an alternative course of action would be to take the time necessary to properly prepare a GSP for submittal to the Department of Water Resources so that it will be in effect by January 31, 2020.

\textsuperscript{11} Alternative Plan, pages 1-14 and 1-15.
\textsuperscript{12} \textit{Id.}, at page 1-16. Only within the District's groundwater management role is there a reference to coordination with water retailers and others.
\textsuperscript{13} \textit{Id.}, at page ES-1.
\textsuperscript{14} See District Board Resolution 16-51, adopted May 24, 2016.
Great Oaks reserves the right to object to the Alternative Plan and/or submit materials in opposition to the Alternative Plan to appropriate State authorities. Should there be any questions, please contact the undersigned directly.

Great Oaks Water Company

[Signature]

Timothy S. Guster
Vice President and General Counsel
Legal and Regulatory Affairs

Attachment: SJWC Letter
November 18, 2016

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

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

Dear Ms. Keegan:

After more than a century without comprehensive groundwater regulation in California, the Legislature adopted the Sustainable Groundwater Management Act (SGMA), effective January 1, 2015, and established criteria for the adoption of Groundwater Sustainability Plans (GSPs). As the designated Groundwater Sustainability Agency (GSA) under SGMA, the Santa Clara Valley Water District (District) was empowered to either prepare a GSP in compliance with SGMA1 or submit an existing Alternative Plan that meets all the requirements of SGMA as the functional equivalent required by Articles 5 and 7 of the Department of Water Resources’ (DWR) SGMA Regulations.2 The Alternative Plan must fully “demonstrate the ability of the Alternative to achieve the objectives of the Act.”3

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

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1 SGMA and related regulations (jointly referred to as “SGMA Requirements”).
2 Cal. Code Regs. (CCR) Tit. 23, Div. 2, Ch. 1.5, Sub Ch. 2, approved by the California Water Commission on May 18, 2016.
3 23 CCR 358.2(d).
4 According to SGMA, however, “[b]eginning January 1, 2015, a new [GWMP] shall not be adapted and an existing [GWMP] shall not be renewed pursuant to [the Water Code].” (Wat. Code § 10750.1.)
5 “Public water system” has the same meaning as defined in Section 116275 of the Health and Safety Code (Wat. Code § 10721(s)), which defines “Public water system” as “a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.” Health & Safety Code, § 116275.
certain provisions that ensure sustainability.\textsuperscript{6} We believe this shared responsibility among the Water Systems will enable the District to adopt effective sustainability goals, while also allowing those assuming the greatest burden and interest in a successful outcome the opportunity to develop the strategy for achieving compliance.

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

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

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

The Legislature has clearly declared that sustainable groundwater management must respect proprietary rights to groundwater.\textsuperscript{10} In fact, it was the expressed intent of the Legislature to “preserve the security of water rights in the state to the greatest extent possible consistent with the sustainable management of groundwater.”\textsuperscript{11}

SGMA requires management of groundwater within the sustainable yield of the basin.\textsuperscript{12} GSPs and functionally equivalent Alternative Plans must have mechanisms to ensure

\textsuperscript{6} Wat. Code § 10735.2(a)(3)-(5)
\textsuperscript{7} July 7, 2016 correspondence; 2016 Meetings: September 9, October 7, 12 and 20.
\textsuperscript{8} While the Amended Plan acknowledges that pursuant to SGMA, local agencies may not determine water rights in regulating pumping, it does not define the proprietary water rights in the Basin, explain how these rights will be protected, or what the process will be to respect those rights.
\textsuperscript{9} Water Code § 10723.2.
\textsuperscript{10} Wat. Code § 113(b)(4); Wat. Code § 10720(b)(4).
\textsuperscript{11} Wat. Code § 10720.1(b).
\textsuperscript{12} Wat. Code § 10721(v).
sustainability, and the District’s GWMP is lacking. If the District adopts a sustainable yield and ultimately corresponding methods to limit groundwater production within the plan area, then the burden of implementing strategies will be borne almost entirely by the sovereign Water Systems. These Water Systems have already dedicated this groundwater to a public use and have accrued proprietary groundwater rights. Either a future amendment to the GWMP will address the subject of plan enforcement and its consistency with these vested rights, or a court is likely to do so. We believe the Water Systems, pursuant to a memorandum of agreement with the District, can collaboratively develop water budgets and curtailment strategies that will provide certainty and enhance efficient use.

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

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

Specifically, in reviewing the District’s GWMP and comparing it to the standards of a GSP, we wish to point out the following deficiencies:

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

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


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

16 23 CCR 358.2(d).
- **No Express Identification of Basin’s Beneficial Users.** The District’s GWMP fails to specifically identify individual beneficial users of the Basin’s groundwater resources, which is required under the SGMA Requirements. Failure to identify specific Basin users also indicates that the District’s GWMP lacks important, and required, data about the status of the Basin’s groundwater supplies. It also may result in incomplete and an unfair distribution of enforcement burdens and one that fails to honor and protect vested rights.

- **Failure to Include Basin’s Projected Water Budget.** To be functionally equivalent, a GWMP must include a basin’s water budget under historical, current and future conditions. Although the District’s GWMP includes a graphic illustrating the Basin’s historical average annual water budget, this graphic does not include the information nor level of detail required under the SGMA Requirements. The GWMP does not include any discussion regarding the quantification of the Basin’s current or future groundwater budget nor provide whether there are limitations on expanded or even existing production.

- **GWMP Fails to Identify All Required Undesirable Results or Establish Sufficient Minimum Thresholds.** Although the District’s GWMP briefly identifies multiple undesirable results present in the Basin, discussion of these conditions is insufficient to meet the SGMA Requirements. In addition to this deficiency, the District’s GWMP also fails to quantify current groundwater conditions and establish adequate minimum thresholds to determine when conditions in the Basin necessitate action. The four “Outcome Measures” in the Amended Plan do not meet the extensive requirements for minimum thresholds and measurable objectives for each applicable sustainability indicator. Failure to satisfy this cornerstone requirement of SGMA means that the District’s GWMP is not functionally equivalent.

- **No Identification of GWMP’s Data Gaps.** To be deemed functionally equivalent, a GWMP is required to identify both uncertainty and existing gaps in the data that informs the hydrogeological model within the SGMA Requirements. The District’s GWMP fails to expressly identify any data gaps within either its monitoring network or the data provided about the Basin, which is a key requirement under the SGMA Requirements.

Although the District’s recent draft amendment to its GWMP attempts to address these deficiencies in its 2012 GWMP, it does not fully satisfy SGMA’s requirements. Moreover, SGMA prohibits local agencies in medium- and high-priority basins from adopting a new GWMP or
amending an existing GWMP as of January 1, 2015.\textsuperscript{17} A fair reading of the plain meaning of Water Code § 10750.1(a) suggests that an amended GWMP is not eligible for consideration as an Alternative Plan.

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

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

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

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

Respectfully,

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

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

\textsuperscript{17} Wat. Code § 10750.1(a)
MEMORANDUM OF AGREEMENT ("MOA")
BETWEEN PUBLIC WATER RETAILERS AND THE SANTA CLARA VALLEY WATER DISTRICT ("DISTRICT") REGARDING THE IMPLEMENTATION OF THE 2012 GROUNDWATER MANAGEMENT PLAN ("GMP")

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

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

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

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

WHEREAS, Section 2.2 of the 2012 GMP states that "[n]early half of the water used in Santa Clara County is pumped from groundwater, one of the county's greatest natural resources," and that UWMP of the public water systems demonstrate that these water retailers show a continued reliance upon groundwater to meet the needs of their customers; ³

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

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

³ 2012 Groundwater Management Plan, Section 4.1.5 and 1.3.

017729\0003\15111999.1
WHEREAS, a key component of the water supply reliability performance under the 2012 GMP and approved UWMP depends on the cooperation between the District and its water retailers, which is "critical during times of shortage";\(^5\)

WHEREAS, the District resolved to continue and enhance further groundwater management partnerships;\(^6\)

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

WHEREAS, groundwater management pursuant to SGMA must be consistent with Section 2 of Article X of the California Constitution and nothing within SGMA may modify the priorities of common law water rights\(^7\) and the statutory protection of those rights;\(^8\)

WHEREAS, SGMA requires GSAs to consider the interests of beneficial uses and users of groundwater within the plan area and those "interests" specifically include public water systems\(^9\); and

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

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


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

\(^5\) 2012 Groundwater Management Plan, Section 4-1-4 at p. 4-5.
\(^6\) 2012 Groundwater Management Plan, Recommendation: 7-3(5) at pp. 7.4-7.5
\(^7\) Water Code § 10720.5.
\(^8\) See. e.g. Civil Code § 1007, Water Code §§ 106, 106.5; Public Utilities Code § 851.
\(^9\) Water Code § 10723.2; Section 354.10 of the GSP Regulations ("Notice and Communication").
(a) **Curtailment/Apportionment.** In the event that either the District determines that curtailment of groundwater production or an apportionment of groundwater (allocation) within the subbasins is required to avoid causing undesirable results under a SGMA Plan, then:

(i) The District will notify the WRC in writing of the need for a curtailment/apportionment plan to avoid causing undesirable results;

(ii) At any time on its own initiative, the WRC may, or within twelve (12) months of its receipt of written notice from the District, the WRC will prepare a curtailment/apportionment plan;

(iii) The methodology to curtail existing extractions or apportionment of groundwater shall be developed by the WRC in its complete discretion;

(iv) Any WRC curtailment/apportionment plan shall be presented to the District for its consideration and inclusion in any SGMA Plan;

(v) The District will accept and include the WRC curtailment/apportionment plan developed by the WRC in the SGMA Plan unless, after a good faith evaluation, the District finds that the WRC allocation/curtailment plan, including proposed mitigation measures, do not provide reasonable assurance that "undesirable results" will be avoided;

(vi) In the event the District disagrees with the WRC curtailment/apportionment plan pursuant to (v) above, the District may seek to set aside the adoption of the WRC plan pursuant to Code of Civil Procedure (CCP) § 1085;

(vii) The Parties will exercise good faith and reasonable efforts to coordinate the implementation of any interim measures required to protect against "undesirable results" during the WRC's development of a curtailment/apportionment plan;

(viii) If after twelve (12) months from the date of the District's notice required in paragraph (a)(i) above, the WRC fails to complete a curtailment/apportionment plan and present the plan to the District for approval, then the District may prepare its own curtailment/apportionment plan. If the WRC disagrees with the District's plan, then the WRC may seek to set aside the adoption of the District's curtailment/apportionment plan pursuant to CCP § 1085.

(b) **Transfer and Carry-Over.** If water allocations are created pursuant to section 1(a) of this MOA, the WRC may, in its complete discretion, develop a transfer and carry-over plan further implementing a SGMA Plan that will establish rules and conditions for the transfer, conservation, and carry-over of any unused allocation between and among the public water systems.
(i) The WRC will notify the District in writing of its intent to prepare a transfer and carry-over plan, and thereafter the WRC will exercise good faith and reasonable diligence in preparing a transfer and carry-over plan;

(ii) The methodology for transfer and carry-over of any allocations shall be developed by the WRC in its complete discretion, subject to the express requirement that the transfer and carry-over plan will not cause or threaten to cause unmitigated "undesirable results;"

(iii) The District will accept and include a WRC transfer and carry-over plan in the SGMA Plan unless, after a good faith evaluation, the District finds that the WRC transfer and carry-over plan, including proposed mitigation measures, do not provide reasonable assurances against causing or threatening to cause "undesirable results;"

(iv) In the event the District disagrees with the WRC transfer and carry-over plan pursuant to (b)(iii) above, the District may seek to set aside the adoption of the WRC plan pursuant to CCP § 1085.

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

(f) The District will provide written notice to the WRC of its intent to prepare a storage and recovery plan;

(ii) The storage and recovery plan shall not impair the operating ability of a public water system or cause or threaten to cause "undesirable results;"

(iii) The District will seek the WRC's approval of any storage and recovery plan prior to inclusion in any SGMA Plan;

(iv) If the WRC disagrees with the District's plan, then the WRC may seek to set aside the District's adoption of its storage and recovery plan pursuant to CCP § 1085;

(v) Alternatively, if the District has not issued a notice of its intention to prepare a storage plan pursuant to (c)(i) above, the WRC may independently develop a plan for the storage and recovery of imported water to enhance local water supply reliability. The WRC will present any WRC plan for the storage and recovery of water to the District for inclusion in a SGMA Plan. The District will accept and include the WRC storage and recovery plan unless, after a good faith
evaluation, it finds that storage and recovery of imported water will cause or threatens to cause "undesirable results" or will directly interfere with existing District operations or replenishment programs;

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

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

2. **Water Rights Committee Representation.**

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

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

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

a) A majority of the votes weighted by groundwater pumping must be cast in favor of the action, provided that not less than two member agencies vote in favor of the action; and

b) A majority of the members vote in favor of the action. In the event a simple majority vote on a question has previously been taken, and a weighted vote is subsequently called; a roll call vote will be taken that tabulates both the weighted vote and the members voting. The vote weighted by a majority of
those voting representing a majority of the groundwater pumping shall supersede the previous simple majority vote, provided that the vote of a single member may not defeat an action.

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

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

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

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

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

4. **Binding on All Plans.**

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

5. **Effective Date.**

The MOA is effective upon execution of the Parties.
EXHIBIT A

Method: All Retailers Represented with Weighting except that use <400 AFY\(^2\). One At-Large representative to be appointed from among parties that use <400 AFY.

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<th>Range in AF</th>
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Total

GROUNDWATER USE IN AF

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Total 155,000 100.0%

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\(^1\) SCVWD 2010 UWMP  
\(^2\) Great Oaks rounded up to 12,400
Dear Melissa, Barbara and Vanessa,

The Sierra Club requests the subject agenda item be continued to December 5, 2016 to allow stakeholders more time to make complete comments. Unless a two-week delay will result in an important missed deadline for the District, we feel this is a reasonable request that should be granted for stakeholders and the public to adequately review the Groundwater Management Plan (GWMP). Ten days is not adequate time to review this 238-page plan.

On top of that, my Mom was admitted to the hospital last Friday so I did not have time to complete my comments this weekend. This morning the doctor called to tell me she has stomach cancer so I’m on my way back to the hospital now. I’m sorry I won’t be able to attend the meeting tonight.

I’m attaching some initial comments from the Sierra Club. I hope to have time to submit some complete comments if the item is continued.

Thank you for your consideration.

Katja Irvin
Water Committee Chair
Sierra Club Loma Prieta Chapter
November 22, 2016

RE: Sierra Club Comments on SCVWD 2016 Groundwater Management Plan

The GWMP does not adequately include the District's mission to provide water for the environment. With "One Water" the District is moving in the direction of integrated planning, and hopefully away from isolated plans that ignore important aspects of watershed-based planning. Specifically:

1. The Basin Sustainability Goals and Strategies (pg. ES-5) need to be updated to include the relationship between groundwater and stream flows. For example, "Groundwater supplies are managed to optimize water supply reliability, minimize land subsidence, and provide adequate flow to support aquatic species in local streams."

2. To support the environment, strategy #4 (pg. ES-5) should acknowledge the updated goal. For example, "Work with regulatory and land use agencies to protect recharge areas, promote natural recharge, prevent groundwater contamination, and protect surface stream flows from over-pumping."

3. Outcome Measures (pg. ES-6) should include monitoring and stream flow goals that are adequate to restore populations of species listed under the Endangered Species Act. Section 2.2.3 on pg. 2-14 says "Surface water flow data can be used to evaluate which reaches of streams are gaining or losing streams with regard to groundwater. However, the District has not performed a comprehensive evaluation of the data for this purpose." The District should plan to do this comprehensive evaluation for a near-term GWMP update.

4. Under Next Steps (pg. ES-6) a new action should be added to develop modeling and monitoring methods to protect and restore aquatic species.

The 2016 GWMP should be updated in the near term (sooner than five years) to include environmental goals, environmental analysis, and environmental indicators.

Specific Comments

5. This sentence, "Any significant policy or investment decisions would be developed and evaluated in consultation with local stakeholders, as the District does in current planning and budgeting processes," on page ES-6 should be updated. "Stakeholders" should be replaced with "water retailers" since these are the only stakeholders involved in significant policy or investment decisions.

6. The maps in Chapter 2 could be improved the utility of the GWMP.
- Provide more contrast between the Confined Area and the Recharge Area in Figure 2.1 (pg. 2-1). Also, use a darker, stronger line style to show the Approximate Extent of Confined Area. This also applies to and subsequent similar figures.

- If possible, remove legend items for confined areas and recharge areas from other figures because they are not visible (for example, Figure 2.15 on pg. 2-16). The legend is confusing.
November 22, 2016

Via Email Only (board@valleywater.org)

Board of Directors
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3686

Subject: Draft 2016 Groundwater Management Plan

Dear Members of the Board,

Stanford University ("University") appreciates the opportunity to provide comments on Santa Clara Valley Water District’s ("District") Draft 2016 Groundwater Management Plan ("GWMP"). As a stakeholder that has for many years been an active participant in the District’s groundwater management efforts, the University has a few concerns regarding the GWMP and the District’s related efforts to comply with and implement the Sustainable Groundwater Management Act ("SGMA").

1. The GWMP needs to be more specific with respect to the process the District will use to evaluate new SGMA authorities and develop criteria for the exercise of those authorities.

The GWMP vaguely states that the District plans to engage and collaborate with stakeholders in a process to evaluate new SGMA authorities and develop criteria for the exercise of those authorities. The GWMP does not provide any details on the process envisioned by the District or the level of stakeholder involvement in that process. The GWMP should include more detail about the collaborative process and a timeline that the District will follow in evaluating new SGMA authorities and developing criteria and processes for the exercise of those authorities. The details should include, among other things: (a) the type of processes to be used by the District (e.g., public hearings, workshops, etc.); (b) the type of involvement that stakeholders will have in the process; and (c) dates for events to occur as part of the process. The processes should include meetings and workshops with stakeholders regarding the implementation of SGMA-related authorities and any proposed measures that are authorized by SGMA rather than the District’s enabling statute. These additional details are appropriate so that all stakeholders can fully and properly participate in the process.

2. The District’s exercise of authority, including under SGMA as a groundwater sustainability agency, must comply with all applicable laws and cannot alter water rights.

As acknowledged in the GWMP, SGMA does not (and cannot) determine or alter water rights, including groundwater rights. (See, Wat. Code § 10720.5(b).) Thus, the District’s exercise of any SGMA authorities must be done in a manner that does not alter water rights. This requirement should be a primary focus and concern of the District as it considers, develops and implements any new SGMA authorities under the GWMP. In addition, the District must comply with Proposition 218 and Proposition 26 in the implementation of its GWMP.
Thank you for your attention to this matter. Please contact me at (650) 725-3400, if you have any questions or comments.

Sincerely,

[Signature]

Tom W. Zigterman, P.E., D.WRE
Director - Water Resources & Civil Infrastructure
Stanford University, Department of Sustainability and Energy Management

Cc: Ms. Vanessa De La Piedra, P.E., Groundwater Monitoring and Analysis Unit (gwmp@valleywater.org)
November 22, 2016

Vanessa De La Pierda
Santa Clara Valley Water District
5700 Almaden Expressway
San Jose, CA 95120

Dear Ms. De La Piedra,

The Santa Clara Valley Open Space Authority (Authority) is a California special district whose jurisdiction includes over 1,000 square miles of Santa Clara County, including the cities of Milpitas, Santa Clara, San Jose, Campbell and Morgan Hill. The Authority permanently protects open space, natural areas and agricultural lands through land acquisition, conservation easements and partnerships. To date, the Authority has partnered with the County, cities, other public conservation agencies and non-profit conservation organizations to protect over 20,000 acres of open space and agricultural land and operates a system of open space preserves for multi-use recreation. In 2014, the Authority completed the Santa Clara Valley Greenprint\(^1\) as a strategic plan to guide its work for the next 30 years. The Greenprint analyzed biodiversity, water resources, working farms and ranches, recreation, and viewshed criteria throughout the Authority’s jurisdiction. In 2015, our two agencies entered a formal Partnership Agreement to work on projects and initiatives that increase the pace and scale of watershed conservation in the Santa Clara Valley, advancing the goals of both agencies. We look forward to continued collaboration with the District and partnering on specific projects that support the Basin Sustainability Goals as articulated in the Draft Plan.

The goals include:

- Groundwater supplies are managed to optimize water supply reliability and minimize land subsidence.
- Groundwater is protected from contamination, including salt water intrusion.

The Authority respectfully provides the following comments on the District’s 2016 Draft Groundwater Management Plan (Draft Plan).

**Comment #1.**

1.4.5 Relation to Other District Programs and Plans

The Authority recommends including reference to the District’s One Water Plan effort. This effort is discussed elsewhere in the Draft Plan, but not highlighted here. Since this effort represents the

\(^{1}\) Santa Clara Valley Open Space Authority. 2014. *The Santa Clara Valley Greenprint: A guide for protecting open space and livable communities*. San Jose, CA

[Link to Greenprint document]
District’s vision of integrated resource management, we think it will be a key guiding document for integrating innovative strategies to help the District meet its sustainability goals.

Comment #2.

1.5.2 Land Use Agencies, 1.5.3 Local State and Federal Agencies and 1.5.4 Stakeholders

The Draft Plan focuses solely on agencies with permit authority, land-use planning authority, well owners, and land owners. The Draft Plan should also reference proactive resource conservation partners like the Authority, County Parks, and Resource Conservation Districts who can and will play a critical role in implementing Strategy 4 (e.g. protect recharge areas, promote natural recharge, and prevent groundwater contamination). We suggest adding text to this section that specifically calls out local conservation partners (public and private) and the key role they can play in proactive and voluntary collaboration with the District to implement the Draft Plan.

Comment #3.

4.1.2 Groundwater

“The groundwater subbasins provide multiple benefits to residents and businesses in Santa Clara County. Although most of the groundwater pumped is a result of District managed recharge programs, the subbasins provide some groundwater supply resulting from the percolation of rainfall in the recharge areas and natural seepage through local creeks and streams (natural groundwater recharge). In addition, the groundwater subbasins serve as an extensive conveyance network, allowing water to move from the recharge areas to individual groundwater wells. The groundwater subbasins also provide some natural filtration of surface water as it percolates through the soil and rock. Unlike surface water, most groundwater in the county can be used for drinking water without additional treatment. Lastly, the groundwater subbasins provide water storage, allowing water to be carried over from the wet season to the dry season and even from wet years to dry years.”

This general introduction to the role groundwater plays in the overall water supply paradigm directly supports the underlying assumptions behind the current effort that the District and Authority are collaborating on in the Coyote Valley. This work is founded on the four key principals articulated in this paragraph: (a) that natural recharge is a small, but cost-effective and critical component of the overall recharge/supply equation; (b) that increasing recharge through the natural landscape in the Coyote Valley is a cost-effective tool that would benefit local wells and provide outflows into both the Santa Clara and Llagas basins; (c) that restoration of meadows, wetlands, and riparian floodplains that enable stormwater to slow, spread, and sink could result in improvements to both surface and groundwater quality; and (d) that our existing basins are the most cost-effective storage options we have and enable our community to “bank” water locally to mitigate inter and intra annual supply fluctuations.

While the current work the Authority and the District are collaborating on directly address opportunities related to a, b and c above, current provisions in three of the District’s Coyote Creek water right licenses have the potential to impact the amount of storage available in the Coyote subbasin. License #7211, #7212, and #10607 all contain the following language, “The storage and diversion facilities shall be so operated under this license as to cause as nearly as practicable the same annual percolation between Madrone and Coyote as would have occurred in a state of nature without the existence of said facilities.” This language has been interpreted by District staff as a constraint on restoring natural
recharge and groundwater storage in the Coyote Valley and potentially leading to a conflict between opportunities to maximize existing storage and meet key provisions in existing water right licenses. It is our understanding that the District is currently in the process of modifying these licenses, and we suggest that requesting modifications to this language could increase the District’s operational flexibility in meeting their sustainable groundwater goals and implementing the related strategies.

Comment #4.

4.3 Conjunctive Water Management

“Local groundwater resources make up the foundation of the county’s water supply, but they need to be augmented by the District’s comprehensive water management activities in order to reliably meet the needs of county residents, businesses, agriculture, and the environment. These activities include managed recharge of imported and local supplies and in-lieu groundwater recharge through the provision of treated surface water and raw water, acquisition of supplemental water supplies, and water conservation and recycling.”

As “local groundwater resources make up the foundation of the county’s water supply,” the Authority recommends that the Plan includes language about the potential for increased natural recharge through ecological system restoration or enhancement as an integral component of developing a sustainable groundwater management plan.

Comment #5.

Figure 4.5 Groundwater Budget for the Santa Clara and Llagas Subbasins (2003-2012) & Figure 4.7 Projected Future Groundwater Demands (AF).

Figure 4.5 and the associated text on water budgets illustrates the unique opportunities related to the Coyote Valley subbasin. According to these figures, nearly 20% (2500-AF/yr) of the recharge in the Coyote Valley subbasin is a result of “natural recharge”. This average fluctuates based on climatic conditions as well as land-use conditions; recent estimates of natural recharge in the Coyote Valley subbasin range 500-AF in 2013 to a near average 2,400-AF in 2014 (Santa Clara Valley Water District, 2015). Of the total water recharged in this subbasin approximately 4,500-AF/yr leaves as subsurface flow into the Santa Clara and Llagas basins, supplementing managed recharge in these larger basins. Moreover, this section indicates that unlike the Santa Clara2 and Llagas basins that appear in balance, the Coyote Valley basin shows a 500AF/yr deficit in storage. This deficit is particularly important due to the scale (e.g. hundreds of AF/yr) and Table 4.7 shows future demand curves increasing from the current level of 10,500AF/yr to 12,000AF/yr by 2020, 14,000AF/yr by 2030, and 16,000AF/yr by 2040. To put these numbers in perspective, recent analysis of gauge data on Fisher Creek at Laguna Avenue and at Monterey Avenue suggest that significant opportunities for stormwater capture and recharge exist and that the potential quantity of water is meaningful at the scale of the current deficit (500AF) and future increased demand. For example, the Fisher Creek gauge at Laguna Avenue shows nearly

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2 The Draft Plan shows that the Santa Clara basin storage is increasing by approximately 2000AF/yr. It is important to note that flow from the Coyote Valley subbasin into the Santa Clara subbasin is estimated at 4,500AF/yr, over 2X the annual increase. This suggests the importance of flow from the Coyote Valley subbasin into the Santa Clara subbasin for maintaining the balance now and into the future.
1,500AF of water flowing past this location during an 11-day period in March of 2016 – on both ends of the March 7 and 14 storms. The gauge at Monterey shows nearly the same amount of water moving through the system during that period. If even 50% of that water could have been captured and recharged through a series of appropriately sited floodplains, depressions, and swales, that would have resulted in upwards of 750AF of recharge. This stormwater runoff represents a major lost opportunity, and the Authority recommends that opportunities like this be identified in the Draft Plan.

Comment #6.

4.5 Future Demands

“The UWMP recognizes that the near-term and potentially long-term water demand may be considerably affected by the recent and unprecedented statewide drought conditions of 2012 to 2016. This event has already affected demand as the public has changed attitudes and as water use restrictions have been put in place. Some of the water use efficiency successes and changed behavior will last into the future. But if the past is a guide, some rebound of water use will likely occur within a few years of removing water use restrictions. This drought and the local and statewide efforts to date may likely lead to new policy or technological enhancements that may reduce future demands in ways that cannot be currently predicted.”

The Authority supports the need to plan proactively for drought. While this statement addresses the demand side of the equation, we suggest additional text be added to explicitly focus on the supply side of this equation. Prolonged drought has already significantly affected water imports into the District’s service area and they are expected to become less reliable as the climate continues to change. The Draft Plan (Chapter 4) details current and future supply and demand, but does not appear to adequately address the uncertainty related to climate change forecasts and potential for long-term interruptions in water imports. The Draft Plan would benefit from greater emphasis and analysis of climate change (e.g. in terms of sea level rise and salt water intrusion and reductions in natural and managed recharge). The Draft Plan should clearly acknowledge the role that natural landscapes and natural recharge can play in providing a buffer against reduced imports and drought. The Authority recommends that the Draft Plan include strategies for increasing the operational storage capacity of each basin, specifically the Coyote Valley subbasin (see Comment #5 above) as insurance in the face of climate change and anticipated future prolonged droughts.

Comment #7

5.1 Sustainable Management Criteria

Board Water Supply Objective 2.1.1: Aggressively protect groundwater from the threat of contamination and maintain and develop groundwater to optimize reliability and to minimize land subsidence and salt water intrusion.

Objective 2.1.1 is described in the Draft Plan as one of two key criteria for sustainable management. The Authority recommends that the District consider enhancing recharge of local stormwater in the Coyote Valley subbasin as a key strategy for meeting multiple criteria including both optimizing reliability and minimizing land subsidence and salt water intrusion. Existing modeling illustrates the
value of subsurface outflow from Coyote Valley into the Santa Clara Plain. In addition, modeling by Russo et al. (2014)\(^3\) further highlights the value of maximizing recharge in the Coyote Valley subbasin and its potential effect on land subsidence and salt water intrusion. This research showed that while simulated recharge projects sited near the coast or lower in the watershed helped to reduce sea water intrusion more rapidly, they also resulted in increased losses to the ocean. In contrast, projects placed farther inland resulted in more long-term reductions in sea water intrusion, less recharged groundwater flowing to the ocean, and more groundwater available for potential extraction.

Comment #8

The Authority commends the District for including Strategy 4 in the Draft Plan which calls for working with local government to protect groundwater recharge areas and support low impact development - “Since the 1950s, land use in the Santa Clara Plain has changed from largely rural and agricultural to a highly developed urban area. The increased amount of land covered by impervious materials has increased surface water runoff and reduced natural recharge. Although not as urbanized as the Santa Clara Plain, the Llagas Subbasin serves the growing cities of Morgan Hill and Gilroy, and significant development has been considered in the Coyote Valley. This strategy calls for working with land use agencies to maximize natural recharge by protecting groundwater recharge areas and supporting the use of low-impact development. This includes the development of technical studies, participation in policy development, and coordination on proposed development.”

The Authority also recommends that Strategy 4 include reference to working closely with open space and resource conservation agencies to identify opportunities to maximize recharge through habitat restoration or other ecological enhancement projects that could also restore/increase local water capture.

Comment #9

5.4 Outcome measures: “This section describes key performance measures in meeting the following sustainability goals: (1) Groundwater supplies are managed to optimize water supply reliability and minimize land subsidence; and (2) Groundwater is protected from contamination, including salt water intrusion.”

Given the GWMP recognizes that increased urbanization reduces natural recharge and increases risk of contamination, the Authority recommends the Draft Plan set goals and key performance measures that address basin urbanization which could reduce natural groundwater recharge or result in future groundwater contamination.

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Comment #10

6.1.3 Protection of Natural Recharge

“The District’s managed recharge program augments natural recharge since natural replenishment is insufficient to meet groundwater demands. However, protecting natural recharge capacity is also important. Natural recharge is defined here as any type of recharge not controlled by the District, including: rainfall, subsurface seepage from surrounding hills, net irrigation return flows, net leakage from water distribution systems, storm drains, sewer lines, and septic systems, and net seepage into the groundwater basin. Natural recharge to deep drinking water aquifers is about 55,000 AF per year on average based on estimates from 2003 to 2012. In 2015, a drought year, natural recharge was estimated to be 39,000 AF...The preservation of open space supports agriculture and natural recharge capacity.”

The Authority strongly supports strategy 6.1.3 and requests the District elevate and implement this strategy through its partnerships with other public and private partners. Preservation of open space and enhancing or restoring conditions for natural recharge provide multiple benefits well beyond sustainable groundwater management and are generally cost-effective. These activities generally do not require “gray” infrastructure such as pipes, pumps, and other facilities that have a capital cost, depreciate over time, and have significant maintenance costs. Green infrastructure such as natural drainage channels/streams, floodplains, meadows, etc. can be used to spread and sink stormwater into the landscape. Green infrastructure has minimal/no operational costs and the resource appreciates over time and provides a host of other benefits to the community (e.g. flood risk reduction, improved water quality, ecosystem uplift, carbon sequestration, etc.). These co-benefits further increase the economic value of investments in land conservation for water resource protection.

Comment #11

#8. 6.1.4.4 Pricing Policies

The Authority recommends the District evaluate the appropriateness of a net-metering system for incentivizing landowners to develop facilities (natural depression, ponds, basins, etc.) that can increase natural recharge of local stormwater. Dr. Andy Fisher at U.C. Santa Cruz is currently piloting a net-metering system in the Pajaro Valley with the Pajaro Valley Water Management Agency, the Resource Conservation District of Santa Cruz County and agricultural landowners. The program is focused on participants that can recharge over 100 AF/yr and provides a pricing structure for rebates that accounts for water that is actively recharged and provides discounts on pumping fees. This type of incentive based approach could be a valuable component of any new groundwater pumping fees levied through SGMA. The Authority would like to partner with the District to pursue Conservation Innovation Grant

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funding from the NRCS to explore this and other opportunities to incentivize multi-benefit water resources projects.

Comment #12

6.1.6.3 Planning to Meet Future Needs

The Authority recommends that under this section the Draft Plan discuss climate change in more detail, including projected impacts to Santa Clara County. See comment #6 above.

Comment #13

6.1.7 Asset Management

"Maintaining the integrity of the District’s existing infrastructure is essential for water supply reliability. This includes maintaining recharge facilities and all District facilities, such as reservoirs, treatment plants, and conveyance and distribution infrastructure. The District maintains a rigorous asset management program to optimize asset renewal strategies and minimize the total cost of owning assets while providing expected service levels and operating at an acceptable level of risk. The program seeks to reduce unplanned infrastructure failure and service disruptions and improve reliability of water supply infrastructure. The program helps to optimize asset lifecycle costs, enable accurate financial planning to sustainably deliver services, and capture and transfer asset-specific knowledge."

The Authority strongly recommends that the District include natural capital (e.g. watersheds, stream corridors, unconfined recharge areas, wetlands, undeveloped floodplains etc.) as essential infrastructure assets for water supply reliability. These natural capital assets provide considerable services that are typically provided more efficiently and at a lower cost than engineered alternatives. The Authority requests that the District consider investments in the protection, management, and restoration of natural capital as a part of its water supply asset management strategy. The District should also consider partnering with public and private landowners on programs or projects that conserve or restore these assets.

Comment #14

6.3.4 Watershed Management

"Drawing from detailed existing programs and plans, One Water seeks to find the nexus between these three mission components for new opportunities in integrated water resources management. One Water does not replace the substantial existing planning in place by the District’s Water Utility Enterprise and the Watersheds Division but instead looks for opportunities to further protect and enhance water resources. The One Water Plan is a long-term endeavor that seeks to build up to long-term improvements in water resources management and watershed conditions. One Water will operate under the current commitments, regulations, and existing restrictions and challenges that drive District operations and day-to-day work. This means that not all strategies will be practicable and not all goals and objectives can be carried out simultaneously. In the end, however, the established framework called
out in the One Water Plan identifies a roadmap for integrated water resources management for the future. Not all District activities can be integrated, nor all activities managed under One Water, but all types of water will be considered in building upon past successes to manage these valuable resources as One Water.”

The Authority commends the District for its development of One Water as a roadmap for integrated water resource management. Understanding that not all of One Water’s goals, objectives, or strategies may be currently practicable- the Authority recommends that that groundwater management plan addresses how it can implement One Water components that are currently feasible, and how it plans to address commitments, regulations, and existing restrictions and challenges that are currently preventing the District from fully implementing One Water’s approach to integrated water resource management.

In closing, the Partnership between the Authority and District is based on the understanding that protection and restoration of watershed lands not only ensures safe and reliable water resources, but also bolsters the resiliency of the ecosystems and human communities they support. The Authority is currently working with the District to assess the contribution of natural landscapes to water resource reliability, and opportunities to increase these services through ecological restoration and enhancement in the Coyote Valley. This work recognizes watershed lands as natural assets that can be managed to achieve water resource protection and reliability goals. The above comments are offered in this spirit of partnership. The Authority commends the District in its effort to achieve sustainable groundwater management and will continue to work closely with the District to implement integrated water resource management approaches and strategies.

Sincerely,

[Signature]

Andrea Mackenzie
General Manager

Cc: Norma Camacho, Chief Executive Officer (Interim)
    Jim Fiedler, Chief Operating Officer: Water Utility Enterprise
    Santa Clara Valley Water District Board of Directors
    Santa Clara Valley Open Space Authority Board of Directors