

June 8, 2017

## **MEETING NOTICE**

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

Members of the Water Conservation and Demand Management Committee:

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

Staff Support of the Water Conservation and Demand Management Committee:

Norma Camacho, Interim Chief Executive Officer  
Jim Fiedler, Chief Operating Officer, Water Utility  
Stanly Yamamoto, District Counsel  
Erick Soderlund, Ast. District Counsel  
Garth Hall, Deputy Operating Officer, Water Supply Division  
Rick Callender, Chief of External Affairs  
Jerry De La Piedra, Water Supply Planning and Conservation Manager, Water Supply  
Planning and Conservation Unit  
Vanessa De La Piedra, Groundwater Management Manager, Groundwater Monitoring and  
Analysis Unit

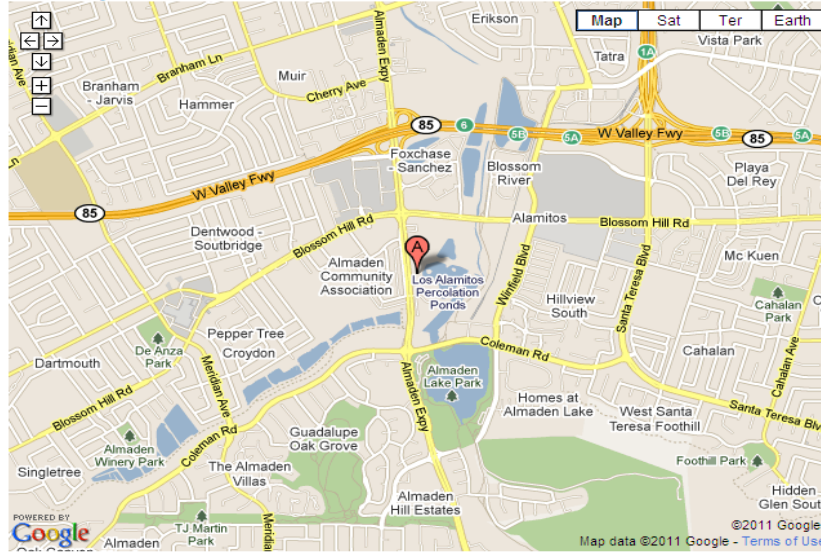
The regular meeting of the Water Conservation and Demand Management Committee is scheduled to be held on **Thursday, June 15, 2017, at 10:00 a.m.** in the Headquarters Building Boardroom, located at the Santa Clara Valley Water District, 5700 Almaden Expressway, San Jose, California.

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

Enclosures



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



**From Oakland:**

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

**From Morgan Hill/Gilroy:**

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

**From Sunnyvale:**

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

**From San Francisco:**

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

**From Downtown San Jose:**

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

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

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

## WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE

Director Nai Hsueh

Director Linda J. LeZotte, Vice Chair

Director Richard P. Santos, Chair



### AGENDA WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE

THURSDAY, JUNE 15, 2017

10:00 a.m. - 12:00 p.m.

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

Time Certain

10:00 a.m.

1. **Call to Order/Roll Call**

2. **Time Open for Public Comment on Any Item Not on the Agenda**

*Comments should be limited to two minutes. If the Committee wishes to discuss a subject raised by the speaker, it can request placement on a future agenda.*

3. **Approval of Minutes**

3.1 Approval of Minutes – April 27, 2017, meeting

4. **Discussion/Action Items**

4.1 The Water Conservation and Demand Management Components of the Water Supply Master Plan (AMI, Leak Detection, Rainwater Harvesting, Stormwater Capture, Model Ordinance, etc.) (Tracy Hemminger)

**Recommendation: This is an information only item and no action is required.**

4.2 Sustainable Groundwater Management Act (SGMA) Update – Potential Basin Triggers Related to SGMA Authorities and the Use of Similar Tools in Other Basins (Vanessa De La Piedra)

**Recommendation: This is an information only item and no action is required.**

4.3 Sustainable Groundwater Management Act (SGMA) Update – Discussion of Fixed Charges and/or Tiered Fees (Darin Taylor)

**Recommendation: This is an information only item and no action is required.**

4.4 Review of Water Conservation and Demand Management Committee Work Plan, any Outcomes of Board Action or Committee Requests and the Committee's Next Meeting Agenda (Committee Chair)

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

5. **Clerk Review and Clarification of Committee's Requests**

*This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during discussion of Item 4.*

6. **Adjourn:** Adjourn to next regularly scheduled meeting at 10:00 a.m., **August 24, 2017**, in the Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, CA 95118

REASONABLE EFFORTS TO ACCOMMODATE PERSONS WITH DISABILITIES WISHING TO ATTEND COMMITTEE MEETINGS WILL BE MADE. PLEASE ADVISE THE CLERK OF THE BOARD OFFICE OF ANY SPECIAL NEEDS BY CALLING (408) 630-2277.

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

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

Water Conservation and Demand Management Committee:

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





WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE MEETING

# DRAFT MINUTES

**THURSDAY, APRIL 27, 2017  
9:00 AM**

(Paragraph numbers coincide with agenda item numbers)

A meeting of the Water Conservation and Demand Management Committee was held on April 27, 2017, in the Headquarters Building Boardroom at the Santa Clara Valley Water District, 5700 Almaden Expressway, San Jose, California.

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

Chair, Director Richard P. Santos called the meeting to order at 9:05 a.m.

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

Staff members in attendance were: Antonio Alfaro, Glenna Brambill, George Cook, Jerry De La Piedra, Vanessa De La Piedra, Marty Grimes, Garth Hall, Bassam Kassab, Erick Soderlund and Cris Tulloch.

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

There was no one present who wished to speak.

**3. APPROVAL OF MINUTES**

It was moved by Director Nai Hsueh, seconded by Director Linda J. LeZotte and unanimously carried, to approve the minutes of the March 24, 2017, Water Conservation and Demand Management Committee meeting, with one correction on page 1 change gold to golf.

**4. DISCUSSION/ACTION ITEMS**

**4.1 UPDATE ON GOLF COURSE COALITION PROPOSAL**

Mr. Jerry De La Piedra and Mr. Ron Zraick of Cinnabar Hills Golf Club reviewed the materials as outlined in the agenda items with no new updates at this time.

No action was taken.

#### **4.2 UPDATE ON 2017 WATER SUPPLY CONDITIONS**

Mr. Garth Hall and Jerry De La Piedra reviewed the materials as outlined in the agenda items.

Ms. Ruth Bernstein and Ms. Jessica Polsky of EMC Market and Opinion Research Services gave an overview of the survey conducted by their agency and answered questions.

Directors Nai Hsueh, Linda J. LeZotte and Richard P. Santos, along with Mr. Kurt Elvert of San Jose Water Company, spoke regarding water supply conditions.

Mr. Marty Grimes was available to answer questions.

No action was taken.

#### **4.3 MAKING WATER CONSERVATION A CALIFORNIA WAY OF LIFE**

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

Mr. Doug Muirhead of Morgan Hill spoke on making water conservation a way of life.

Director Nai Hsueh was available to answer questions.

No action was taken.

#### **4.4 UPDATE ON THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA)**

Ms. Vanessa De La Piedra reviewed the materials as outlined in the agenda items.

Mr. Garth Hall and Mr. Jerry De La Piedra were available to answer questions.

Mr. Ron Zraick of Cinnabar Hills Golf Club, Directors Nai Hsueh and Richard P. Santos, and Mr. Doug Muirhead of Morgan Hill spoke on the Sustainable Groundwater Management Act (SGMA).

No action was taken.

#### **4.5 REVIEW OF WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE WORK PLAN, ANY OUTCOMES OF BOARD ACTION OR COMMITTEE REQUESTS AND SCHEDULE THE NEXT COMMITTEE MEETING**

Ms. Glenna Brambill reviewed the materials as outlined in the agenda items.

Director Nai Hsueh reviewed the new calendar and proposed that meetings be scheduled to cover the topics specified, and, if there is a need for subsequent meetings, they can be scheduled on an as needed basis.

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

Ms. Glenna Brambill stated there were no action items for Board consideration.

**6. ADJOURNMENT**

Chair Santos adjourned at 10:34 a.m. to the next regular meeting to be determined 3<sup>rd</sup> or 4<sup>th</sup> Thursday in June in the Santa Clara Valley Water District Headquarters Building Boardroom.

Glenna Brambill  
Office of the Clerk of the Board

Approved:





Committee:	Water Conservation and Demand Management
Meeting Date:	06/15/17
Agenda Item No.:	4.1
Unclassified Manager:	Garth Hall
Email:	<a href="mailto:ghall@valleywater.org">ghall@valleywater.org</a>
Est. Staff Time:	15 minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** The Water Conservation and Demand Management Components of the Water Supply Master Plan (AMI, Leak Detection, Rainwater Harvesting, Stormwater Capture, Model Ordinance, etc.)

### RECOMMENDED ACTION:

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

### SUMMARY:

The Committee has requested that staff present information on the water conservation and demand management components of the Water Supply Master Plan Update 2017 (WSMP) to the Committee prior to presenting information to the full Board. Staff is planning to present water supply strategy/portfolio alternatives to the full Board in July 2017. This item describes the water supply strategy/portfolio alternatives that are anticipated to be presented to the full Board in July 2017 and their implications on the need for short-term water use reductions.

### BACKGROUND:

Staff presented an update on and the Board discussed Water Supply Master Plan development on April 25, 2017. Discussion topics included the “no regrets” package of water conservation and demand management components that staff plans to include in all water supply strategy/portfolio alternatives; the initial water supply strategy/portfolio alternatives staff developed and their performance against planning objectives; and stakeholder input on the level of service goal. Based on feedback from the Board as well as the internal technical team, staff has further refined the water supply strategy/portfolio alternatives and is focusing largely on the following three – 1) Local Flexibility, 2) Secure Imported Supplies, and 3) Low Cost. Other portfolios, including ones with Pacheco Reservoir Expansion, will also be presented to the Board in July 2017.

Each of the strategy/portfolio alternatives includes the “no regrets” package, consisting of:

- new development model ordinance,
- graywater program expansion,
- leak repair incentives,
- advanced metering infrastructure,
- stormwater recharge,
- agricultural land recharge,
- rain gardens, and
- rain barrels.

The water supply strategies/portfolios are still being refined, but the three aforementioned strategies/portfolios are summarized in Table 1 and discussed below.

Project	Base Case	Strategy 1: Local Flexibility	Strategy 2: Secure Imported Supplies	Strategy 3: Low Cost
“No Regrets” Package		•	•	•
Butterfield Recharge		•		•
Additional Groundwater Banking		•	•	•
Los Vaqueros Expansion		•		
Sites Reservoir				•
Water Rights Purchase				•
Additional Potable Reuse		•		
California WaterFix			•	
District Lifecycle Cost	Not applicable	To be determined	To be determined	To be determined
Percent of Years that Meet the Level of Service Goal	70%	100%	100%	100%
Number of Years (out of 94) with Water Use Reductions	27	9	6	9

**Strategy 1: Local Flexibility** – This strategy/portfolio builds on the “Ensure Sustainability” strategy adopted by the Board in the 2012 Water Supply and Infrastructure Master Plan. It optimizes existing supplies (adds recharge, banking, and, potentially, exchange capacity) and meets future increases in demands with water conservation, demand management, and water reuse. One of the key benefits of this strategy is the ability to phase in the projects as they become needed. Either the projects can be pushed back or begun earlier, depending on how supplies and demands change over time. This flexibility helps manage risk and uncertainty. Another key benefit of this strategy is that it relies on developing local drought-proof supplies.

**Strategy 2: Secure Imported Water Supplies** – This strategy/portfolio contains California WaterFix, additional groundwater banking, and the “no regrets” package in the other strategies/portfolios. The key benefits of this strategy are that it secures our State Water Project and Central Valley Program contract supplies and addresses risks associated with through-Delta conveyance (levee failure and water quality reductions). A key consideration with this strategy/portfolio is its implementation complexity and uncertainty. Another important consideration is that it relies on a single project to be effective and lacks the flexibility to adjust to changes in demand and supply projections. Staff is continuing to work on cost allocation alternatives for the California WaterFix, which could change the estimated costs and yields for the project.

Strategy 3: Low Cost – This strategy/portfolio adds additional groundwater recharge and banking capacity and increases Delta-conveyed supplies through purchasing additional contract supplies (water rights purchase) and participating in the Sites Reservoir project. The key benefit of this project is its relatively low cost. Also, it has some flexibility with implementation. However, this strategy/portfolio increases our reliance on Delta-conveyed supplies and does not address risks associated with through-Delta conveyance.

Staff is working with Expert Panel convened to provide input into the Water Supply Master Plan and California WaterFix business case analysis to further evaluate and refine the strategies/portfolios and will provide verbal updates at the Committee meeting.

**ATTACHMENT(S):**

Attachment 1: Project List

Attachment 2: PowerPoint





## 2017 Water Supply Master Plan

### Project and Program Descriptions (as of April 3, 2017)

This document summarizes the projects and programs that are, or have been, considered for inclusion in the 2017 Water Supply Master Plan. Only a subset of the projects or programs will be selected for implementation as part of the 2017 Water Supply Master Plan.

#### Projects and Programs Currently Being Considered for Inclusion in the 2017 Water Supply Master Plan: Draft Results, Urban Water Management Plan Scenario

Project	Description	Average Annual Yield (AFY) <sup>1</sup>	District's Lifecycle Cost (2016\$)
Agricultural Land Recharge	Constructs a recharge pond on a South County agricultural parcel that would receive water either from roadside ditches or adjacent hillslopes.	200	\$20 million
Advanced Metering Infrastructure (AMI)	Implements a cost share program with retailers to replace current meters with AMI. AMI would alert customers of leaks, as well as provide real-time water use data. Water savings assumes the leaks would be fixed once detected.	4,000	\$30 million
Anderson Reservoir Expansion	Increases reservoir storage by 100,00 AF to about 190,000 AF.	10,000	\$2.0 billion
Butterfield Recharge	Extends the Madrone Pipeline from Madrone Channel to Morgan Hill's Butterfield Channel and Pond.	3,000	\$30 million
Calero Reservoir Expansion	Expands Calero Reservoir storage by about 14,000 AF to 24,000 AF.	3,000	\$510 million
California WaterFix	Constructs tunnels to convey water from north of the Delta to the south of Delta pumps to minimize impacts to fisheries, provide conveyance during a Delta outage, and adapt to climate change. Secures existing supplies.	Up to 30,000 <sup>2</sup>	\$1.8 billion
Church Avenue Pipeline	Diverts water from the Santa Clara Conduit to the Church Avenue Ponds.	1,000	\$50 million

<sup>1</sup> The average annual yield of many projects will depend on the other projects with which they are combined and the scenario being analyzed. For example, groundwater banking yields would likely be higher in portfolios that include wet year supplies. Similarly, they would be lower in scenarios where demands exceed supplies and excess water is unavailable for banking.

<sup>2</sup> The California WaterFix secures existing supplies in the scenario with more restrictive Delta water supply operations. California WaterFix helps offset anticipated declines in Delta exports, so that Delta-conveyed supplies are about the same as deliveries under current operations. Without California WaterFix and with more restrictive Delta water supply operations, Delta-conveyed supplies would be about 30,000 AFY less on average.

<b>Project</b>	<b>Description</b>	<b>Average Annual Yield (AFY)<sup>1</sup></b>	<b>District's Lifecycle Cost (2016\$)</b>
Graywater Expansion	Expands existing District rebates to incentivize the installation of whole-house graywater systems that reuses laundry, shower, and sink water. The rebates would be for residential sites and certain applicable commercial sites.	100	\$2 million
Groundwater Banking	Provides 50,000 AF of banking capacity for excess the Central Valley Project and State Water Project contract water. Sends excess water to a groundwater bank south of the Delta during wet years and times of surplus for use during dry years and times of need.	500	\$90 million
Leak Repair Incentive	Incentivizes homeowners to repair leaks.	300	\$2 million
Local Land Fallowing	Launches program to pay growers not to plant row crops in critical dry years.	1,000	\$90 million
Los Vaqueros Reservoir	Secures an agreement with Contra Costa Water District to expands the existing off-stream reservoir by 110,000 AF and construct a new pipeline connecting the reservoir to the South Bay Aqueduct. Could be constructed in phases.	2,000	\$340 million
Model Ordinance	Encourages municipalities to adopt an ordinance that promotes enhanced water efficiency standards and develops alternate water supply sources in new and retrofitted developments. Potential components include submetering multi-family residences, onsite water reuse (rainwater, graywater, black water), and point-of use hot water heaters.	5,000	\$1.4 million
Morgan Hill Recycled Water	Constructs a 2.25 MGD scalping plant in Morgan Hill. Would need to replace a lower cost recycled water project in Gilroy due to capacity constraints on the system.	3,000	\$220 million
Pacheco Reservoir Expansion	Expands the existing small Pacheco Reservoir to 130,000 AF, with 100,000 AF of storage for the District. Assumes District stores Central Valley Project supplies in the reservoir. Helps address San Luis Reservoir low-point issues. This project would be constructed in collaboration with Pacheco Pass Water District and San Benito County Water District	6,000	\$1.5 billion
Potable Reuse- 6K	Constructs additional potable reuse facilities. The 6K project involve 6,000 AFY of groundwater injection capacity. The 11K project includes the 6K project and 5,000 AFY of additional groundwater injection capacity.	4,000	\$500 million
Potable Reuse – 11K		7,000	\$990 million

<b>Project</b>	<b>Description</b>	<b>Average Annual Yield (AFY)<sup>1</sup></b>	<b>District's Lifecycle Cost (2016\$)</b>
Potable Reuse – 15K	The 15K project includes the 11K projects and 4,200 AFY of groundwater recharge capacity at/near Ford Ponds.	10,000	\$1.2 billion
Regional Desalination	Secures a partnership with other Bay Area agencies to build a Bay Delta desalination plant in Contra Costa County. District would receive 5 MGD of water in critical dry years.	1,000	\$90 million
San Pedro Ponds	Retires the septic systems around the San Pedro Ponds and extends the City of Morgan Hill sewer system to these homes so the District can operate the groundwater recharge facility without high groundwater constraints.	1,000	\$40 million
Sites Reservoir	Secures an agreement with the Sites JPA to construct an off-stream reservoir (up to 1.8 MAF) north of the Delta that would collect winter flood flows from the Sacramento River to increase water deliveries and provide in-stream flows to benefit the Delta ecosystem. Assumes District's share is 24,000 AF of storage.	16,000	\$230 million
Stormwater – Saratoga 1	Constructs a stormwater infiltration system on a parcel in Saratoga. Assumes 5 acres of ponds. Currently zoned as ag land; assumes easement rather than land purchase. Adjacent to a school. About 0.6 miles from the Stevens Creek Pipeline	100	\$15 million
Stormwater – Saratoga 2	Constructs a stormwater infiltration system on a parcel in Saratoga. Assumes 5 acres of ponds. Currently zoned as ag land; assumes land purchase. About 0.6 miles from the Stevens Creek Pipeline.	200	\$60 million
Stormwater - Snell	Constructs a stormwater infiltration system at Martial-Cottle Park (Snell and Chynoweth) in San Jose. Assumes 5 acres of ponds. Potential partnership with the City of San Jose, County Parks, and State Parks. Adjacent to Canoas Creek.	900	\$10 million
Stormwater-Rain Barrels	Provides rebates for the purchase of a rain barrels.	10	\$1 million
Stormwater-Rain Gardens	Launches a District rebate program to incentivize the construction of rain gardens in residential and commercial landscapes.	300	\$20 million
Transfers	Provides an additional 12,000 AF of State Water Project transfer water during critical dry years. Can also include long-term option agreements.	2,000	\$250 million

<b>Project</b>	<b>Description</b>	<b>Average Annual Yield (AFY)<sup>1</sup></b>	<b>District's Lifecycle Cost (2016\$)</b>
Uvas Pipeline	Captures excess water (e.g., water that would spill) from Uvas Reservoir and diverts the water to Church Ponds and a 25 acre-foot pond near Highland Avenue. The new pond would be adjacent to and connected by a pipe to West Branch Llagas Creek.	400	\$120 million
Uvas Reservoir Expansion	Expands Uvas Reservoir by about 5,100 AF to 15,000 AF.	600	\$450 million
Water Rights Purchase	Secures 20,000 AF of SWP Table A contract supply by purchase from other SWP agencies.	12,000	\$760 million

#### **Projects and Programs Previously Considered for Inclusion in the 2017 Water Supply Master Plan**

<b>Project</b>	<b>Discussion</b>
Conservation Rate Structures	Many retailers implement conservation rate structures. Given recent court rulings on rate structure, retailers are reluctant to add new conservation rate structures at this time.
Del Valle Reoperations	This project, as currently envisioned, would allow for more storage in Lake Del Valle, a State Water Project facility in Del Valle Regional Park that is operated by East Bay Regional Park District. The benefits of the additional storage are primarily related to operational flexibility and water quality. The project may not increase long-term water supply yields or drought year yields. Staff is continuing to evaluate Del Valle reoperations in partnership with Alameda County Water District and Zone 7 Water Agency. If long-term water supply benefits are identified, staff will evaluate it as part of the Water Supply Master Plan.
Retailer System Leak Detection/Repair	Recent legislation requires retailers to complete annual water loss audits, which will then be used by the State to establish water loss standards. Staff will reconsider this alternative after the standards are developed.
San Francisco Public Utilities Commission (SFPUC) Purchases	Increasing San Francisco Public Utilities Commission water deliveries to Santa Clara County is an on-going potential opportunity that is being evaluated through SFPUC's planning processes, the Bay Area Regional Reliability project, and potable reuse feasibility studies. The results of these efforts will be considered in future Water Supply Master Plan updates and/or subsequent annual reviews.
Shallow Groundwater Reuse	A feasibility study for the recovery and beneficial use of shallow groundwater was completed in 2009. Although potential sites for shallow groundwater reuse were identified, staff has identified several concerns. These concerns include water quality, sustainable yields, and lack of infrastructure for convey the water to reuse areas. In addition, the reuse sites are in areas where recycled water is already delivered for non-potable use.

<b>Project</b>	<b>Discussion</b>
Shasta Reservoir Expansion	A Feasibility Study and Environmental Impact Statement have been completed for a Shasta Reservoir Expansion. The United States Bureau of Reclamation concluded the project is technically feasible, but that non-federal partners would need to pay for project implementation. State law prohibits Prop 1 storage funding for the project and restricts funding for any studies. Staff will continue to monitor opportunities related to Shasta Reservoir Expansion.
Temperance Flat Reservoir	Temperance Flat Reservoir would be located upstream of Friant Dam on the San Joaquin River. Staff's current analysis is that any water supply benefits to the District from the project would be indirect, largely manifested by lowered requirements for Delta pumping for delivery to the San Joaquin Exchange contractors at the Delta-Mendota Pool.





# Water Conservation and Demand Management Committee

June 15, 2017

# “No Regrets” Package

- ▶ New development model ordinance
- ▶ Graywater program expansion
- ▶ Leak repair incentives
- ▶ Advanced metering infrastructure
- ▶ Stormwater recharge
- ▶ Agricultural land recharge
- ▶ Rain gardens
- ▶ Rain barrels

# Water Supply Strategies/Portfolios

Project	Base Case	Strategy 1: Local Flexibility	Strategy 2: Low Cost	Strategy 3: Secure Imported Supplies
"No Regrets" Package		•	•	•
Butterfield Recharge		•	•	
Additional Groundwater Banking		•	•	
Los Vaqueros Expansion		•		
Sites Reservoir			•	
Water Rights Purchase			•	
Additional Potable Reuse		•		
California WaterFix				•
District Lifecycle Cost	Not applicable	To be determined	To be determined	To be determined
Percent of Years that Meet the Level of Service Goal	70%	100%	100%	100%

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Committee:	Water Conservation and Demand Management
Meeting Date:	06/15/17
Agenda Item No.:	4.2
Unclassified Manager:	Garth Hall
Email:	<a href="mailto:ghall@valleywater.org">ghall@valleywater.org</a>
Est. Staff Time:	15 minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Sustainable Groundwater Management Act (SGMA) Update – Potential Basin Triggers Related to SGMA Authorities and the Use of Similar Tools in Other Basins

### RECOMMENDED ACTION:

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

### SUMMARY:

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

At the April 27, 2017 Committee meeting, staff presented an updated stakeholder engagement plan for the evaluation of new SGMA authorities. Major elements of this plan, including the topic of this agenda item, are reflected in the 2017 Committee workplan to ensure an open forum for discussion and opportunity for stakeholder input.

This agenda item provides information on how other basins have used authorities that are similar to the SGMA authorities being evaluated and describes potential basin conditions that could trigger consideration of SGMA authorities. Related discussion by the Committee and stakeholders will help inform the staff analysis of these authorities and the development of a draft implementation framework for these authorities, should they ever be needed.

At the April 27, 2017 Committee meeting, staff also provided an update on public comments received by the California Department of Water Resources (DWR) on the District's GWMP, which was submitted as an Alternative to a Groundwater Sustainability Plan (GSP). The complete set of comment letters submitted to DWR and related District responses are included as Attachments 1 through 5 (separated by commenting entity).

### BACKGROUND:

In 2014, SGMA was enacted as California's first comprehensive, statewide regulatory program for groundwater. SGMA provides Groundwater Sustainability Agencies (GSAs), like the District, with various authorities to ensure groundwater is managed in a sustainable manner. Important for this agenda item, SGMA provides GSAs with various authorities related to the regulation of groundwater extraction by restricting or suspending well production, prohibiting new well construction, imposing well-spacing requirements, and

requiring measurement and reporting of groundwater production by well owners. (Water Code §§ 10725.8, 10726.4(a).)

As noted in the GWMP and in previous Committee meetings, the potential regulation of pumping is a complex and controversial topic, and SGMA acknowledges related limitations. The preliminary staff analysis of these authorities is scheduled to be presented at a Committee meeting in August 2017 for review and discussion by the Committee and stakeholders. To help inform this analysis, staff has conducted an analysis of other agencies that had these authorities available before SGMA to evaluate when and how they have been implemented. Potential basin conditions that might trigger the use of these authorities in Santa Clara County are also described below.

### ***Groundwater Extraction Regulation in Other Basins***

Besides the District, there are over fifteen other special act districts created by the state legislature to manage groundwater. Several of these agencies have authorities to control groundwater extraction specified within their enabling acts. Several counties have also adopted ordinances that limit groundwater pumping. Staff researched these non-adjudicated basins to evaluate the use of authorities similar to those available under SGMA. It should be noted the findings below are based on a review of agencies' enabling acts, groundwater management plans, ordinances, or other publicly-available information, as well as limited conversations with agency staff. Therefore, this summary may not address all agencies with prior access to or use of similar authorities.

The authorities researched were similar to the SGMA authorities to regulate groundwater extraction, including the ability to:

- Regulate, limit, or suspend groundwater extraction, construction of new wells, enlargement of existing wells, or reactivation of abandoned wells;
- Establish groundwater extraction allocations;
- Authorize temporary and permanent transfers of groundwater extraction allocations or establish rules to allow unused groundwater extraction allocations to be carried over from one year to another and voluntarily transferred;
- Impose spacing requirements on new well construction to minimize interference; and
- Impose reasonable operating regulations on existing wells to minimize interference, including requiring extractors to operate on a rotation basis.

As summarized below, despite having access to these powers, few agencies have implemented stringent measures to limit pumping or control well spacing or operation. Implementation has generally been in response to specific undesirable results like overdraft or salt water intrusion.

#### **1. Regulate, limit, or suspend groundwater extraction, construction of new wells, enlargement of existing wells, or reactivation of abandoned wells**

Many agencies have related authorities through their enabling acts or ordinance. However, few agencies appear to have limited or suspended groundwater extraction:

- Fox Canyon Groundwater Management Agency (Fox Canyon GMA) limits extraction and new well construction in specific areas due to overdraft and salt water intrusion.
- Monterey County Water Resources Agency (Monterey County WRA) has prohibited new wells in certain areas due to salt water intrusion and contamination concerns.
- Colusa County adopted an ordinance in 2015 to temporarily restrict the construction of new wells or expansion of existing wells in response to the recent severe drought.

- Several agencies limit new well construction in certain areas to comply with the state's indirect potable reuse (IPR) project requirements. The area to be controlled is project-specific as it depends on groundwater flow rates, but is on the order of 500 to 2,000 feet for permitted IPR projects in Los Angeles and Orange Counties.

The most common approach to regulating groundwater extraction appears to be through the well permitting process. Several counties, including Stanislaus, Merced, San Bernardino, Napa, and San Diego, have adopted ordinances requiring applicants to demonstrate that the proposed pumping will not cause undesirable results. Related requirements range from pumping tests to detailed hydrogeologic studies. While these ordinances allow agencies to deny well permits, it is unclear how often that occurs.

## **2. Establish groundwater extraction allocations**

Although at least six agencies have the specific authority to establish groundwater extraction allocations, the implementation appears limited:

- In response to overdraft conditions, Fox Canyon GMA sets an allocation for each well based on a percentage of historical use, with the long-term goal of reducing extractions to eliminate overdraft and match the "safe yield."
- To protect its small, coastal groundwater basin, Mendocino City Community Services District (Mendocino CCSD) implements a groundwater extraction permitting process, which establishes an allocation based on the type and level of development. Pumping above the allocation may result in penalties or the extraction permit being revoked.

## **3. Authorize temporary and permanent transfers of groundwater extraction allocations; allow carry over or transfer of unused groundwater extraction allocations**

This authority has been implemented by Fox Canyon GMA, the only agency researched that appears to have this tool through their enabling act. Adjustments to allocations, including transfer or assignment of historical allocation from one operator to another, are allowed to provide flexibility for changing conditions. However, the volume that may be transferred is limited, and approval requires the demonstration of a net benefit to the aquifer. Fox Canyon GMA also allows carry over or transfer of unused allocations, although the accumulation of credits was suspended during the recent drought.

## **4. Impose spacing requirements on new well construction to minimize interference**

While at least five agencies have this authority, it does not appear to have been implemented.

## **5. Impose reasonable operating regulations on existing wells to minimize interference, including requiring extractors to operate on a rotation basis**

At least six agencies have this authority, but it does not appear to be widely implemented. In 1994, the Tehama County Board of Supervisors adopted an ordinance prohibiting the influence of wells from extending beyond the well owner's property. The ordinance prohibitions do not apply to groundwater pumpers who began extraction prior to a certain date or to public water systems.

The analysis above indicates that these types of authorities appear to be implemented in only a few basins in response to undesirable results like overdraft, salt water intrusion, or contamination. Most commonly, agencies have attempted to avoid causing or exacerbating undesirable results through the well permitting process. Agencies that have implemented these authorities have expressed related challenges, including well owner concerns and lack of enforcement.



Also insightful is feedback from agencies that have had long-term access to the authorities but have not successfully implemented them. Related rationale for not implementing the authorities included legal challenges as well as concerns about the inability to enforce them, potential interference with water rights, and the potential to trigger adjudication. Instead, the preference focused on the use of other tools such as financial incentives and/or groundwater management projects like recharge or conservation.

Groundwater conditions in Santa Clara County have been sustainable for many decades due to a comprehensive framework that includes a strong understanding of basin conditions, proactive planning and investments, and collaboration with water retailers and other stakeholders. The recent, exceptional drought is evidence of the effectiveness of this framework, with groundwater levels and storage showing nearly full recovery to pre-drought conditions. As noted in the GWMP, the existing framework is expected to support continued, sustainable conditions and the SGMA authorities may never be needed. However, as the GSA, the District must investigate all potential tools to ensure local groundwater resources continue to be protected. Potential basin conditions that might trigger the use of these authorities are presented below.

### ***Potential Triggers in Santa Clara County***

As noted in the stakeholder engagement plan, Committee and stakeholder discussion on this and other agenda items will inform development of a draft implementation framework for SGMA pumping regulation authorities should they ever be needed. The goal of this framework is to map out how or when these tools would be used to help ensure water supply reliability and avoid undesirable results related to groundwater storage, levels, quality, or land subsidence. As part of the framework development, it is important to consider what basin conditions might trigger consideration of these tools.

Because basin conditions are highly dependent on hydrology as well as localized pumping and recharge, staff recommends avoiding highly prescriptive or localized basin triggers and requirements. Instead, the types of basin conditions described below should serve as a warning of worsening or problematic basin conditions requiring action. By clarifying the process to adequately respond to worsening conditions, the District and major pumpers will maintain maximum flexibility to respond to changing conditions and avoid unnecessary or ineffective action that is more likely to result from an “if, then” prescriptive approach. This is the primary concept behind the draft implementation framework to be developed by December 2017 through this Committee.

Actions taken by the retailers during the recent drought included voluntary operating changes based on discussions with District staff and effective water use reduction programs prompted by District Board targets. The implementation framework is expected to range from similar, collaborative measures to more stringent, mandatory measures based on an increasing threat of harm to the groundwater subbasins. Therefore, the presence of these conditions would not likely prompt the use of SGMA authorities as the initial or preferred response. Instead, it would begin what is envisioned to be a step-wise process, beginning with more formalized discussion, problem-solving, and collaboration.

Potential basin conditions that would necessitate action ranging from voluntary to mandatory measures could include:

- Major water supply infrastructure failure or catastrophic event that would require significant time to resolve, with projected multi-year water supply shortages
- A significant reduction in groundwater storage due to drought or other factors causing storage levels to fall into the lowest stages of the District’s water shortage contingency plan (critical or emergency stage)
- Significant declines in groundwater levels that prompt permanent subsidence concerns or result in widespread water supply reliability issues
- Salt water intrusion or other water quality concern such as contaminant plume migration exacerbated by pumping
- A “significant and unreasonable” effect on interconnected surface water caused by pumping

Basin conditions prompting consideration of the use of SGMA authorities may be regional (such as drought-induced reductions in storage) or highly localized, such as impacts to an interconnected stream. Similarly, there may be project-specific regulatory requirements that may drive the need for these authorities in localized areas, such as the IPR regulatory requirement to restrict water supply well construction in certain areas.

### ***Summary and Next Steps***

While a number of agencies had authorities available to regulate pumping before SGMA, few have followed through with implementation, and the pumping regulations have generally been in response to overdraft or salt water intrusion. As discussed in previous Committee meetings and noted in the GWMP, these authorities have important limitations related to water rights and land use authority that must be carefully considered.

Discussion by the Committee and stakeholders on this agenda item will help inform the preliminary staff analysis, which will be included on a Committee agenda in August 2017 for review and input by the Committee and stakeholders. That analysis will include consideration of the following:

- Which specific SGMA tools are best suited to help ensure sustainability or further the District's ability to manage groundwater?
- How might these authorities be implemented – who would be affected, what actions would be required, etc.?

### **ATTACHMENT(S):**

Public Comments on the District's Alternative to a Groundwater Sustainability Plan Submitted to DWR Between February and April 2017 and Related District Responses:

Attachment 1: San Jose Water Company (**begins on page 25**)

Attachment 2: Stanford University (two comment letters, **begins on page 97**)

Attachment 3: National Marine Fisheries Service (**begins on page 109**)

Attachment 4: Great Oaks Water Company (two comment letters, **begins on page 115**)

Attachment 5: The Nature Conservancy (**begins on page 147**)



May 9, 2017

Mr. Trevor Joseph  
Sustainable Groundwater Management Chief  
California Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236

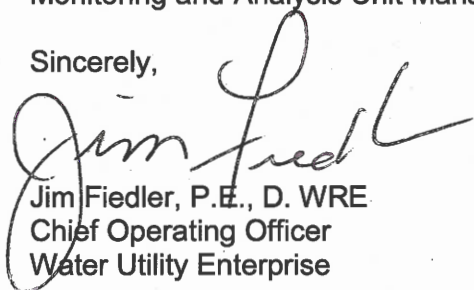
**Subject: Response to San Jose Water Company's Comments on the Santa Clara Valley Water District's Submitted Alternative to a Groundwater Sustainability Plan**

Dear Mr. Joseph:

This letter completes the Santa Clara Valley Water District (District) response to the February 16, 2017 San Jose Water Company (SJWC) letter on the District's Submitted Alternative to a Groundwater Sustainability Plan. The SJWC comments posted to the Department of Water Resources (DWR) Sustainable Groundwater Management Act (SGMA) Portal included a general comment letter and detailed comments on the functional equivalence table of the District's Submitted Alternative. The District response to the general SJWC comments was posted to the SGMA Portal on March 30, 2017 (Attachment 1) and the response to the SJWC functional equivalence table comments is included as Attachment 2. The February 16, 2017 SJWC letter is also included for reference as Attachment 3.

As described in the attached District responses, the District believes that the Submitted Alternative meets SGMA requirements and demonstrates long-term sustainable management of the Santa Clara and Llagas Subbasins. If you have any questions, please contact Vanessa De La Piedra, Groundwater Monitoring and Analysis Unit Manager, at (408) 630-2788.

Sincerely,



Jim Fiedler, P.E., D. WRE  
Chief Operating Officer  
Water Utility Enterprise

cc: Andrew Gere, San Jose Water Company  
Timothy Guster, Great Oaks Water Company  
Jim Simunovich, California Water Service Company  
N. Camacho, G. Hall, V. De La Piedra, E. Soderlund, B. Kassab, G. Cook

Attachment 1: District March 30, 2017 Response Letter

Attachment 2: District Response to SJWC Functional Equivalence Table Comments

Attachment 3: SJWC February 16, 2017 Comment Letter

Our mission is to provide Silicon Valley safe, clean water for a healthy life, environment, and economy.

March 30, 2017

Mr. Trevor Joseph  
Sustainable Groundwater Management Chief  
California Department of Water Resources  
***Submitted via DWR's SGMA Alternative Portal***

Subject: Response to San Jose Water Company's Comments on the Santa Clara Valley Water District's Submitted Alternative to a Groundwater Sustainability Plan

Dear Mr. Joseph:

This letter provides the Santa Clara Valley Water District (District) response to the February 16, 2017 San Jose Water Company (SJWC) comment letter on the District's submitted Alternative to a Groundwater Sustainability Plan (GSP).

As background, the District was formed as a special act district in 1929 to manage groundwater. At that time and through the late 1960s, excessive groundwater pumping caused undesirable results including chronic overdraft, permanent subsidence, and salt water intrusion. District investments in managed recharge, imported water, and infrastructure effectively halted these major problems. Ongoing District programs and investments in diverse water supplies and conjunctive management have maintained sustainable groundwater conditions over many decades despite a growing population.

To ensure a reliable water supply, the District closely coordinates with water retailers, including SJWC, the District's largest customer. However, the District must consider the interests of all beneficial users in fulfilling our mission to protect and augment groundwater. Due to the diverse interests of basin stakeholders, we recognize that not all decisions or investments will be universally supported. We also recognize that in some cases there is significant apprehension over how basins will be managed under SGMA. Groundwater in Santa Clara County has been carefully managed for nearly 90 years, and the District will continue to do so for the benefit of, and in coordination with local beneficial users.


With regard to the SJWC comments, the District respectfully disagrees with the assertion that the 2016 Groundwater Management Plan (GWMP) is not an acceptable Alternative or that it is deficient. Alternatives do not need to conform to GSP requirements but must demonstrate functional equivalence to certain GSP Regulation articles and that they meet the intent of SGMA. The District believes that the GWMP is an acceptable Alternative under SGMA, and that it meets the intent of SGMA, which is to achieve sustainable groundwater conditions. Specifically, the GWMP provides clear evidence of the District's understanding of basin setting and conditions, monitoring to assess related changes, as well as comprehensive programs and numeric thresholds to avoid undesirable results and ensure continued sustainability.

Our mission is to provide Silicon Valley safe, clean water for a healthy life, environment, and economy.

Mr. Trevor Joseph  
Page 2  
March 30, 2017

The comprehensive groundwater management framework described in the GWMP is effective, and ensures groundwater conditions remain sustainable. Despite several years of drought, local groundwater levels and storage have generally rebounded due to the GWMP framework. This requires strong coordination with water retailers, and the District looks forward to continued collaboration with SJWC and other stakeholders. The District's detailed response to the SJWC comment letter is attached. The District is also preparing responses to the extensive SJWC comments on the functional equivalence table in GWMP Appendix B (SJWC Attachment B), which will be submitted to DWR and SJWC in April 2017.

Sincerely,



Jim Fiedler, P.E., D. WRE  
Chief Operating Officer  
Water Utility Enterprise

cc: Timothy Guster, Great Oaks Water Company  
Jim Simunovich, California Water Service Company  
District Board of Directors  
N. Camacho, G. Hall, V. De La Piedra

Attachment 1: Detailed Response to SJWC Comment Letter

**Attachment 1 - Santa Clara Valley Water District Detailed Response to the San Jose Water Company (SJWC) Comment Letter Dated February 16, 2017**

**SJWC Comment 1A: The Submitted Alternative is Not an Acceptable Alternative Under SGMA**

SJWC asserts that Water Code Section 10750.1(a) prohibits a new GWMP from being adopted, or an existing GWMP from being amended after January 2015 and that Water Code Section 10750.1(c) only authorizes DWR to review and accept GWMPs adopted prior to January 1, 2015.

Section 10750.1(a) does not apply to the District's 2016 GWMP, which was adopted pursuant to the authorities provided by the District Act. Water Code Section 10733.6(b)(1) allows local agencies to submit Alternative Plans that are developed pursuant to Part 2.75 or other law authorizing groundwater management. Here, the District Act is the authorizing law and, as such, any prescription against adopting or amending plans prepared pursuant to Part 2.75 does not apply to the 2016 GWMP. Even if the 2016 GWMP was developed pursuant to Part 2.75, however, the prescription against adopting or amending a groundwater management plan still does not apply to a plan submitted as an Alternative to a GSP. Section 10750.1(c) states:

"This section does not apply to a plan submitted as an alternative pursuant to Section 10733.6, unless the department has not determined that the alternative satisfies the objectives of Part 2.74 (commencing with Section 10720) on or before January 31, 2020, or the department later determines that the plan does not satisfy the objectives of that part."

Section 10750.1(c) suggests that a groundwater management plan can be amended or adopted after January 1, 2015, as long as it is submitted as an Alternative to a GSP pursuant to Section 10733.6, and DWR determines by January 31, 2020 that the plan satisfies SGMA's objectives.

**SJWC Comment 1B: The Submitted Alternative Undermines Collaboration Among Basin Stakeholders**

The SJWC comments state that the Submitted Alternative "disregards repeated efforts by the Basin's various water retailers to directly collaborate with the District on the preparation and submittal of a plan, or an Alternative Plan." The letter also states that "because the District's process for making SGMA-related decisions is not set forth in the Submitted Alternative, SJWC is concerned that the District may elect to pursue actions independently and without regard to the interests of the Water Retailers."

The state's emergency regulations for GSPs and Alternatives were adopted in May 2016 leaving agencies developing Alternatives little time to prepare, adopt, and submit by the January 1, 2017 statutory deadline. In recognition of the short timeframe, the District made clear our intent to prepare and submit an updated GWMP as an Alternative, with a focus on updating technical information and acknowledging new SGMA authorities. This strategy was discussed at multiple meetings with the water retailers and in publicly-noticed Board meetings dating back to March/April of 2016. In June 2016, the District encouraged the water retailers Groundwater Subcommittee to review the District's 2012 GWMP, noting "We are not planning to update basin management goals, strategies, or numeric targets as we believe the current ones have been effective." The District did not receive related comments. These goals, strategies, targets, and programs are the backbone of the District's groundwater management strategy and are essentially unchanged in the 2016 GWMP.

Several water retailers expressed concern with new SGMA authorities to regulate pumping and potential interference with water rights, and the District met with these retailers on several



occasions to discuss related issues. Following these meetings, SJWC and another investor-owned water retailer formally recommended a shared governance model as reflected in comments received during the District's public hearing on the 2016 GWMP. These comments, as well as input received from several other stakeholders, were considered by the District Board of Directors prior to adopting the GWMP.

The GWMP does not propose implementing SGMA authorities to regulate pumping. It acknowledges these as potential tools that may be needed in the future to avoid undesirable results but clearly indicates continued collaboration with pumpers is the preferred approach. The GWMP states the District's intent to work with interested stakeholders in 2017 to identify basin conditions that might trigger the need to regulate pumping and mechanisms to ensure effective implementation should use of the tools become necessary. The District recognizes there are complex issues and limitations associated with these authorities related to water rights and land use authority. As such, the District welcomes and encourages input and participation by the water retailers and other interested stakeholders as we assess these authorities, including when and how they might ever need to be used.

With regard to SGMA-related decisions, the District will continue to conduct its business openly and transparently through publicly-noticed meetings, considering the interests of all beneficial users and with opportunities for stakeholder input. At the November 22, 2016 public hearing for the GWMP, the District Board affirmed its commitment to continue working closely with water retailers, and referred related SGMA stakeholder engagement to the Board's Water Conservation and Demand Management Committee. This Board committee has met monthly since December 2016 and stakeholders present at the meetings, including SJWC, have been supportive of the District's approach to evaluate new SGMA authorities in 2017. The District list of interested stakeholders includes water retailers, local land use agencies, regulatory agencies, adjacent water agencies, businesses, non-government organizations and private individuals. Any person or entity can request to be included in this list. The District notifies interested stakeholders of any SGMA-related District Board and Board committee items, as well as relevant news such as the DWR time extension for public comments on Alternatives.

Like SJWC, the District is focused on meeting the water supply reliability needs of our constituents, including SJWC. We believe we have demonstrated an ongoing commitment to managing the basins for the benefit of all groundwater pumpers, including water retailers who are by far the largest pumpers in the Santa Clara Subbasin. The District works closely with SJWC and other water retailers on current operations as well as future water supply needs and investments, and will continue to do so. On major policy issues, the District has not and will not act without input from water retailers and other beneficial users or without regard for their particular interests.

#### **SJWC Comment 2A: The Submitted Alternative Fails to Comply with SGMA's Notice and Communication Requirements**

Alternatives do not need to conform to GSP requirements but must demonstrate functional equivalence to certain GSP Regulation articles and that they meet the intent of SGMA. As documented in Appendix A, the District communicated information on planned SGMA compliance on numerous occasions and provided opportunities for stakeholder input. This included publicly-noticed Board meetings and public hearings, multiple meetings with water retailers, and two community meetings.

Chapter 1 of the GWMP describes the structure and charge of the District's elected Board of Directors and describes how the District interacts with stakeholders. As documented throughout the GWMP, the District will continue to engage water retailers and other stakeholders in our work to protect local groundwater resources.

**SJWC Comment 2B: The Submitted Alternative Does Not Include a Current or Projected Water Budget for the Basin**

The GWMP provides detailed water budget information. Chapter 4 of the GWMP presents the countywide water budget, the long-term average groundwater budget for 2003-2012, and the annual change in groundwater storage. Appendix C provides detailed information on the current (2015) groundwater budget. Chapter 4 also includes future groundwater demand projections through 2040 derived from the District's Urban Water Management Plan.

As noted in the GWMP, the Urban Water Management Plan includes comprehensive information on future water supply and demand projections, water supply challenges and constraints, and water supply reliability. The GWMP also discusses District planning efforts to evaluate and recommend actions for future water supply reliability through the Water Supply Master Plan. The District ensures future water supply reliability through regular, forward-looking planning and appropriate investments, in coordination with water retailers and other interested parties.

**SJWC Comment 2C: The Submitted Alternative Fails to Identify Undesirable Results**

The GWMP describes the cause and effect of historical undesirable results that have been successfully addressed through District planning and investments, including long-term declines in groundwater levels and storage, land subsidence, and salt water intrusion. Despite the SJWC assertion, the GWMP uses the term "undesirable results" in numerous places in describing basin groundwater management goals, strategies, and programs. The GWMP also states that the groundwater subbasins are sustainable, indicating no undesirable results are occurring, and presents supporting data and information in Chapters 2, 3, and 4.

**SJWC Comment 2D: The Submitted Alternative Does Not Satisfy the GSP Regulation's Requirements for the Establishment of Minimum Thresholds**

The intent of minimum thresholds is to identify when problems may be occurring so appropriate action can be taken. The outcome measures in the GWMP have proven to be effective in prompting action when needed to maintain sustainable conditions. In 2014, increased pumping and decreased recharge due to drought conditions caused groundwater levels in the Santa Clara Subbasin to approach the subsidence thresholds in the GWMP outcome measure. The District and SJWC took swift and collaborative action to understand the issue and reduce pumping in key areas, resulting in a direct, positive effect on groundwater levels and minimizing the risk of resumed subsidence.

The groundwater storage outcome measure, derived from the District's Water Shortage Contingency Plan, has also proven effective. Based on projected end of year groundwater storage, the Board set related water use reduction targets. The water retailers' response was impressive, reducing overall water use by nearly 30% in 2015 and 2016 compared to 2013 and shifting their sources to more treated water in lieu of groundwater pumping. Coupled with District efforts to secure supplemental surface water, this response caused groundwater levels to improve even with continued drought conditions. Countywide groundwater storage is

estimated to be in the Normal Stage (Stage 1) of the Water Shortage Contingency Plan at the end of 2016 despite five years of drought. This is a significant accomplishment and a testament to effective metrics and collaborative response.

**SJWC Comment 2E: The Submitted Alternative Fails to Establish Measurable Objectives**

Measurable objectives serve as targets to achieve the basin sustainability goal within 20 years of implementation. Since groundwater conditions are sustainable in Santa Clara County as stated in the GWMP, this concept is not applicable.

**SJWC Comment 2F: Monitoring Network Described in Submitted Alternative Does Not Meet Requirements of GSP Regulations**

Unlike many basins that have little or no groundwater data, the District has conducted robust groundwater monitoring and analysis for many decades, and the Santa Clara and Llagas subbasins have been extensively studied. As described in the GWMP, the District monitors groundwater levels, quality, and subsidence at hundreds of sites, and analyzes related data to assess changing conditions so that appropriate action can be taken. The District also measures surface water and uses tools like calibrated groundwater flow models to assess groundwater conditions. Groundwater monitoring and modeling efforts are described in detail in Chapter 7 of the GWMP, including monitoring sites, data collection protocols, and reporting. As noted on GWMP page 7-1:

“For all monitoring, the District works to ensure the monitoring locations and data collected provide adequate information to facilitate a comprehensive understanding of groundwater conditions and support informed decision-making. This includes ongoing assessment of data gaps or redundancy, monitoring protocols, and data management, evaluation, and reporting. Specific wells or locations monitored may vary and evolve over time due to issues with well construction or access, but the overall programs provide strong and comprehensive data to assess conditions and trends within the Santa Clara and Llagas subbasins.”

The District’s monitoring network is extensive, and there are no significant data gaps in the monitoring programs or hydrogeologic conceptual model. Ongoing assessment and adaptation of the program to meet changing needs ensures the District will continue to collect data that supports thorough assessment of groundwater conditions and related decision making.

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

*Note: The District's responses within this attachment refer interchangeably to the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP) and the submitted Alternative to a Groundwater Sustainability Plan (Submitted Alternative).*

### **1. Emergency GSP Regulation § 354.6(d)**

*The legal authority of the Agency, with specific reference to citations setting forth the duties, powers, and responsibilities of the Agency, demonstrating that the Agency has the legal authority to implement the Plan.*

#### **SJWC Comment**

Although the Submitted Alternative identifies various legal authorities authorizing the District to undertake groundwater management generally, it fails to acknowledge that its Submitted Alternative—a recently amended GWMP—does not fall within one of the three potential types of Alternative Plans identified in SGMA. Under SGMA, local agencies in medium- or high-priority basins (such as the Basin) are explicitly prohibited from adopting a new GWMP or amending an existing GWMP after January 1, 2015. (Wat. Code § 10750.1.) The District's Submitted Alternative, therefore is not eligible for acceptance by DWR as an Alternative Plan because it was amended in 2016.

#### **District Response**

SJWC acknowledges that the Submitted Alternative identifies the legal authorities authorizing the District to undertake groundwater management (Section 1.4), thus meeting the requirement of § 354.6(d). As described in the response to SJWC Comment 1A, Water Code Section 10750.1(a) does not apply to the District's 2016 GWMP, which was adopted pursuant to authorities provided by the Santa Clara Valley Water District Act. Water Code Section 10750.1(c) states "This section does not apply to a plan submitted as an alternative pursuant to Section 10733.6, unless the department has not determined that the alternative satisfies the objectives of Part 2.74 (commencing with Section 10720) on or before January 31, 2020, or the department later determines that the plan does not satisfy the objectives of that part." Water Code Section 10733.6(b)(1) allows local agencies to submit Alternative Plans developed pursuant to Part 2.75 or other law authorizing groundwater management.

### **2. Emergency GSP Regulation § 354.6(e)**

*An estimate of the cost of implementing the Plan and a general description of how the Agency plans to meet those costs.*

#### **SJWC Comment**

Although the Submitted Alternative identifies an annual budget for one of the District's numerous divisions, it does not provide any information as to an estimate of the cost of implementing the Submitted Alternative, or a general description of how the District plans to meet those costs.

#### **District Response**

Section 1.4.4 (incorrectly noted in GWMP Appendix B as Section 1.3) contains information on the District's Water Utility Enterprise budget (\$359 million for fiscal year 2016-17), through which the District collects most revenue used to fund the District's comprehensive groundwater management programs described in the GWMP. Section 1.4.4 also describes the District's annual Protection and Augmentation of Water Supplies (PAWS) Report, which provides detailed information on Water Utility Enterprise funding. The Submitted Alternative does not propose to implement new projects or programs

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

beyond what is described in the District's PAWS Report, therefore the GWMP meets the requirements of § 354.6(e).

### **3. Emergency GSP Regulation § 354.8(a)**

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

*(a) One or more maps of the basin that depict the following, as applicable:*

- (1) The area covered by the Plan, delineating areas managed by the Agency as an exclusive Agency and any areas for which the Agency is not an exclusive Agency, and the name and location of any adjacent basins.*
- (2) Adjudicated areas, other Agencies within the basin, and areas covered by an Alternative.*
- (3) Jurisdictional boundaries of federal or state land (including the identity of the agency with jurisdiction over that land), tribal land, cities, counties, agencies with water management responsibilities, and areas covered by relevant general plans.*
- (4) Existing land use designations and the identification of water use sector and water source type.*
- (5) The density of wells per square mile, by dasymetric or similar mapping techniques, showing the general distribution of agricultural, industrial, and domestic water supply wells in the basin, including de minimis extractors, and the location and extent of communities dependent upon groundwater, utilizing data provided by the Department, as specified in Section 353.2, or the best available information.*

#### **SJWC Comment**

The Submitted Alternative does not provide maps depicting all of the details required by 23 CCR 354.8(a), including (1) existing land use designations and (2) the identification of water use sector and water source type and the density of wells per square mile.

#### **District Response**

The Submitted Alternative meets the intent of SGMA and describes the plan area in terms of land use, water supply well location, and well use. For example:

- GWMP Sections 1.2 and 2.2.4.2 describe land use above the Santa Clara and Llagas Subbasin
- Figure 1-1 depicts city boundaries and rural unincorporated areas
- Figure 4-1 depicts countywide water use by source
- Figures 4-6, 4-7, and 4-11 depict groundwater use by sector
- Figures 4-8 and 4-12 depict the location and volume of groundwater pumping

### **4. Emergency GSP Regulation § 354.8(b)**

*A written description of the Plan area, including a summary of the jurisdictional areas and other features depicted on the map.*

#### **SJWC Comment**

Although the Submitted Alternative includes a written description of the covered area, it does not include a description of all of the features required to be depicted on the maps pursuant to 23 CCR 354.8(a).

#### **District Response**

See response to SJWC comment on § 354.8(a) above.

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

### **5. Emergency GSP Regulation § 354.8(f)**

*A plain language description of the land use elements or topic categories of applicable general plans that includes the following:*

- (1) A summary of general plans and other land use plans governing the basin.*
- (2) A general description of how implementation of existing land use plans may change water demands within the basin or affect the ability of the Agency to achieve sustainable groundwater management over the planning and implementation horizon, and how the Plan addresses those potential effects.*
- (3) A general description of how implementation of the Plan may affect the water supply assumptions of relevant land use plans over the planning and implementation horizon.*
- (4) A summary of the process for permitting new or replacement wells in the basin, including adopted standards in local well ordinances, zoning codes, and policies contained in adopted land use plans.*
- (5) To the extent known, the Agency may include information regarding the implementation of land use plans outside the basin that could affect the ability of the Agency to achieve sustainable groundwater management.*

#### **SJWC Comment**

The Submitted Alternative does not provide a description of all of the items required by 23 CCR354.8(f), including a summary of general plans and other land use plans overlying the Basin, how implementation of existing land use plans may change water demands within the Basin or affect the District's ability to achieve sustainable groundwater management over the planning and implementation horizon, and a general description of how its implementation may affect water supply assumptions of relevant land use plans over the planning and implementation horizon.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing District coordination with land use agencies, water retailers, and others to review General Plans, evaluate future water demands, and make appropriate investments to ensure a continued reliable water supply. This coordination and regular updates to the District's Urban Water Management Plan (UWMP) and Water Supply Master Plan help ensure the District can adapt to changing conditions. Examples of related GWMP information include:

- Examples of successful coordination between the District, local cities, and Santa Clara County to minimize groundwater quality risks from hazardous materials (Section 1.4.1)
- Discussion of the District's coordination with land use agencies, including general plan review (Sections 1.5.2 and 6.2.6)
- Information on the District's long-term water supply planning efforts to account for changing water demands related to land use and ensure future reliability. These include coordination with water retailers and land use agencies to develop long-term water supply plans, such as the UWMP and Water Supply Master Plan, and to review land use proposals and water supply assessments to ensure water resources are adequately considered (Sections 1.5.1, 1.5.2, 4.5, 6.1.6.3, 8.2.1).
- Overview of groundwater management roles, including land use agencies (Figure 1-7)
- Information on the District's well ordinance program, which permits and inspects well construction and destruction in Santa Clara County (Section 6.21)
- Examples of regular District reporting on land use reviews conducted annually (Appendix C, 6.3)

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

### **6. Emergency GSP Regulation § 354.10(d)**

*A communication section of the Plan that includes the following:*

- (1) An explanation of the Agency's decision-making process.*
- (2) Identification of opportunities for public engagement and a discussion of how public input and response will be used.*
- (3) A description of how the Agency encourages the active involvement of diverse social, cultural, and economic elements of the population within the basin.*
- (4) The method the Agency shall follow to inform the public about progress implementing the Plan, including the status of projects and actions.*

#### **SJWC Comment**

Although the Submitted Alternative includes a section titled "Groundwater Management Partners and Stakeholders," this section does satisfy the requirement to provide an explanation of how the District will make decisions pertaining to groundwater management that affect Water Retailers, especially the largest water-producing retailers.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing the District's elected Board of Directors, related publicly-noticed meetings, and other efforts to engage stakeholders, including quarterly meetings of the Water Retailers Committee and various subcommittees. For example:

- Section 1.4.2.2 discusses District authorities granted by SGMA, and describes plans to work with water retailers and other interested stakeholders to evaluate the authorities in terms of basin triggers and implementation mechanisms. The section also notes that any proposed changes to the District's rate structure would follow an open and transparent process, involving the water retailers and other stakeholders.
- Section 1.5.1 describes local water retailers and forums used to coordinate on groundwater management issues
- Section 1.6 and Appendix A describe the public outreach conducted for the Submitted Alternative
- Section 7.5 presents information on regular District reporting on groundwater management

### **7. Emergency GSP Regulation § 354.14(b)**

*The hydrogeologic conceptual model shall be summarized in a written description that includes the following:*

- (1) The regional geologic and structural setting of the basin including the immediate surrounding area, as necessary for geologic consistency.*
- (2) Lateral basin boundaries, including major geologic features that significantly affect groundwater flow.*
- (3) The definable bottom of the basin.*
- (4) Principal aquifers and aquitards, including the following information:*
  - a) Formation names, if defined.*
  - b) Physical properties of aquifers and aquitards, including the vertical and lateral extent, hydraulic conductivity, and storativity, which may be based on existing technical studies or other best available information.*
  - c) Structural properties of the basin that restrict groundwater flow within the principal aquifers, including information regarding stratigraphic changes, truncation of units, or other features.*
  - d) General water quality of the principal aquifers, which may be based on information derived from existing technical studies or regulatory programs.*

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- e) *Identification of the primary use or uses of each aquifer, such as domestic, irrigation, or municipal water supply.*
- (5) *Identification of data gaps and uncertainty within the hydrogeologic conceptual Model."*

### **SJWC Comment**

Although the Submitted Alternative provides a general description of the physical properties of the aquifer and aquitards found in the Basin, it does not include all of the required details, including a description of the aquifer's hydraulic conductivity, and storativity. The Submitted Alternative also fails to identify the primary use or uses of each aquifer, such as domestic, irrigation, or municipal water supply or any potential data gaps and uncertainty within the hydrogeologic conceptual model.

### **District Response**

The intent of this requirement is to ensure the basin is adequately understood such that it can be sustainably managed. The Submitted Alternative demonstrates functional equivalence by providing more than 45 pages of detailed information on the basin setting and conditions in Chapters 2 and 3. Chapter 4 contains detailed information on the primary uses of each aquifer, including data on municipal, domestic and agricultural use (Sections 4.4.1.1 and 4.4.2.1).

All models of complex natural systems (including conceptual models) are imperfect and are updated as new information becomes available. The District's strong conceptual model has supported groundwater management decisions that have resulted in sustainable conditions in the Santa Clara and Llagas Subbasins for many decades, demonstrating the intent of SGMA is being met. The Submitted Alternative contains information on the primary uses of each aquifer.

## **8. Emergency GSP Regulation § 354.14(d)**

*Physical characteristics of the basin shall be represented on one or more maps that depict the following:*

- 1) *Topographic information derived from the U.S. Geological Survey or another reliable source.*
- 2) *Surficial geology derived from a qualified map including the locations of cross sections required by this Section.*
- 3) *Soil characteristics as described by the appropriate Natural Resources Conservation Service soil survey or other applicable studies.*
- 4) *Delineation of existing recharge areas that substantially contribute to the replenishment of the basin, potential recharge areas, and discharge areas, including significant active springs, seeps, and wetlands within or adjacent to the basin.*
- 5) *Surface water bodies that are significant to the management of the basin.*
- 6) *The source and point of delivery for imported water supplies.*

### **SJWC Comment**

Although the Submitted Alternative includes various maps, it does not include a map depicting the Basin's topography, the Basin's soil characteristics, or the source and point of delivery for imported water supplies.

### **District Response**

The Submitted Alternative demonstrates functional equivalence by providing detailed information on the physical basin characteristics in Chapters 2 and 3. As noted previously, the intent of the GSP requirements is to demonstrate a strong understanding of the basin such that it can be sustainably managed. While the District believes this has been adequately demonstrated, we specifically call attention to the following GWMP information:



## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

- Figure 1-3, which presents the District's water supply treatment and distribution system including the source and point of delivery for imported water
- Figures 2-1 and 3-1, which depict the subbasins, surrounding topography, and confined/recharge areas
- Figures 2-2 and 3-2, which depict Quaternary alluvial deposits within the subbasins
- Figures 2-4, 2-5, 3-4, 3-5, and 3-6, which are geologic cross-sections showing subsurface lithology and surface topography
- Appendix D, which describes the District's managed recharge systems, including source waters

### **9. Emergency GSP Regulation § 354.16(c)**

*Seawater intrusion conditions in the basin, including maps and cross-sections of the seawater intrusion front for each principal aquifer.*

#### **SJWC Comment**

Although the Submitted Alternative provides a map depicting the extent of sea water intrusion in the principal aquifer, it does not include a cross section, as is also required.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing conditions that caused salt water intrusion and depicting the lateral extent of salt water influence at various time periods. As described in GWMP Section 2.2.5, the incursion of San Francisco Bay water into tidal creeks and subsequent transport to shallow groundwater has affected small portions of the shallow aquifer in the Santa Clara Subbasin. This differs from the more classic salt water intrusion mechanism where a sea water front intrudes into a fresh water aquifer due a direct hydraulic connection and differences in density and water pressure. Therefore, the concept of a "seawater intrusion front" is not applicable in the Santa Clara Subbasin.

### **10. Emergency GSP Regulation § 354.16(f)**

*Identification of interconnected surface water systems within the basin and an estimate of the quantity and timing of depletions of those systems, utilizing data available from the Department, as specified in Section 353.2, or the best available information.*

#### **SJWC Comment**

Although the Submitted Alternative identifies interconnected surface water systems within the Basin, it does not provide an estimate of the quantity and timing of those systems as required.

#### **District Response**

Because the interaction of groundwater and surface water is complex, groundwater management agencies, DWR, and non-governmental agencies generally recognize this as an area needing additional study, and potentially state guidance. However, the District believes the Submitted Alternative demonstrates long-term sustainable groundwater management that supports and protects all beneficial uses. The District plans to further evaluate surface water/groundwater interaction prior to the next update of the GWMP to ensure groundwater management continues to be protective of interconnected surface waters. The Submitted Alternative demonstrates functional equivalence by providing best available information in Sections 2.2.3 and 3.2.3 and recommending additional study of groundwater/surface water interaction (Section 8).

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### **11. Emergency GSP Regulation § 354.18(b)**

*The water budget shall quantify the following, either through direct measurements or estimates based on data:*

- (1) Total surface water entering and leaving a basin by water source type.*
- (2) Inflow to the groundwater system by water source type, including subsurface groundwater inflow and infiltration of precipitation, applied water, and surface water systems, such as lakes, streams, rivers, canals, springs and conveyance systems.*
- (3) Outflows from the groundwater system by water use sector, including evapotranspiration, groundwater extraction, groundwater discharge to surface water sources, and subsurface groundwater outflow.*
- (4) The change in the annual volume of groundwater in storage between seasonal high conditions.*
- (5) If overdraft conditions occur, as defined in Bulletin 118, the water budget shall include a quantification of overdraft over a period of years during which water year and water supply conditions approximate average conditions.*
- (6) The water year type associated with the annual supply, demand, and change in groundwater stored.*
- (7) An estimate of sustainable yield for the basin.*

#### **SJWC Comment**

The Submitted Alternative does not identify the water year type associated with the annual supply, demand, and change in groundwater stored.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by providing detailed groundwater water budget information for a recent long-term period including a range of hydrologic year types (2003-2012) in Section 4.4 and a recent critically dry year (2015) in Appendix C. The GWMP also contains the countywide water budget for 2012, a below normal year. DWR maintains a website with water year type at <http://cdec.water.ca.gov/cgi-progs/iodir/WSIHIST>. For the period from 2003 to 2012, the Sacramento Valley Hydrologic Classification Index used by the District contains all water year types: wet (2006 and 2011), above normal (2003 and 2005), below normal (2004, 2010, and 2012), dry (2007 and 2009), and critical (2008). Similarly, the annual change in storage graphs presented in Figures 4-9, 4-10, and 4-13 contain the full range of hydrologic year types.

### **12. Emergency GSP Regulation § 354.18(c) (1) and (2)**

*Each Plan shall quantify the current, historical, and projected water budget for the basin as follows:*

- (1) Current water budget information shall quantify current inflows and outflows for the basin using the most recent hydrology, water supply, water demand, and land use information.*
- (2) Historical water budget information shall be used to evaluate availability or reliability of past surface water supply deliveries and aquifer response to water supply and demand trends relative to water year type. The historical water budget shall include the following:*
  - a) A quantitative evaluation of the availability or reliability of historical surface water supply deliveries as a function of the historical planned versus actual annual surface water deliveries, by surface water source and water year type, and based on the most recent ten years of surface water supply information.*
  - b) A quantitative assessment of the historical water budget, starting with the most recently available information and extending back a minimum of 10 years, or as is sufficient to calibrate and reduce the uncertainty of the tools and methods used to estimate and project future water budget information and future aquifer response to proposed sustainable groundwater management practices over the planning and implementation horizon.*

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- c) *A description of how historical conditions concerning hydrology, water demand, and surface water supply availability or reliability have impacted the ability of the Agency to operate the basin within sustainable yield. Basin hydrology may be characterized and evaluated using water year type.*

### **SJWC Comment**

Although the Submitted Alternative includes a historical groundwater budget identifying quantifies the average inflows and outflows from 2003 through 2012, it does not quantify this information for current inflows and outflows. The Submitted Alternative's historical water budget also does not include an evaluation of the availability or reliability of historical surface water supply deliveries as a function of the historical versus actual annual surface water deliveries.

### **District Response**

The Submitted Alternative meets the intent of SGMA by providing detailed groundwater budget information. Section 2.3 of Appendix C (the District's Annual Groundwater Report for 2015) presents inflow and outflow data for 2015, which constitutes current information and the most recent year available at the time the GWMP was developed. The District continues to prepare this detailed groundwater budget annually in the Annual Groundwater Report, which is posted on the District website. The availability and reliability of surface water supplies are evaluated in the District's UWMP, which is referenced throughout the Submitted Alternative as the source for detailed information on overall long-term water supply planning and reliability.

### **13. Emergency GSP Regulation § 354.18(c)(3)**

*Projected water budgets shall be used to estimate future baseline conditions of supply, demand, and aquifer response to Plan implementation, and to identify the uncertainties of these projected water budget components. The projected water budget shall utilize the following methodologies and assumptions to estimate future baseline conditions concerning hydrology, water demand and surface water supply availability or reliability over the planning and implementation horizon:*

- (A) Projected hydrology shall utilize 50 years of historical precipitation, evapotranspiration, and streamflow information as the baseline condition for estimating future hydrology. The projected hydrology information shall also be applied as the baseline condition used to evaluate future scenarios of hydrologic uncertainty associated with projections of climate change and sea level rise.*
- (B) Projected water demand shall utilize the most recent land use, evapotranspiration, and crop coefficient information as the baseline condition for estimating future water demand. The projected water demand information shall also be applied as the baseline condition used to evaluate future scenarios of water demand uncertainty associated with projected changes in local land use planning, population growth, and climate.*
- (C) Projected surface water supply shall utilize the most recent water supply information as the baseline condition for estimating future surface water supply. The projected surface water supply shall also be applied as the baseline condition used to evaluate future scenarios of surface water supply availability and reliability as a function of the historical surface water supply identified in Section 354.18(c)(2)(A), and the projected changes in local land use planning, population growth, and climate.*

### **SJWC Comment**

The Submitted Alternative does not include a projected water budget.

### **District Response**

As noted in the previous District response and throughout the Submitted Alternative, the District's UWMP contains detailed information on overall long-term water supply

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

planning and reliability, including projected water demands and supplies. Section 4.5 of the Submitted Alternative incorporates and documents future groundwater demand projections from the District's 2015 UWMP, and various sections of the GWMP describe District efforts to ensure reliability through regular updates to our UWMP and Water Supply Master Plan.

### **14. Emergency GSP Regulation § 354.18(d)**

*The Agency shall utilize the following information provided, as available, by the Department pursuant to Section 353.2, or other data of comparable quality, to develop the water budget:*

- (1) Historical water budget information for mean annual temperature, mean annual precipitation, water year type, and land use.*
- (2) Current water budget information for temperature, water year type, evapotranspiration, and land use.*
- (3) Projected water budget information for population, population growth, climate change, and sea level rise.*

#### **SJWC Comment**

The Submitted Alternative does not identify what information it relies on to develop the water budget.

#### **District Response**

Chapter 4 of the Submitted Alternative provides information on the origin of the water budget (groundwater flow models calibrated to measured water levels) as well as the inflow and outflow components. Tables 4-3, 4-4, and 4-6 provide information on what is included in each inflow and outflow component. As noted, pumping is based on metered pumping volumes or pumping reported by well owners. Managed recharge is monitored and tracked by the District as described in Section 6.1.1. The basic components of the groundwater flow models, including natural recharge and subsurface inflow/outflow, are described in Section 7.6.

### **15. Emergency GSP Regulation § 354.18(e)**

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

#### **SJWC Comment**

Although the Submitted Alternative provides a historical water budget, the Submitted Alternative does not identify what information it relies on to develop the water budget. The water budget included in the Submitted Alternative also does not provide any insight into—or mention—the Basin's historical and projected hydrology, water demand, water supply, land use, population, climate change, sea level rise, groundwater and surface water interaction, and subsurface groundwater flow.

#### **District Response**

The Submitted Alternative demonstrates a strong understanding of the groundwater budget based on the best available information and science. Please see the District response regarding § 354.18(d).

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### **16. Emergency GSP Regulation § 354.24**

*Each Agency shall establish in its Plan a sustainability goal for the basin that culminates in the absence of undesirable results within 20 years of the applicable statutory deadline. The Plan shall include a description of the sustainability goal, including information from the basin setting used to establish the sustainability goal, a discussion of the measures that will be implemented to ensure that the basin will be operated within its sustainable yield, and an explanation of how the sustainability goal is likely to be achieved within 20 years of Plan implementation and is likely to be maintained through the planning and implementation horizon.*

#### **SJWC Comment**

Although the Submitted Alternative establishes two sustainability goals for the basin and discusses the measures that will be implemented to meet to ensure that the Basin will be operated within its sustainable yield, it does not provide a timeline for meeting the sustainability goals or explain how the sustainability goals are likely to be achieved within 20 years and maintained through the planning and implementation horizon.

#### **District Response**

The Submitted Alternative states, in various sections, that groundwater conditions are sustainable. Therefore, no timeline for meeting sustainability goals is warranted. The Submitted Alternative describes numeric outcome measures and comprehensive groundwater management programs in place to ensure continued sustainability.

### **17. Emergency GSP Regulation § 354.26(a)**

*Each Agency shall describe in its Plan the processes and criteria relied upon to define undesirable results applicable to the basin. Undesirable results occur when significant and unreasonable effects for any of the sustainability indicators are caused by groundwater conditions occurring throughout the basin.*

#### **SJWC Comment**

Although the Submitted Alternative contains—and discusses— outcome measures (e.g., performance measures), it does not define undesirable results or the process and/or criteria relied upon to define them.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing undesirable results that have occurred historically, related causes, thresholds to guard against recurrence (outcome measures), and related actions. Chapter 5 provides a detailed explanation of the rationale for numeric outcome measures to avoid undesirable results related to groundwater storage (Section 5.4.1), groundwater levels and land subsidence (Section 5.4.2), and groundwater quality (Section 5.4.3).

### **18. Emergency GSP Regulation § 354.26(b)**

*The description of undesirable results shall include the following:*

- (1) The cause of groundwater conditions occurring throughout the basin that would lead to or has led to undesirable results based on information described in the basin setting, and other data or models as appropriate.*
- (2) The criteria used to define when and where the effects of the groundwater conditions cause undesirable results for each applicable sustainability indicator. The criteria shall be based on a quantitative description of the combination of minimum threshold exceedances that cause significant and unreasonable effects in the basin.*

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- (3) *Potential effects on the beneficial uses and users of groundwater, on land uses and property interests, and other potential effects that may occur or are occurring from undesirable results.*

### **SJWC Comment**

The Submitted Alternative does not define undesirable results, discuss groundwater conditions from which they would occur, or discuss the potential effects of undesirable results on the Basin's beneficial users and uses.

### **District Response**

As noted in the response above related to Emergency GSP Regulation 354.26(a), the Submitted Alternative demonstrates functional equivalence by describing undesirable results that have occurred historically, related causes, thresholds to guard against recurrence (outcome measures), and related actions. There are numerous related sections within the Submitted Alternative, including Sections 1.4.1, 2.2.2, 2.2.4, 2.2.5, 3.2.4, and Chapter 5. These sections discuss the causes and effects of undesirable results such as land subsidence and groundwater contamination, and document the rationale for related numeric targets.

## **19. Emergency GSP Regulation § 354.26(c)**

*The Agency may need to evaluate multiple minimum thresholds to determine whether an undesirable result is occurring in the basin. The determination that undesirable results are occurring may depend upon measurements from multiple monitoring sites, rather than a single monitoring site.*

### **SJWC Comment**

The Submitted Alternative does not define undesirable results.

### **District Response**

Please see District responses related to Emergency GSP Regulations § 354.26(a) and § 354.26(b).

## **20. Emergency GSP Regulation § 354.26(d)**

*An Agency that is able to demonstrate that undesirable results related to one or more sustainability indicators are not present and are not likely to occur in a basin shall not be required to establish criteria for undesirable results related to those sustainability indicators.*

### **SJWC Comment**

The Submitted Alternative fails to demonstrate that one or more sustainability indicators are not present and are not likely to occur in a basin and therefore is required to establish criteria for undesirable results.

### **District Response**

The Submitted Alternative demonstrates functional equivalence by relying on best available information and science to describe basin conditions and relevant undesirable results. Chapters 2 and 3 present comprehensive information on the basin setting and conditions and describe why various sustainability indicators are not applicable in certain basins. For example, section 3.2.2 describes why land subsidence is unlikely to occur within the Llagas Subbasin.

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### **21. Emergency GSP Regulation § 354.28(a)**

*Each Agency in its Plan shall establish minimum thresholds that quantify groundwater conditions for each applicable sustainability indicator at each monitoring site or representative monitoring site established pursuant to Section 354.36. The numeric value used to define minimum thresholds shall represent a point in the basin that, if exceeded, may cause undesirable results as described in Section 354.26.*

#### **SJWC Comment**

The Submitted Alternative establishes Basin-wide quantitative thresholds (which it refers to as outcome measures) for 4 of the 6 SGMA-defined undesirable results and does not demonstrate why the other two undesirable results are not present in the Basin and thus do not need to be addressed.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing numeric outcome measures related to groundwater storage, subsidence, and groundwater quality that have been effective in maintaining sustainable groundwater conditions (Chapter 5). The outcome measure related to groundwater quality also considers salt water intrusion via chloride trend targets and analysis as described in Section 5.4.3. As noted in Chapters 2 and 3 of the Submitted Alternative, the District does not believe undesirable results are occurring regarding groundwater/surface water interaction based on best available information. However, the GWMP calls for further assessment of this interaction.

### **22. Emergency GSP Regulation § 354.28(b)**

*The description of minimum thresholds shall include the following:*

- (1) The information and criteria relied upon to establish and justify the minimum thresholds for each sustainability indicator. The justification for the minimum threshold shall be supported by information provided in the basin setting, and other data or models as appropriate, and qualified by uncertainty in the understanding of the basin setting.*
- (2) The relationship between the minimum thresholds for each sustainability indicator, including an explanation of how the Agency has determined that basin conditions at each minimum threshold will avoid undesirable results for each of the sustainability indicators.*
- (3) How minimum thresholds have been selected to avoid causing undesirable results in adjacent basins or affecting the ability of adjacent basins to achieve sustainability goals.*
- (4) How minimum thresholds may affect the interests of beneficial uses and users of groundwater or land uses and property interests.*
- (5) How state, federal, or local standards relate to the relevant sustainability indicator. If the minimum threshold differs from other regulatory standards, the Agency shall explain the nature of and basis for the difference.*

#### **SJWC Comment**

The Submitted Alternative does not describe how the minimum thresholds in each sub-basin have been selected to avoid causing undesirable results in the adjacent sub-basin. The Submitted Alternative also only describes how the minimum thresholds may affect the District, not how they may affect the interests of beneficial uses and users of groundwater or land uses and property interests.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing numeric outcome measures related to groundwater storage, subsidence, and groundwater quality that have been effective in maintaining sustainable groundwater conditions (Chapter 5).

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As noted in Section 1.4.2.1, the District's groundwater management objectives and authority per the District Act focus on the protection of local water supplies to ensure sufficient water is available for present and future beneficial uses. Based on this statutory directive, the District's groundwater management framework, including these outcome measures, is designed to protect the interests of beneficial users of groundwater.

### **23. Emergency GSP Regulation § 354.28(c)(1)**

*Minimum thresholds for each sustainability indicator shall be defined as follows:*

- (1) Chronic Lowering of Groundwater Levels. The minimum threshold for chronic lowering of groundwater levels shall be the groundwater elevation indicating a depletion of supply at a given location that may lead to undesirable results. Minimum thresholds for chronic lowering of groundwater levels shall be supported by the following:
  - (A) The rate of groundwater elevation decline based on historical trends, water year type, and projected water use in the basin.*
  - (B) Potential effects on other sustainability indicators.**

#### **SJWC Comment**

The Submitted Alternative does not define a minimum threshold for the chronic lowering of groundwater levels, nor demonstrate why a minimum threshold is unnecessary or inapplicable for this sustainability indicator.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing numeric outcome measures related to groundwater storage and subsidence in Chapter 5 of the GWMP. Because groundwater levels and storage are interrelated and existing outcome measures have proven effective in maintaining sustainable groundwater conditions, a separate outcome measure is not needed.

### **24. Emergency GSP Regulation § 354.28(c)(2)**

*Reduction of Groundwater Storage. The minimum threshold for reduction of groundwater storage shall be a total volume of groundwater that can be withdrawn from the basin without causing conditions that may lead to undesirable results. Minimum thresholds for reduction of groundwater storage shall be supported by the sustainable yield of the basin, calculated based on historical trends, water year type, and projected water use in the basin.*

#### **SJWC Comment**

Although the Submitted Alternative defines a minimum threshold for the reduction in groundwater storage, it is unclear on what information this threshold is based. Specifically, the Submitted Alternative does not explain the relationship between the minimum threshold for the reduction in groundwater storage and the Basin's sustainable yield, calculated based on historical trends, water year type, and projected water use.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing a numeric outcome measure related to groundwater storage based on the District's Water Shortage Contingency Plan, which has been effective in maintaining sustainable groundwater conditions. As described in Chapter 4, the District does not manage to a particular value for sustainable yield, but manages groundwater to avoid undesirable results and ensure reliability through annual operations and long-term water supply planning.



## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

### **25. Emergency GSP Regulation § 354.28(c)(3)**

*Seawater Intrusion. The minimum threshold for seawater intrusion shall be defined by a chloride concentration isocontour for each principal aquifer where seawater intrusion may lead to undesirable results. Minimum thresholds for seawater intrusion shall be supported by the following:*

- (A) Maps and cross-sections of the chloride concentration isocontour that defines the minimum threshold and measurable objective for each principal aquifer.*
- (B) A description of how the seawater intrusion minimum threshold considers the effects of current and projected sea levels."*

#### **SJWC Comment**

The minimum threshold for seawater intrusion set forth in the Submitted Alternative (1) is not defined by a chloride concentration isocontour, (2) does not include maps and cross-sections of the chloride concentration isocontour to support the minimum threshold for seawater intrusion, and (3) does not consider the effects of current and projected sea levels.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing a water quality numeric outcome measure related to chloride, which helps to assess potentially adverse trends related to salt water intrusion. Section 2.2.5 describes salt water intrusion in the northern Santa Clara Subbasin and presents chloride concentration contours for 1945, 1980, and 2015.

### **26. Emergency GSP Regulation § 354.28(c)(5)**

*Land Subsidence. The minimum threshold for land subsidence shall be the rate and extent of subsidence that substantially interferes with surface land uses and may lead to undesirable results. Minimum thresholds for land subsidence shall be supported by the following:*

- (A) Identification of land uses and property interests that have been affected or are likely to be affected by land subsidence in the basin, including an explanation of how the Agency has determined and considered those uses and interests, and the Agency's rationale for establishing minimum thresholds in light of those effects.*
- (B) Maps and graphs showing the extent and rate of land subsidence in the basin that defines the minimum threshold and measurable objectives.*

#### **SJWC Comment**

Although the Submitted Alternative contains maps and graphs depicting the historical extent and rate of land subsidence in the Basin, it does not include a visual depiction of the minimum threshold for land subsidence, as required.

#### **District Response**

As noted by SJWC, the Submitted Alternative contains maps and graphs related to the extent and rate of subsidence. The Submitted Alternative also thoroughly describes the causes and effects of land subsidence in Sections 1.4.1, 2.2.2, 2.2.5, as well as strategies and numeric outcome measures that have been effective in avoiding this undesirable result for over many decades (Section 5).

### **27. Emergency GSP Regulation § 354.28(c)(6)**

*Depletions of Interconnected Surface Water. The minimum threshold for depletions of interconnected surface water shall be the rate or volume of surface water depletions caused by groundwater use that has adverse impacts on beneficial uses of the surface water and may lead to undesirable results. The minimum threshold established for depletions of interconnected surface water shall be supported by the following:*

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

*(A) The location, quantity, and timing of depletions of interconnected surface water.  
(B) A description of the groundwater and surface water model used to quantify surface water depletion. If a numerical groundwater and surface water model is not used to quantify surface water depletion, the Plan shall identify and describe an equally effective method, tool, or analytical model to accomplish the requirements of this Paragraph."*

### **SJWC Comment**

The Submitted Alternative does define a minimum threshold for depletions of interconnected surface water, nor demonstrate why a minimum threshold is unnecessary or inapplicable for this sustainability indicator.

### **District Response**

The Submitted Alternative demonstrates functional equivalence regarding this requirement. Based on the best available information and science, the District does not have evidence that current groundwater pumping has depleted interconnected surface water (Sections 2.2.3 and 3.2.3). This will be further assessed prior to the next GWMP update, as noted in the Submitted Alternative (Section 8.3).

## **28. Emergency GSP Regulation § 354.28(e)**

*An Agency that has demonstrated that undesirable results related to one or more sustainability indicators are not present and are not likely to occur in a basin, as described in Section 354.26, shall not be required to establish minimum thresholds related to those sustainability indicators.*

### **SJWC Comment**

The Submitted Alternative fails to demonstrate that one or more sustainability indicators are not present and/or are not likely to occur in the Basin and therefore is required to establish minimum thresholds for each of the six SGMA-identified sustainability indicators.

### **District Response**

As noted in previous responses, the Submitted Alternative demonstrates functional equivalence by describing numeric outcome measures for all undesirable results that have been observed or are likely to occur in the subbasins.

## **29. Emergency GSP Regulation § 354.30(a)**

*Each Agency shall establish measurable objectives, including interim milestones in increments of five years, to achieve the sustainability goal for the basin within 20 years of Plan implementation and to continue to sustainably manage the groundwater basin over the planning and implementation horizon.*

### **SJWC Comment**

Although the Submitted Alternative contains "Groundwater Management Plan Recommendations," which will be evaluated during pursuant to the evaluation schedule set forth in SGMA, the Submitted Alternative does not discuss "measurable objectives" or describe how the basin's sustainability goal will be met within 20 years.

### **District Response**

Measurable objectives serve as targets to achieve the basin sustainability goal within 20 years of implementation. Since groundwater conditions are sustainable as stated in the Submitted Alternative, this concept is not applicable.

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**30. Emergency GSP Regulation § 354.30(b)**

*Measurable objectives shall be established for each sustainability indicator, based on quantitative values using the same metrics and monitoring sites as are used to define the minimum thresholds.*

**SJWC Comment**

The Submitted Alternative does not establish quantitative measurable objectives for each sustainability indicator.

**District Response**

As noted in the response related to Emergency GSP Regulation 354.30(a), groundwater conditions are sustainable as stated in the Submitted Alternative. Therefore, this concept is not applicable.

**31. Emergency GSP Regulation § 354.30(c)**

*Measurable objectives shall provide a reasonable margin of operational flexibility under adverse conditions which shall take into consideration components such as historical water budgets, seasonal and long-term trends, and periods of drought, and be commensurate with levels of uncertainty.*

**SJWC Comment**

The Submitted Alternative does not establish quantitative measurable objectives.

**District Response**

As noted in the response related to Emergency GSP Regulation 354.30(a), groundwater conditions are sustainable as stated in the Submitted Alternative. Therefore, this concept is not applicable.

**32. Emergency GSP Regulation § 354.30(e)**

*Each Plan shall describe a reasonable path to achieve the sustainability goal for the basin within 20 years of Plan implementation, including a description of interim milestones for each relevant sustainability indicator, using the same metric as the measurable objective, in increments of five years. The description shall explain how the Plan is likely to maintain sustainable groundwater management over the planning and implementation horizon.*

**SJWC Comment**

Although the Submitted Alternative contains "Groundwater Management Plan Recommendations," to maintain the basin's groundwater resources, there is no description of interim milestones or explanation of how the Submitted Alternative is likely to maintain sustainable groundwater management over the planning and implementation horizon.

**District Response**

As noted in previous responses, the concept of measurable objectives is inapplicable since groundwater conditions are sustainable. The comprehensive groundwater management framework described in the Submitted Alternative ensures continued sustainability. This includes well-established governance, a strong understanding of basin conditions and related changes, numerous conjunctive management and groundwater protection programs, targets that prompt effective action when needed,

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

coordination with other agencies and stakeholders, and regular, forward-looking planning and investments.

### **33. Emergency GSP Regulation § 354.34(c)(1)**

*Each monitoring network shall be designed to accomplish the following for each sustainability indicator:*

(1) *Chronic Lowering of Groundwater Levels. Demonstrate groundwater occurrence, flow directions, and hydraulic gradients between principal aquifers and surface water features by the following methods:*

*(A) A sufficient density of monitoring wells to collect representative measurements through depth-discrete perforated intervals to characterize the groundwater table or potentiometric surface for each principal aquifer.*

*(B) Static groundwater elevation measurements shall be collected at least two times per year, to represent seasonal low and seasonal high groundwater conditions.*

#### **SJWC Comment**

Although the monitoring network described in the Submitted Alternative monitors groundwater levels throughout the Basin, it does not appear to be designed to monitor all of the required elements, including groundwater flow directions and the hydraulic gradients and depletions of interconnected surface waters.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing the District's robust monitoring network. The comment acknowledges that the District's monitoring program is collecting the data necessary to monitor groundwater levels as described in Section 7.1. Groundwater levels are also used to assess flow directions, hydraulic gradients, and groundwater/surface water interaction. The District will be assessing surface water/groundwater interaction and conducts ongoing assessment of monitoring networks, as noted in Chapter 7.

### **34. Emergency GSP Regulation § 354.34(c)(2)**

*Reduction of Groundwater Storage. Provide an estimate of the change in annual groundwater in storage.*

#### **SJWC Comment**

The Submitted Alternative provides an estimate of the change in annual groundwater storage through modeling, not through information gained from the monitoring network.

#### **District Response**

The Submitted Alternative demonstrates functional equivalence, as noted by the SJWC comment. The groundwater flow models used by the District are calibrated with and compared to measured water level data obtained through the monitoring network.

### **35. Emergency GSP Regulation § 354.34(c)(6)**

*Depletions of Interconnected Surface Water. Monitor surface water and groundwater, where interconnected surface water conditions exist, to characterize the spatial and temporal exchanges between surface water and groundwater, and to calibrate and apply the tools and methods necessary to calculate depletions of surface water caused by groundwater extractions. The monitoring network shall be able to characterize the following:*

*(A) Flow conditions including surface water discharge, surface water head, and baseflow contribution.*

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

*(B) Identifying the approximate date and location where ephemeral or intermittent flowing streams and rivers cease to flow, if applicable.*

*(C) Temporal change in conditions due to variations in stream discharge and regional groundwater extraction.*

*(D) Other factors that may be necessary to identify adverse impacts on beneficial uses of the surface water.*

### **SJWC Comment**

Although the monitoring network described in the Submitted Alternative includes monitoring protocols for surface water generally, there is not discussion regarding its ability to monitor for potential depletions of interconnected surface water as required.

### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing current monitoring and best available information on groundwater/surface water interaction. The Submitted Alternative also recommends additional study of groundwater/surface water interaction. The District believes the Submitted Alternative demonstrates long-term sustainable groundwater management that supports and protects all beneficial uses.

### **36. Emergency GSP Regulation § 354.34(d)**

*The monitoring network shall be designed to ensure adequate coverage of sustainability indicators. If management areas are established, the quantity and density of monitoring sites in those areas shall be sufficient to evaluate conditions of the basin setting and sustainable management criteria specific to that area.*

### **SJWC Comment**

The monitoring network described in the Submitted Alternative covers 5 of the 6 SGMA-defined sustainability indicators; it does not provide data on changes to groundwater storage within the Basin.

### **District Response**

The change in groundwater storage cannot be directly measured. However, the Submitted Alternative demonstrates functional equivalence by describing the District's groundwater level monitoring and analytical tools it uses such as groundwater models. The District uses numerical groundwater models that are calibrated to measured groundwater level data to evaluate groundwater storage.

### **37. Emergency GSP Regulation § 354.34(g)**

*Each Plan shall describe the following information about the monitoring network:*

*(1) Scientific rationale for the monitoring site selection process.*

*(2) Consistency with data and reporting standards described in Section 352.4. If a site is not consistent with those standards, the Plan shall explain the necessity of the site to the monitoring network, and how any variation from the standards will not affect the usefulness of the results obtained.*

*(3) For each sustainability indicator, the quantitative values for the minimum threshold, measurable objective, and interim milestones that will be measured at each monitoring site or representative monitoring sites established pursuant to Section 354.36.*

### **SJWC Comment**

Although the Submitted Alternative provides a general description of the District's monitoring network, the description is silent as to numerous required details, including the scientific rationale for the monitoring site selection, consistency with data and

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

reporting standards, the quantitative values to be measured at each monitoring site, and the District's monitoring protocols, technical standards, and data collection methods.

### **District Response**

The Submitted Alternative demonstrates functional equivalence by describing a comprehensive monitoring program that supports continued sustainable groundwater management. Chapter 7 of the Submitted Alternative contains detailed information on monitoring protocols, data accuracy, instrument calibration, monitoring parameters, and reporting. Appendix E contains detailed information about specific monitoring sites, including well location and reference elevations, monitoring frequency, well type, and screen depth. The District's robust monitoring network provides ongoing information on basin conditions that informs related management actions.

For example, groundwater level data collected during the recent, extreme drought helped prompt effective coordination with SJWC and other water retailers to reduce groundwater pumping to minimize the risk of permanent subsidence or severe impacts on groundwater reserves. The effects of this were impressive, resulting in an upward trend in land surface between March 2015 and March 2016 in stark contrast to groundwater management in several basins in the Central Valley, where large amounts of subsidence were observed<sup>1</sup>.

### **38. Emergency GSP Regulation § 354.34(h)**

*The location and type of each monitoring site within the basin displayed on a map, and reported in tabular format, including information regarding the monitoring site type, frequency of measurement, and the purposes for which the monitoring site is being used.*

#### **SJWC Comment**

The Submitted Alternative does not identify the location and type of monitoring site in tabular format, as required.

#### **District Response**

The Submitted Alternative presents the location and type of monitoring site in tabular format in Chapter 7 and Appendix E.

### **39. Emergency GSP Regulation § 354.34(i)**

*The monitoring protocols developed by each Agency shall include a description of technical standards, data collection methods, and other procedures or protocols pursuant to Water Code Section 10727.2(f) for monitoring sites or other data collection facilities to ensure that the monitoring network utilizes comparable data and methodologies.*

#### **SJWC Comment**

The Submitted Alternative does not include a description of the District's monitoring protocols, technical standards, and data collection methods.

#### **District Response**

The Submitted Alternative presents detailed information of monitoring protocols, technical standards, and data collection methods in Chapter 7 and Appendix E.

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<sup>1</sup> Jet Propulsion Laboratory Progress Report: Subsidence in California, March 2015 – September 2016, available at <http://www.water.ca.gov/waterconditions/docs/2017/JPL%20subsidence%20report%20final%20for%20public%20dec%202016.pdf>

**Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

**40. Emergency GSP Regulation § 354.34(j)**

*An Agency that has demonstrated that undesirable results related to one or more sustainability indicators are not present and are not likely to occur in a basin, as described in Section 354.26, shall not be required to establish a monitoring network related to those sustainability indicators.*

**SJWC Comment**

The Submitted Alternative fails to demonstrate that one or more undesirable results are not present and/or are not likely to occur in the Basin and therefore is required to establish a monitoring network related to each of the 6 sustainability indicators.

**District Comment**

The Submitted Alternative describes monitoring networks related to groundwater levels, groundwater quality, land subsidence, and surface water (flow and quality), which provide data related to all sustainability indicators. The monitoring networks are described in detail in GWMP Chapter 7 and Appendix E.

**41. Emergency GSP Regulation § 354.36(a)**

*Each Agency may designate a subset of monitoring sites as representative of conditions in the basin or an area of the basin, as follows:*

- (a) Representative monitoring sites may be designated by the Agency as the point at which sustainability indicators are monitored, and for which quantitative values for minimum thresholds, measurable objectives, and interim milestones are defined.*

**SJWC Comment**

The Submitted Alternative does not describe or designate representative monitoring sites.

**District Response**

This requirement includes the word “may” indicating it is optional. Per previous responses, the District has demonstrated functional equivalence related to groundwater monitoring requirements.

**42. Emergency GSP Regulation § 354.36(b)**

*Groundwater elevations may be used as a proxy for monitoring other sustainability indicators if the Agency demonstrates the following:*

- (1) Significant correlation exists between groundwater elevations and the sustainability indicators for which groundwater elevation measurements serve as a proxy.*
- (2) Measurable objectives established for groundwater elevation shall include a reasonable margin of operational flexibility taking into consideration the basin setting to avoid undesirable results for the sustainability indicators for which groundwater elevation measurements serve as a proxy.*

**SJWC Comment**

The Submitted Alternative does not address using groundwater elevations as a proxy for monitoring other sustainability indicators.

**District Response**

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

This section is optional, and the District has demonstrated functional equivalence related to groundwater monitoring requirements.

### **43. Emergency GSP Regulation § 354.36(c)**

*The designation of a representative monitoring site shall be supported by adequate evidence demonstrating that the site reflects general conditions in the area.*

#### **SJWC Comment**

The Submitted Alternative does not describe or designate representative monitoring sites.

#### **District Response**

This section is only applicable if an agency chooses to designate representative monitoring sites, which the District is not.

### **44. Emergency GSP Regulation § 354.38(b)**

*Each Agency shall identify data gaps wherever the basin does not contain a sufficient number of monitoring sites, does not monitor sites at a sufficient frequency, or utilizes monitoring sites that are unreliable, including those that do not satisfy minimum standards of the monitoring network adopted by the Agency.*

#### **SJWC Comment**

The Submitted Alternative fails to identify data gaps in the District's monitoring program. As noted in our comments above, however, there are many deficiencies in the District's current monitoring program, not the least of which are its current inability to monitor for required groundwater level elements, changes in groundwater storage and depletions of interconnected surface water.

#### **District Response**

Unlike many basins that have little or no groundwater data, the District has conducted robust groundwater monitoring and analysis for many decades, and the Santa Clara and Llagas subbasins have been extensively studied. As described in the GWMP, the District monitors groundwater levels, quality, and subsidence at hundreds of sites, and analyzes related data to assess changing conditions so that appropriate action can be taken. The District also measures surface water and uses tools like calibrated groundwater flow models to assess groundwater conditions. Groundwater monitoring and modeling efforts are described in detail in Chapter 7 of the GWMP, including monitoring sites, data collection protocols, and reporting. As noted on GWMP page 7-1:

"For all monitoring, the District works to ensure the monitoring locations and data collected provide adequate information to facilitate a comprehensive understanding of groundwater conditions and support informed decision-making. This includes ongoing assessment of data gaps or redundancy, monitoring protocols, and data management, evaluation, and reporting. Specific wells or locations monitored may vary and evolve over time due to issues with well construction or access, but the overall programs provide strong and comprehensive data to assess conditions and trends within the Santa Clara and Llagas subbasins."



## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

The District's monitoring network is extensive, and there are no significant data gaps in the monitoring programs or hydrogeologic conceptual model. Ongoing assessment and adaptation of the program to meet changing needs ensures the District will continue to collect data that supports thorough assessment of groundwater conditions and related decision making.

### **45. Emergency GSP Regulation § 354.38(c)**

*If the monitoring network contains data gaps, the Plan shall include a description of the following:*

- (1) The location and reason for data gaps in the monitoring network.*
- (2) Local issues and circumstances that limit or prevent monitoring.*

#### **SJWC Comment**

The Submitted Alternative fails to identify obvious data gaps in the District's monitoring network.

#### **District Response**

As noted in the response related to Emergency GSP Regulation 354.38(b), the District's monitoring network is extensive, and there are no significant data gaps. Ongoing assessment and adaptation of the program to meet changing needs ensures the District will continue to collect data that supports thorough assessment of groundwater conditions and related decision making.

### **46. Emergency GSP Regulation § 354.38(d)**

*Each Agency shall describe steps that will be taken to fill data gaps before the next five-year assessment, including the location and purpose of newly added or installed monitoring sites.*

#### **SJWC Comment**

The Submitted Alternative fails to identify obvious data gaps in the District's monitoring network.

#### **District Response**

Please see the District response to SJWC Comment on § 354.38(b).

### **47. Emergency GSP Regulation § 354.44(b) (1) and (2)**

*Each Plan shall include a description of the projects and management actions that include the following:*

- (1) A list of projects and management actions proposed in the Plan with a description of the measurable objective that is expected to benefit from the project or management action. The list shall include projects and management actions that may be utilized to meet interim milestones, the exceedance of minimum thresholds, or where undesirable results have occurred or are imminent. The Plan shall include the following:*
  - (A) A description of the circumstances under which projects or management actions shall be implemented, the criteria that would trigger implementation and termination of projects or management actions, and the process by which the Agency shall determine that conditions requiring the implementation of particular projects or management actions have occurred.*
  - (B) The process by which the Agency shall provide notice to the public and other agencies that the implementation of projects or management actions is being considered or has been implemented, including a description of the actions to be taken.*
- (2) If overdraft conditions are identified through the analysis required by Section 354.18, the Plan shall describe projects or management actions, including a quantification of demand reduction or other methods, for the mitigation of overdraft.*

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

### **SJWC Comment**

Although the Submitted Alternative identifies programs and/or management actions to maintain a reliable water supply in the Basin, the programs and/or management actions are described very generally. The Submitted Alternative does not include the following required descriptions: the circumstances under which projects or management actions shall be implemented, the criteria that would trigger implementation and termination of projects or management actions, the process by which the District shall determine that conditions requiring the implementation of particular projects or management actions have occurred, and how the District will provide notice to the public and other agencies and stakeholders that such programs and/or management actions will be taken.

### **District Response**

The Submitted Alternative describes ongoing, comprehensive groundwater management programs that have resulted in sustainable groundwater conditions for over 40 years in Chapter 6. It also describes publicly-noticed Board meetings, stakeholder coordination, and published, frequent reports on District projects and activities, including the annual Protection and Augmentation of Water Supplies Report and Groundwater Report. As the programs and projects presented in the Submitted Alternative have already been implemented and are ongoing, the requirements for trigger criteria for implementation are not applicable.

SGMA grants new authorities related to the potential regulation of groundwater extraction or collection of different fee types as noted in GWMP Section 1.4.2.2. Page 1-11 of the GWMP also notes conditions that might trigger new SGMA authorities: "While groundwater conditions are sustainable due a strong groundwater management framework and coordination with water retailers, risks to ongoing sustainability include prolonged drought, increased demands, reduced imported water availability, aging infrastructure, and climate change. Continued coordination and partnerships with major pumpers and other local agencies are the preferred way to deal with these and other challenges to groundwater sustainability. However, the regulation of pumping may be needed if these risks threaten to, or produce undesirable results like chronic overdraft, land subsidence, or groundwater quality impacts."

When the GWMP was adopted, the District Board referred the evaluation of new SGMA authorities to its Water Conservation and Demand Management Committee (Committee) to provide a publicly-noticed, open, and transparent forum for related stakeholder engagement. This Committee has met monthly since December 2016, with participation by SJWC, other water retailers, representatives from adjacent subbasins, and members of the public. The District plans to complete the evaluation of new SGMA authorities in calendar year 2017, with regular Committee updates and opportunities for stakeholder input. This evaluation will culminate in a draft implementation framework for Board consideration should these tools ever be needed. We expect and encourage SJWC, other water retailers, and stakeholders to engage in related discussions and development of the draft framework.

#### **48. Emergency GSP Regulation § 354.44(b) (3) to (8)**

*A summary of the permitting and regulatory process required for each project and management action.*

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

## **Santa Clara Valley Water District Response to San Jose Water Company Comments on Groundwater Management Plan Appendix B (Functional Equivalence Table)**

- (4) The status of each project and management action, including a time-table for expected initiation and completion, and the accrual of expected benefits.*
- (5) An explanation of the benefits that are expected to be realized from the project or management action, and how those benefits will be evaluated.*
- (6) An explanation of how the project or management action will be accomplished. If the projects or management actions rely on water from outside the jurisdiction of the Agency, an explanation of the source and reliability of that water shall be included.*
- (7) A description of the legal authority required for each project and management action, and the basis for that authority within the Agency.*
- (8) A description of the estimated cost for each project and management action and a description of how the Agency plans to meet those costs.*

### **SJWC Comment**

The Submitted Alternative does not include the following required descriptions: the status of each program and/or management action (including a time-table for expected initiation and completion, and the accrual of expected benefits), and description of the estimated cost for each project and management action and a description of how the District plans to meet those costs.

### **District Response**

As the programs and projects described in Chapter 6 of the Submitted Alternative have already been implemented and are ongoing, the requirements for an implementation schedule are not applicable.

The Submitted Alternative also describes the District's annual Protection and Augmentation of Water Supplies (PAWS) Report, which is prepared as part of the annual rate setting process. The PAWS Report includes detailed information on District project costs and funding sources. Each year, all owners of groundwater producing facilities are notified of the proposed rates, the availability of the PAWS Report, and the rate setting process. This annual process includes discussion with Board Advisory Committees and water retailers in addition to several public hearings (Section 1.4.2).



**San Jose  
Water  
Company**

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

February 16, 2017

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

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

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

Dear Mr. Joseph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

### III. Conclusion

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew R. Gere".

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

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



San Jose  
Water  
Company

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

November 18, 2016

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

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

Dear Ms. Keegan:

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

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

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

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

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

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

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

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2016

150 Years of Service to the Community

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

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

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

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

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

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

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

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

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

<sup>9</sup> Water Code § 10723.2.

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

<sup>11</sup> Wat. Code § 10720.1(b).

<sup>12</sup> Wat. Code § 10721(v).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully,

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

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

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<sup>17</sup> Wat. Code § 10750.1(a)



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**1. Water Rights Committee.**

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

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

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

<sup>7</sup> Water Code § 10720.5.

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

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



(a) Curtailment/Appportionment. In the event that either the District determines that curtailment of groundwater production or an 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 urgency ordinance to reasonably condition the new wells but only for so long as the actual emergency condition exists. The District will exercise good faith and reasonable efforts to coordinate with the WRC to develop a consensus on reasonable conditions to protect public health and safety and to avoid undesirable results. The WRC may challenge the District's plan to limit or condition well permits and well location pursuant to CCP §1085.

## **2. Water Rights Committee Representation.**

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

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

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

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

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

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

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

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

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

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

**4. Binding on All Plans.**

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

**5. Effective Date.**

The MOA is effective upon execution of the Parties.

## EXHIBIT A

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

Retailer	# of Votes	Range in AF		# of Votes	
San Jose Water Company	10	55,800	62,000	10	
Santa Clara	3	49,600	55,800	9	
Great Oaks <sup>2</sup>	3	43,400	49,600	8	$\frac{155,000}{25} = \text{Total GW}/\text{\#votes}$ Total GW = 155,000 votes = 25
Gilroy	2	37,200	43,400	7	
Morgan Hill	2	31,000	37,200	6	
Cal Water	1	24,800	31,000	5	
Sunnyvale	1	18,600	24,000	4	
San Jose	1	12,400	18,600	3	
Mountain View	1	6,200	12,400	2	
		0	6,200	1	
<i>Total</i>					

### GROUNDWATER USE IN AF

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

<sup>1</sup> SCVWD 2010 UWMP

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

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

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



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



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

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

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



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

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

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



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

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



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

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

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



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

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

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



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

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



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

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

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



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

March 30, 2017

Mr. Trevor Joseph  
Sustainable Groundwater Management Chief  
California Department of Water Resources  
***Submitted via DWR's SGMA Alternative Portal***

Subject: Response to Stanford Comments on the Santa Clara Valley Water District's Submitted Alternative to a Groundwater Sustainability Plan

Dear Mr. Joseph:

This letter provides the Santa Clara Valley Water District (District) response to the February 17, 2017 Stanford University comment letter on the District's 2016 Groundwater Management Plan (GWMP), which was submitted to DWR as an Alternative to a Groundwater Sustainability Plan (GSP).

As background, the District was formed as a special act district in 1929 to manage groundwater. At that time and through the late 1960s, excessive groundwater pumping caused undesirable results including chronic overdraft, permanent subsidence, and salt water intrusion. District investments in managed recharge, imported water, and infrastructure effectively halted these major problems. Ongoing District programs and investments in diverse water supplies and conjunctive management have maintained sustainable groundwater conditions over many decades despite a growing population.

To ensure a reliable water supply, the District closely coordinates with water retailers, including Stanford. However, the District must consider the interests of all beneficial users in fulfilling our mission to protect and augment groundwater. Due to the diverse interests of basin stakeholders, we recognize that not all decisions or investments will be universally supported. We also recognize that, in some cases, there is significant apprehension over how basins will be managed under SGMA. Groundwater in Santa Clara County has been carefully managed for nearly 90 years, and the District will continue to do so for the benefit of, and in coordination with, local beneficial users.

Responding to Stanford's comments, we respectfully disagree that the District's GWMP is deficient. The District believes that the GWMP meets the intent of SGMA, which is to achieve sustainable groundwater conditions. Specifically, the GWMP provides clear evidence of the District's understanding of basin setting and conditions, monitoring to assess related changes, as well as comprehensive programs and numeric thresholds to avoid undesirable results and ensure continued sustainability. Further detailed responses are provided as follows:



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

Alternatives are not required to conform with GSP Regulations, and the District believes that functional equivalence with Section 354.10 of the GSP Regulations (referenced by Stanford) has been demonstrated. Section 354.10 requires a description of the beneficial uses and users of groundwater in the basin, but does not require a list of individual water right holders. The GWMP recognizes water retailers as the primary groundwater users in Section 1.5 (Groundwater Management Partners and Stakeholders) and Chapter 4 (Water Supplies, Demand, and Budget). The GWMP contains detailed information on pumping by municipal and industrial (M&I), domestic, and agricultural users in Chapter 4 and Appendix C.

The groundwater management framework described in the GWMP is essentially unchanged from ongoing District goals, strategies, programs, and outcome measures, which have ensured sustainable groundwater supplies and protected beneficial uses and users. The GWMP does not place, or propose, any restrictions on groundwater extraction or use, and as such, does not impact the underlying water rights.

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

The comments state that the GWMP does not address how the District will implement SGMA authorities in a manner that respects water rights. Furthermore, Stanford maintains that to the extent that a local agency intends to exercise SGMA authorities, Section 354.44 of the GSP Regulations require a description of the authorities and the management actions to be implemented pursuant thereto.

The GWMP does not propose to implement new SGMA authorities and clearly states that the District will work collaboratively with stakeholders to evaluate the authorities and develop related triggers and implementation mechanisms. As noted in the GWMP, the District recognizes there are complex issues and limitations associated with these authorities related to water rights and land use authority that must be thoughtfully analyzed.

The comprehensive groundwater management framework described in the GWMP is effective and ensures groundwater conditions remain sustainable. Despite several years of drought, local groundwater levels and storage have generally rebounded due to the GWMP framework, which includes strong coordination with water retailers.

At the November 22, 2016 public hearing for the GWMP, the District Board of Directors affirmed its commitment to continue working closely with water retailers, and referred related stakeholder engagement to the Board's Water Conservation and Demand Management Committee. This Board committee has met monthly since December 2016, and we appreciate continued input and participation by Stanford and other stakeholders in these meetings.

Per SGMA and the GSP Regulations, the intent of the DWR review of a GSP or Alternative is to ensure certain administrative requirements are met and to determine if the plan complies with SGMA and substantially complies with relevant GSP Regulations. With regard to the latter, the goal is to assess whether the plan is likely to achieve the sustainability goal for the basin. The

Mr. Trevor Joseph

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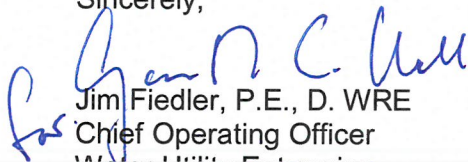
March 30, 2017

District believes that the GWMP is an acceptable Alternative under SGMA, and that it meets the intent of SGMA, which is to achieve sustainable groundwater conditions. Specifically, the GWMP provides clear evidence of the District's understanding of basin setting and conditions, monitoring to assess related changes, as well as comprehensive programs and numeric thresholds to avoid undesirable results and ensure continued sustainability.

Lastly, the District wishes to clarify that the only subject of active litigation with regard to District groundwater management relates to groundwater production charges.

The District looks forward to continued collaboration with Stanford and other stakeholders.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Fiedler", is written over the typed name and title.

Jim Fiedler, P.E., D. WRE  
Chief Operating Officer  
Water Utility Enterprise

cc: Tom Zigterman, Stanford University  
District Board of Directors  
N. Camacho, G. Hall, V. De La Piedra, E. Soderlund, B. Kassab, G. Cook



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

Trevor Joseph  
SGM Section Chief  
Department of Water Resources  
901 P Street, Room 213  
P.O. Box 942836  
Sacramento, CA 94236

February 17, 2017

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

Dear Mr. Joseph,

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

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

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



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

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

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

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

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

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

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

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

...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

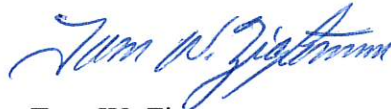
(23 Cal. Code Regs. § 354.44 [emphasis added].) Thus, an alternative must not only describe the authority supporting a management action, but the management action itself. This important substantive and procedural information cannot be left for a later date to be developed outside of DWR's review process.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

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

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

Thank you for your attention to this matter.

Sincerely,



Tom W. Zigterman  
Director – Water Resources & Civil Infrastructure

c: Robert E. Donlan – Ellison, Schneider, Harris & Donlan  
John L. Varela – SCVWD Board of Directors (jvarela@valleywater.org)  
Barbara Keegan – SCVWD Board of Directors (bkeegan@valleywater.org)  
Richard P. Santos – SCVWD Board of Directors (rsantos@valleywater.org)  
Linda J. LeZotte – SCVWD Board of Directors (llezotte@valleywater.org)  
Nai Hsueh – SCVWD Board of Directors (nhsueh@valleywater.org)  
Tony Estremera – SCVWD Board of Directors (testremera@valleywater.org)  
Gary Kremen – SCVWD Board of Directors (gkremen@valleywater.org)  
Norma Camacho – SCVWD Interim CEO (ncamacho@valleywater.org)

**From:** Melissa Stone **On Behalf Of** Board of Directors  
**Sent:** Friday, April 07, 2017 12:23 PM  
**To:** [twz@stanford.edu](mailto:twz@stanford.edu)  
**Cc:** Board of Directors <[board@valleywater.org](mailto:board@valleywater.org)>; [Trevor.Joseph@water.ca.gov](mailto:Trevor.Joseph@water.ca.gov)  
**Subject:** RE: Santa Clara Valley Water District's SGMA Alternative Plan Submission

**Sent on behalf of Chair Varela**


Dear Mr. Zigterman,

Thank you for your letter dated March 29, 2017, regarding the Santa Clara Valley Water District's (District) 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP), which was submitted to the California Department of Water Resources as an Alternative to a Groundwater Sustainability Plan.

As you know, the GWMP adopted by the Board of Directors (Board) on November 22, 2016 does not propose any new projects or programs related to groundwater management. Although the GWMP acknowledges new SGMA authorities, it does not currently propose any implementation, as they are not now needed to sustainably manage Santa Clara County's groundwater basins. Also, there are related, complex issues associated with water rights and land use that need to be evaluated in coordination with stakeholders such as Stanford. This is why the District is working with Stanford and other stakeholders to further analyze the new SGMA authorities through our Board's Water Conservation and Demand Management Committee.

We look forward to working with Stanford and other interested stakeholders on the continued evaluation of the SGMA authorities and in continuing to implement sustainable groundwater management programs that will benefit all of Santa Clara County. Please feel free to contact Garth Hall, Deputy Operating Officer, at (408) 630-2750 or Vanessa De La Piedra, Groundwater Monitoring & Analysis Manager, at (408) 630-2788 if you have any questions or further concerns.

Sincerely,



John L. Varela  
Chair/Board of Directors  
Santa Clara Valley Water District

C-17-0151

**Via Regular Mail and Email (jvarela@valleywater.org)**

Mr. John L. Varela  
Board Chair  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3686

March 29, 2017

**Subject:** Santa Clara Valley Water District's SGMA Alternative Submission

Dear Mr. Varela,

On Friday, March 24, 2017, I attended a meeting of the Santa Clara Valley Water District's ("SCVWD") Water Conservation and Demand Management Committee ("Committee") on behalf of Stanford University ("University"). The University is particularly interested in SCVWD's implementation of the Sustainable Groundwater Management Act ("SGMA") in the Santa Clara Subbasin, and an update on SGMA implementation was provided at the Committee meeting. I appreciated the information shared at the meeting and staff's statements that the Santa Clara Subbasin appears to be in good condition, and their acknowledgment that SGMA implementation within SCVWD's boundaries involves a number of complex issues that require a significant amount of work yet to be undertaken. I stated at the meeting that the University is interested in sustainable management of the groundwater basin, and in working with SCVWD on collaborative development of a comprehensive groundwater management plan.

The University's February 17, 2017 comment letter on SCVWD's SGMA alternative submission addressed a number of the issues and related deficiencies in SCVWD's alternative plan submission that need to be addressed. Given this context, and based on information provided by SCVWD and the discussion at the Committee meeting, the University respectfully requests that SCVWD withdraw its SGMA alternative plan submission and proceed forward with collaborative development of a groundwater sustainability plan through a process that provides for adequate input of genuinely interested stakeholders such as the University, and time to ensure the development of a SGMA compliant groundwater management plan and document.

Thank you for your attention to this matter.

Sincerely,



Tom W. Zigterman, P.E., D.WRE  
Director – Water Resources & Civil Infrastructure



Mr. John L. Varela  
March 29, 2017

Page 2

Cc:

Robert E. Donlan – Ellison, Schneider, Harris & Donlan  
Trevor Joseph – SGM Section Chief, DWR (SGMA Portal and Trevor.Joseph@water.ca.gov)  
Barbara Keegan – SCVWD Board of Directors (bkeegan@valleywater.org)  
Richard P. Santos – SCVWD Board of Directors (rsantos@valleywater.org)  
Linda J. LeZotte – SCVWD Board of Directors (llezotte@valleywater.org)  
Nai Hsueh – SCVWD Board of Directors (nhsueh@valleywater.org)  
Tony Estremera – SCVWD Board of Directors (testremera@valleywater.org)  
Gary Kremen – SCVWD Board of Directors (gkremen@valleywater.org)  
Norma Camacho – SCVWD Interim CEO (ncamacho@valleywater.org)



March 30, 2017

Mr. Trevor Joseph  
Sustainable Groundwater Management Chief  
California Department of Water Resources  
***Submitted via DWR's SGMA Alternative Portal***

Subject: Response to National Marine Fisheries Service Comments on the Santa Clara Valley Water District's 2016 Groundwater Management Plan

This letter provides the Santa Clara Valley Water District (District) response to the February 17, 2017 National Marine Fisheries Service (NMFS) comment letter on the District's 2016 Groundwater Management Plan (GWMP), which was submitted to the Department of Water Resources as an Alternative to a Groundwater Sustainability Plan. Like NMFS, the District supports an integrated approach to groundwater and surface water management.

Through the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE), the District, NMFS, California Department Fish and Wildlife (CDFW) and other parties are working to support fish and aquatic habitat restoration. The GWMP notes that "although the District is not yet required to implement FAHCE measures, it has moved forward with restoration measures for the protection of fish and wildlife resources consistent with Board policies. In conjunction with flood protection efforts, the District has removed 22 fish passage barriers, laddered and screened water diversions, and collected data to provide a foundation to support fish and aquatic habitat restoration to fulfill elements of the FAHCE Settlement Agreement." Our Board of Directors has expressed a strong commitment to protecting fisheries and aquatic habitat through FAHCE, and we look forward to continued collaboration with NMFS and CDFW in implementing the requirements of the FAHCE Settlement Agreement.

The District's support of an integrated water management approach is also demonstrated through our One Water Plan. The vision of this plan is to manage Santa Clara County water resources holistically and sustainably to benefit people and the environment in a way that is informed by community values. Objectives of this plan include the following:

- Sustainable Groundwater (Objective B): Groundwater subbasins provide critical storage to meet demands during water shortages. The coordinated use of multiple supply sources maintains and augments groundwater. Conservation and the use of surface water supplies and recycled water provides in-lieu recharge by offsetting demands on groundwater. Sustainable groundwater management supports urban, rural, agricultural, and environmental water supply needs.
- Supportive Stream Flows (Objective F): A regionally-, climate- and location-appropriate variety of surface flow patterns – in magnitude, timing, and duration – to support native

Mr. Trevor Joseph

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March 30, 2017

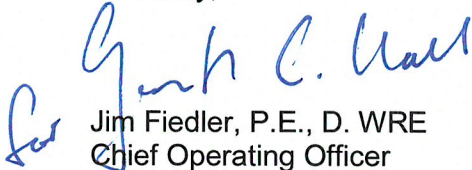
habitat complexity and diversity, transport sediment and maintain natural life-cycle cues for fish and other aquatic and riparian organisms.

NMFS recommends that the GWMP include specific goals, strategies, and outcome measures related to the protection and restoration of fisheries resources. The focus of SGMA with regard to surface water/groundwater interaction is to avoid undesirable results related to the depletion of interconnected surface water. As noted in the GWMP, District reservoir and recharge operations extend the duration of flow in intermittent creeks. The District is not aware of any areas where groundwater pumping has a significant or unreasonable effect on interconnected surface water. The GWMP notes the District's strong commitment to protecting aquatic habitat and acknowledges that additional work is necessary to better understand groundwater/surface water interactions in the subbasins. The District plans to conduct additional analysis prior to updating the GWMP by 2022.

NMFS also recommends that the District develop a numeric groundwater/surface water model to quantify and evaluate projected water budget conditions and potential impacts to beneficial uses (i.e., aquatic habitat) and users of groundwater. The District believes that it has relied upon best available information and science in developing its Alternative Plan, but will consider the need for and benefits of such a model as additional assessment of groundwater/surface water interaction proceeds.

The District thanks NMFS for its comments and looks forward to continued collaboration to protect fisheries and aquatic habitat.

Sincerely,



Jim Fiedler, P.E., D. WRE  
Chief Operating Officer  
Water Utility Enterprise

cc: Alecia Van Atta, National Marine Fisheries Service  
N. Camacho, G. Hall, E. Soderlund, V. De La Piedra, B. Kassab, G. Cook





**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

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

February 17, 2017

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

Dear Mr. Croyle:

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

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

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

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





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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

Sincerely,



for

Alecia Van Atta  
Assistant Regional Administrator  
California Coastal Office

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

#### **Literature Cited**

National Marine Fisheries Service. 2013. South-central California Coast Steelhead Recovery Plan. National Marine Fisheries Service, West Coast Region, Long Beach, California.

National Marine Fisheries Service. 2016. Coastal Multispecies Recovery Plan. National Marine Fisheries Service, West Coast Region, Santa Rosa, California.

May 9, 2017

Trevor Joseph  
Sustainable Groundwater Management Section Chief  
P.O. Box 942836  
Sacramento, CA 94236

**Subject: Response to Great Oaks Water Company Comments on the Santa Clara Valley Water District's Submitted Alternative to a Groundwater Sustainability Plan**

This letter provides the Santa Clara Valley Water District's (District's) response to Great Oaks Water Company (Great Oaks) March 30, 2017 comment letter regarding the District's 2016 Groundwater Management Plan (GWMP), which was submitted to the Department of Water Resources (DWR) as an Alternative to a Groundwater Sustainability Plan (Submitted Alternative). Great Oaks concludes that the Submitted Alternative has various deficiencies and should be rejected by DWR. As explained below, the District believes the Submitted Alternative demonstrates long-term sustainability in the Santa Clara and Llagas Subbasins and alignment with Sustainable Groundwater Management Act (SGMA) objectives.

Great Oaks states that due to the accelerated schedule for preparing the GWMP, "only minimal input from interested parties was permitted." The state's emergency regulations for Groundwater Sustainability Plans and Alternatives were adopted in May 2016 leaving agencies developing Alternatives little time to prepare, adopt, and submit by the January 1, 2017 statutory deadline. In recognition of the short timeframe, the District made clear our intent to prepare and submit an updated GWMP as an Alternative, with a focus on updating technical information and acknowledging new SGMA authorities. This strategy was discussed at multiple meetings with the water retailers and in publicly-noticed Board meetings, both dating back to March/April of 2016. In June 2016, the District encouraged the water retailers Groundwater Subcommittee to review the District's 2012 GWMP, noting "We are not planning to update basin management goals, strategies, or numeric targets as we believe the current ones have been effective." The District did not receive related comments. These goals, strategies, targets, and programs are the backbone of the District's groundwater management strategy and are essentially unchanged in the GWMP.

Several water retailers, including Great Oaks, expressed concern with new SGMA authorities to regulate pumping, and the District's Interim Chief Executive Officer and other staff met with these retailers on several occasions. Following these meetings, Great Oaks and another investor-owned water retailer proposed a shared governance model as reflected in comments received during the District's public hearing on the GWMP. These comments, as well as input received from several other stakeholders, were considered by the District Board of Directors prior to adopting the GWMP.

The Great Oaks letter states that the Submitted Alternative does not meet notice and communication requirements. However, the District's Submitted Alternative describes ongoing interaction with water retailers, publicly-noticed Board meetings, and opportunities for

stakeholder engagement (Section 1.5), as well as outreach related to the GWMP (Section 1.6). The District has committed to engaging interested stakeholders in the evaluation of SGMA authorities, recognizing potentially significant effects if these are ever implemented. This commitment was made verbally in late 2014 (as noted by Great Oaks), was reiterated by several District Board members at the November 22, 2016 GWMP public hearing, and has not changed. Indeed, this is clearly stated several times in GWMP Section 1.4.2.2.

Great Oaks expresses concern that actions of the District under SGMA may not adequately respect groundwater rights. The groundwater management framework described in the GWMP is essentially unchanged from ongoing District goals, strategies, programs, and outcome measures. This framework protects beneficial uses and has resulted in long-term groundwater sustainability. The GWMP does not place, or propose, any restrictions on groundwater extraction or use, and as such, does not impact the underlying water rights of Great Oaks or any other well owner.

When the GWMP was adopted, the District Board referred the evaluation of new SGMA authorities to its Water Conservation and Demand Management Committee (Committee) to provide a publicly-noticed, open, and transparent forum for related stakeholder engagement. This Committee has met monthly since December 2016, with participation by Great Oaks, other water retailers, representatives from adjacent subbasins, and members of the public. The Committee agenda memos attached as Exhibits A through C of the Great Oaks comment letter reinforce the collaborative and open nature of District consideration of new SGMA authorities. Although Great Oaks claims the District rejected input from them and other water retailers, the Stakeholder Engagement Plan included in the January 25, 2017 Committee agenda memo (Great Oaks letter Exhibit A) specifically notes consideration of previous concepts submitted by San Jose Water Company and Great Oaks.

Per the updated stakeholder engagement plan discussed at the April 27, 2017 Committee meeting, the District plans to complete the evaluation of new SGMA authorities in calendar year 2017 (Attachment 1). As shown in the attachment, the District plans to provide regular updates and opportunity for stakeholder input. This includes discussion of potential basin triggers, use of similar tools in other basins, and the staff analysis of SGMA authorities. This evaluation will culminate in a draft implementation framework for Board consideration should these tools ever be needed. We expect and encourage Great Oaks, other water retailers, and stakeholders to engage in related discussions and development of the draft framework. The District believes this schedule allows for careful and thorough consideration of highly complex issues, while providing ample time and opportunity for stakeholder input.

Great Oaks claims that the Submitted Alternative is deficient because it does not describe the legal authority required for each project and management action, the basis for that authority, or "how, when, and if SCVWD would take action under SGMA legal authorities." All groundwater management projects described in Chapter 6 of the GWMP are ongoing projects implemented under the authority of the District Act. SGMA grants new authorities related to the potential regulation of groundwater extraction or collection of different fee types as noted in GWMP Section 1.4.2.2. Page 1-11 of the GWMP also notes conditions that might trigger new SGMA authorities: "While groundwater conditions are sustainable due a strong groundwater management framework and coordination with water retailers, risks to ongoing sustainability include prolonged drought, increased demands, reduced imported water availability, aging infrastructure, and climate change. Continued coordination and partnerships with major pumpers and other local agencies are the preferred way to deal with these and other challenges



Mr. Trevor Joseph

Page 3

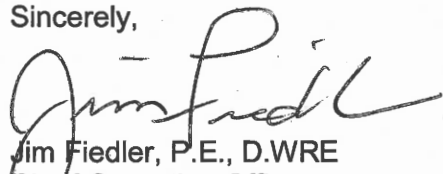
May 9, 2017

to groundwater sustainability. However, the regulation of pumping may be needed if these risks threaten to, or produce undesirable results like chronic overdraft, land subsidence, or groundwater quality impacts."

The District's respectfully disagrees with the Great Oaks claim that the Submitted Alternative should be rejected or approval withheld due to deficiencies. The District believes the comprehensive groundwater management framework described in the Submitted Alternative clearly demonstrates long-term sustainable groundwater management, which is the purpose and goal of SGMA.

The District thanks Great Oaks for its comments and looks forward to continued collaboration to ensure groundwater sustainability well into the future.

Sincerely,



Jim Fiedler, P.E., D.WRE  
Chief Operating Officer  
Water Utility Enterprise

cc: Timothy S. Guster, Great Oaks Water Company  
N. Camacho, G. Hall, D. Taylor, E. Soderlund, V. De La Piedra, B. Kassab, G. Cook

Attachment 1: Stakeholder Engagement Plan for the Evaluation of New SGMA Authorities  
Attachment 2: Great Oaks March 30, 2017 Comment Letter

## **Evaluation of New Sustainable Groundwater Management Act (SGMA) Authorities Stakeholder Engagement Plan (Updated April 2017)**

The District is evaluating new SGMA authorities to determine how they may support long-term groundwater sustainability and to develop a related framework for implementation should they ever be needed. This stakeholder engagement plan describes how the District will involve water retailers and other interested stakeholders in the evaluation of new SGMA authorities.

### **Background**

SGMA provides Groundwater Sustainability Agencies (GSAs), like the District, with various authorities to ensure groundwater sustainability. In November 2016, the District Board of Directors (Board) adopted the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP) following a public hearing. The GWMP acknowledges the need to involve stakeholders in the evaluation of new SGMA authorities in GWMP Section 1.4.2:

“Potential new authorities under SGMA include the ability to regulate groundwater pumping and assess different types of groundwater charges. The District plans to evaluate these new authorities in cooperation with water retailers and other interested stakeholders and consider what conditions might necessitate their implementation to sustainably manage groundwater into the future.”

Several water retailers submitted comment letters related to the GWMP public hearing expressing concern with the potential regulation of pumping and interference with water rights and retailer operations. Letters from both San Jose Water Company and Great Oaks Water Company included a proposed Memorandum of Agreement (MOA) between the District and public water retailers based on a shared governance approach. This draft MOA proposed the development of a Water Rights Committee composed of public water retailers and an at-large representative for other pumpers. The draft MOA proposed that this Water Rights Committee develop and implement plans to curtail or allocate pumping, if needed.

Pursuant to groundwater management authority granted by the Santa Clara Valley Water District (District Act), the District has sustainably managed groundwater for the benefit of the community for many decades. While the District maintains sole authority with regard to groundwater management, continued coordination and collaboration with water retailers and stakeholders will help ensure effective management of groundwater resources. New SGMA authorities may have significant implications for water retailers and are of interest to other basin stakeholders. In addition to considering potential groundwater management benefits from these tools, stakeholder input will be carefully considered.

### **Forum for Stakeholder Engagement**

Prior to adopting the GWMP, the Board affirmed a continued commitment to working with stakeholders, and referred consideration of stakeholder engagement on SGMA authorities to the Board's Water Conservation and Demand Management Committee (Committee). Committee meetings are publicly-noticed and open to any interested person.

This forum allows for interested stakeholders to provide input directly to Board Committee members. Promoting dialog and exchange through this Committee ensures an open and transparent process as the District evaluates new SGMA authorities.

## Stakeholder Notification

The District maintains a list of stakeholders interested in the development and implementation of the GWMP. The list of interested stakeholders includes water retailers, local land use agencies, regulatory agencies, adjacent water agencies, businesses, non-government organizations, agricultural users, and private individuals. Any person or entity can request to be included in this list, which is updated as needed.

The District notifies interested stakeholders of SGMA information for Santa Clara County, such as related District Board and Board committee items and relevant news such as the DWR time extension for public comments on Alternatives. District staff will also provide related updates to water retailers through meetings of the Water Retailers Committee and/or Groundwater Subcommittee.

## Evaluation of New SGMA Authorities

Potential authorities to regulate pumping or collect different types of fees are complex and have limitations related to water rights, land use authorities, and regulatory requirements. Questions to be considered during the analysis of these authorities include:

- What basin conditions might trigger the use of SGMA authorities?
- Which specific SGMA tools are best suited to help ensure sustainability or further the District's ability to manage groundwater?
- How might these authorities be implemented – who would be affected, what actions would be required, etc.?
- What process or steps would be followed prior to implementing these tools?

Evaluation of new SGMA authorities will rely on a phased approach, with Committee and stakeholder input at various milestones as shown in Table 1 and described further below.

**Table 1 – Schedule and Related Committee Items**

Task	Description	Planned Committee Date (note, sequence organized by topic)
Evaluation of Groundwater Extraction Regulation	Overview of California Groundwater Rights	March 2017 (completed)
	Potential Basin Triggers Use of Similar Tools in Other Basins	June 2017
	Staff Analysis of Related Tools	August 2017
Evaluation of SGMA Fees	Discussion of Fixed and/or Tiered Fees	June 2017
	Staff Analysis of SGMA Fees	August 2017
Draft Implementation Framework	Discussion of Framework Concepts	October 2017
	Proposed Framework Discussion of Next Steps	December 2017

Regular updates on the evaluation will allow for timely review and input by the Committee and interested stakeholders as the evaluation progresses.

## **Evaluation of Groundwater Extraction Regulation**

SGMA provides GSAs with various authorities related to the regulation of groundwater extraction, including the ability to:

- Impose spacing requirements on new well construction to minimize interference;
- Impose reasonable operating regulations on existing wells to minimize interference, including requiring extractors to operate on a rotation basis;
- Regulate, limit, or suspend groundwater extraction, construction of new wells, enlargement of existing wells, or reactivation of abandoned wells;
- Establish groundwater extraction allocations;
- Authorize temporary and permanent transfers of groundwater extraction allocations; or
- Establish rules to allow unused groundwater extraction allocations to be carried over from one year to another and voluntarily transferred.

SGMA acknowledges limitations related to controlling pumping. Local agencies are not authorized to make a binding determination of the water rights of any person or entity, and must also consider the land-use authority of cities and counties, which is not superseded by SGMA. The potential regulation of pumping is a complex and controversial topic that will require thoughtful analysis and meaningful exchange with those potentially affected.

This analysis phase will focus on evaluating new SGMA authorities in terms of what basin conditions might trigger the need for their use, how similar tools are used in other basins, which pumpers or well types might be subject to related requirements, what would be required for implementation (e.g., ordinance), and the expected benefits and drawbacks of various tools.

Due to the complexity of and interest in these authorities, separate Committee items will focus on groundwater rights, basin triggers and the use of related tools in other areas. These discussions will help inform the preliminary staff analysis, which will be included on a Committee agenda in August 2017 for review and input by the Committee and stakeholders.

## **Evaluation of SGMA Fees**

SGMA allows GSAs to impose fixed fees and fees charged on a volumetric basis, including, but not limited to, fees that increase based on the quantity of groundwater produced annually, the year in which the production of groundwater commenced from a groundwater extraction facility, and impacts to the basin. As noted in the GWMP, fees imposed pursuant to SGMA must comply with applicable provisions of Proposition 218.

Currently, the District collects volumetric fees based on the quantity of groundwater produced in accordance with the District Act. The District will conduct a preliminary analysis of the various fees that can be collected pursuant to SGMA to determine if they further sustainable groundwater management or reduce volatility in revenue and rates.

Many local water retailers implement fixed and/or tiered fees. To help inform the District analysis, staff recommends that water retailers be invited to a Committee meeting to offer examples of their fixed or tiered fees, and share their perspective on how these fees are used and related benefits or considerations. District staff will also assess how other agencies have implemented these type of fee structures and report out at this meeting. This will help inform the

preliminary staff analysis, which will be included on a Committee agenda in August 2017 for review and input by the Committee and stakeholders.

### **Draft Implementation Framework**

Staff plans to complete the technical analysis of tools by August 2017, with several related Committee items to provide for transparent discussion by the Committee and stakeholders. This analysis and discussion builds toward development of a draft implementation framework to identify the triggers and process for the implementation of these authorities, should they ever be needed. As discussed at Board and Committee meetings, the intent of this evaluation and framework is to allow for thorough and thoughtful consideration of these authorities when the basins are sustainable to avoid rushed development during a crisis.

A planned Committee item in October 2017 will allow for discussion of the concepts and structure of the draft implementation framework. For example, the proposed framework for discussion by the Committee and stakeholders is expected to range from voluntary, collaborative measures to more stringent, mandatory measures based on an increasing threat of harm to the groundwater subbasins. In developing the draft framework, staff will consider Committee and stakeholder input from previous phases, as well as concepts identified in the MOA proposed by San Jose Water Company and Great Oaks Water Company.

Staff plans to include the draft implementation framework on a Committee agenda item in December 2017 for review and input by the Committee and stakeholders. The Committee will provide direction to staff in terms of next steps regarding new SGMA authorities. This could include additional technical analysis, stakeholder engagement, or discussion with the full Board of Directors.



## GREAT OAKS WATER COMPANY

P.O. Box 23490  
San Jose, California 95153  
(408) 227-9540

March 30, 2017

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

Submitted Online through SGMA Alternative Plan Portal  
and by Email to [Trevor.Joseph@water.ca.gov](mailto:Trevor.Joseph@water.ca.gov)

RE: Great Oaks Water Company's  
Comments to Santa Clara Valley Water District  
SGMA Alternative Plan Submission

Dear Mr. Joseph:

On December 21, 2016, the Santa Clara Valley Water District (SCVWD) submitted an Alternative Plan to the California Department of Water Resources (DWR) under Water Code §10733.6, the general authority of the Sustainable Groundwater Management Act (SGMA), and the regulations pertaining thereto. As discussed below, SCVWD's Alternative Plan is materially incomplete and should be rejected. In the alternative, approval of SCVWD's Alternative Plan should be withheld until the Alternative Plan has been completed in all material respects and resubmitted.

### Background

Great Oaks Water Company (Great Oaks) is a water utility serving a population of approximately 100,000 in Santa Clara County, California. Great Oaks is regulated by the California Public Utilities Commission (CPUC). Groundwater produced from wells owned by Great Oaks and located on property owned by Great Oaks provides one hundred percent (100%) of the water served by Great Oaks to its customers.

All of Great Oaks' wells produce groundwater from the Santa Clara Subbasin which is covered by SCVWD's Alternative Plan submission. The Santa Clara Subbasin, like the Santa Clara Valley Basin (Basin 2-9.02) of which it is a part, is not adjudicated. SCVWD

Great Oaks Water Company  
Comments to Santa Clara Valley Water District  
SGMA Alternative Plan Submission

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acknowledges that the Santa Clara Valley Basin has been declared a “medium” priority basin by DWR.<sup>1</sup>

Because of its reliance upon groundwater, Great Oaks has been and continues to be concerned that actions of SCVWD under SGMA may not adequately respect rights to groundwater, especially those of Great Oaks. Driven by these concerns, Great Oaks has been proactive in its communications with SCVWD pertaining to SGMA and, most recently, SCVWD’s SGMA Alternative Plan submission.

Beginning in November 2014, less than two months after Governor Brown signed the package of legislation that is now known as SGMA into law, Great Oaks initiated a meeting with SCVWD and other interested parties<sup>2</sup> to discuss its concerns. At the meeting, Great Oaks and others requested full disclosure and open communications with SCVWD about SCVWD’s utilization of the new legal authorities available under SGMA that may impact groundwater sources and rights. As a result of this meeting, SCVWD committed to Great Oaks and others to fully engage with and include them in any intended actions under SGMA that may have an adverse effect on groundwater production and groundwater rights, including those of Great Oaks. This commitment was verbal.

In June of 2016, during a meeting of SCVWD’s Groundwater Subcommittee, SCVWD staff advised Great Oaks and other water utilities in Santa Clara County that it was the District’s intention to update its 2012 Groundwater Management Plan (GMP) and submit the updated GMP as an Alternative Plan under SGMA. During that same meeting, the undersigned requested information on the status of the GMP update and was advised that the process had only just begun and was not very far along. The GMP update, which ultimately was submitted as a SGMA Alternative Plan, was performed on an accelerated schedule. Only minimal input from interested parties was permitted.

Great Oaks also participated in efforts initiated by San Jose Water Company in July of 2016 to establish a documented procedure within SCVWD’s proposed Alternative Plan for SGMA compliance and control of groundwater extractions under SGMA authorities. These efforts to establish the necessary procedures, including notice and communication, were thwarted by SCVWD. Every proposal made by Great Oaks and other interested parties were rejected. Details of these efforts were provided in Great Oaks’ original comment letter to SCVWD’s then-proposed Alternative Plan.<sup>3</sup>

The point of Great Oaks’ November 22, 2016 “comment letter” was (and still is) that SCVWD’s Alternative Plan does not comply with the requirements for an Alternative Plan because it fails to include the required “Notice and Communication” section with the necessary elements of (1) an explanation of SCVWD’s decision-making process, and (2)

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<sup>1</sup> See Alternative Plan, at 1-1.

<sup>2</sup> Among the interested parties were other Santa Clara County water utilities, including San Jose Water Company and California Water Service Company, both of which are also regulated by the CPUC.

<sup>3</sup> See Alternative Plan, at A55 – A60.



identification of opportunities for public engagement and a discussion of how public input and response will be used.<sup>4</sup>

The Alternative Plan is also incomplete because it admittedly contains no information at all about how, or if, SCVWD would utilize legal authorities available under SGMA and how, if at all, SCVWD would address the concerns of Great Oaks and others pertaining to groundwater production and groundwater rights. Throughout its Alternative Plan, SCVWD acknowledges that it has not completed (or perhaps not even begun) its own analysis of SGMA legal authorities and how or if use of those legal authorities may impact water producers like GOWC.<sup>5</sup>

In response to GOWC's "comment letter," all SCVWD could muster was a general, very non-specific claim that its Alternative Plan is the functional equivalent of a Groundwater Sustainability Plan (GSP), even if it does not contain all of the elements of a GSP, including the required information on "Communications and Notice" and use of SGMA legal authorities.<sup>6</sup>

#### Specific Deficiencies in SCVWD Alternative Plan

Great Oaks incorporates by reference herein those deficiencies noted in its November 22, 2016 "comment letter," which was included in Appendix A to SCVWD's Alternative Plan Submission, at pages A55 – A60.

In addition to the deficiencies noted in Great Oaks' "comment letter," the SCVWD Alternative Plan is deficient, and therefore incomplete, in the following ways:

- DWR Emergency Regulations Section 354.44(a) requires that each plan, including SCVWD's Alternative Plan, include a description of the projects and management actions the Agency (SCVWD) has determined will achieve the sustainability goals for the basin, including projects and management actions to respond to changing conditions in the basin. Section 354.44(b) of the same regulations requires specific descriptions of those projects and management actions and the circumstances under which those actions would be implemented. Among the specific requirements of the regulations is the following, found in Section 354.44(b)(7):

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

SCVWD represents that these required elements are contained in Chapter 6 of its Alternative Plan.<sup>7</sup> However, a review of Chapter 6 of SCVWD's Alternative Plan reveals none of the required information on SGMA legal authorities. This is because, of course,

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<sup>4</sup> California Code of Regulations, Title 23, Division 2, Chapter 1.5, Subchapter 2. Groundwater Sustainability Plans, §§354.10(d)(1) and (2).

<sup>5</sup> See, e.g., Alternative Plan at ES-5, ES-6, 1-11, 1-12 – 1-13, 8-2, and 8-3.

<sup>6</sup> SCVWD's Response to Great Oaks' "comment letter" was also provided with its Alternative Plan submission at A97 – A99.

<sup>7</sup> See Appendix B to SCVWD's Alternative Plan – Demonstration of Functional Equivalency – at pages B-21 to B-22.

SCVWD has not completed its analysis of those authorities. Chapter 6 only references the Santa Clara Valley Water District Act as the legal authority for the various projects and management actions listed and described therein. Without the required disclosures of how, when, and if SCVWD would take action under SGMA legal authorities, SCVWD's Alternative Plan is incomplete and may not be accepted.

#### Additional Information – SCVWD Actions After Its Alternative Plan Submission

Recognizing that its response to GOWC and others about the Alternative Plan deficiencies did not satisfy ongoing legitimate concerns, the SCVWD Board delegated further action to address these concerns to its Water Conservation and Demand Management Committee.<sup>8</sup>

At a meeting on January 25, 2017, the Water Conservation and Demand Management Committee of the SCVWD Board considered a plan to evaluate the SGMA legal authorities as part of a proposed Stakeholder Engagement Plan. A copy of that draft plan is attached hereto as Exhibit A. The draft plan references SCVWD's Alternative Plan and acknowledged that "[n]ew SGMA authorities may have significant implications for water retailers and are of interest to other basin stakeholders."<sup>9</sup>

As you will see in Exhibit A, SCVWD plans to first conduct an "Evaluation of SGMA Fees" that would result in a "preliminary analysis of these fee types by August 2017."<sup>10</sup> At the same time, and on the same schedule, SCVWD will conduct a "preliminary analysis of SGMA pumping regulation authorities by August 2017."<sup>11</sup>

Notably, it will not be until *after* SCVWD completes its "preliminary" analyses of these SGMA authorities that stakeholders will be permitted to review SCVWD's conclusions and provide input. The entire process is projected to conclude in December 2017, with a Committee meeting that may *or may not* lead to action by the full SCVWD Board.<sup>12</sup>

In other words, SCVWD plans to take another full year to review its authority under SGMA and then still may not take any action to satisfy the legitimate concerns of water utilities and others about their groundwater production rights.

Great Oaks fully supports SCVWD's intentions to analyze and better understand the legal authorities and the implications of utilizing those authorities, and Great Oaks expressed its support for the proposal at the January 25, 2017 Board Committee meeting. At the same time, Great Oaks expressed concern about building in another year of delay while SCVWD tries to come to a basic understanding of the SGMA legal authorities that have already been in place for more than two years. Great Oaks requested the schedule under the proposal be accelerated. No action has been taken on that request.

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<sup>8</sup> This action by the SCVWD Board is an admission that the Alternative Plan is incomplete.

<sup>9</sup> See Exhibit A, page 1 of 3. Note that the legal authorities in SGMA are not "new," but have instead been in place for more than two years.

<sup>10</sup> Exhibit A, page 2 of 3.

<sup>11</sup> Exhibit A, page 3 of 3.

<sup>12</sup> Exhibit A, page 3 of 3.

On February 17, 2017, just prior to the original deadline for submitting comments to SCVWD's Alternative Plan, Great Oaks received by email the agenda for the meeting of the Water Conservation and Demand Management Committee of the SCVWD Board scheduled for February 23, 2017. In that agenda was the document attached here as Exhibit B, providing an update on progress made up to that date on SCVWD's analysis of the new SGMA legal authorities. The Committee Agenda Memo provides this update:

There are no substantive updates at this time, as the related analysis is just beginning. Staff proposes to present general information on groundwater rights and related SGMA issues at the Committee's next meeting.

The agenda for the "Committee's next meeting," held March 24, 2017, included a presentation with very general information on the topic of groundwater rights that were taken from publicly-available sources. It was a basic, if not entirely superficial, presentation. The SCVWD Water Conservation and Demand Management Committee agenda memo for the March 24, 2017 meeting on this topic is attached as Exhibit C.

An email, sent March 21, 2017 about the SCVWD's purported analysis of new legal authorities under SGMA, a copy of which is attached as Exhibit E, says it all:

On Friday March 24, 2017, the District's Water Conservation and Demand Management Committee will receive an update on the evaluation of new Sustainable Groundwater Management Act (SGMA) authorities.

As noted in the agenda memo for Item 4.2 linked below, there are no substantive updates on the evaluation at this time. Staff will present general information on groundwater rights. (emphasis added)

So, now more than two years after SGMA became law and Great Oaks initiated efforts to determine what, if anything, SCVWD would do with the new legal authorities potentially available to it under SGMA, all interested and affected parties still have no information on this important and essential element of the Alternative Plan. SCVWD openly and repeatedly admits that it has not completed its analysis of SGMA legal authorities. Questions exist as to whether that analysis will ever be completed, and, if completed, whether any action will be taken by the SCVWD Board should it be presented with its legal options under SGMA.

The SGMA Alternative Plan submitted by SCVWD was required to provide specific information about how or if SCVWD would utilize new SGMA legal authorities. The required information was not provided, rendering SCVWD's Alternative Plan incomplete and non-compliant with the controlling regulations.

#### Requested Action on SCVWD's SGMA Alternative Plan

The simple fact that SCVWD admits it does not yet fully understand what it can or even should do under SGMA legal authorities should be sufficient to convince DWR that SCVWD's SGMA Alternative Plan is incomplete and must be rejected.

That SCVWD believes it will take at least all of 2017 to fully understand current law begs many questions, not the least of which is: How can SCVWD claim its Alternative Plan is complete when its own understanding of what actions SGMA does or does not authorize is admittedly incomplete?

Rejecting SCVWD's Alternative Plan will in no way hinder SCVWD in fulfilling its responsibilities and will not endanger the public in any way, but it will provide interested stakeholders with the opportunity to finally participate in this essential aspect of SGMA and provide the information on SGMA legal authorities that is missing from the Alternative Plan.

Great Oaks requests that DWR reject SCVWD's Alternative Plan for non-compliance with the controlling regulations. In the alternative, Great Oaks respectfully requests that DWR withhold acceptance and approval of SCVWD's Alternative Plan until SCVWD completes its legal analysis and incorporates the appropriate information into the Alternative Plan, all with appropriate input from interested stakeholders who have, so far, been denied that opportunity.

Respectfully submitted,



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

cc: Santa Clara Valley Water District Board of Directors  
James Fiedler  
Garth Hall  
Vanessa De La Piedra

Attachments: Exhibits A through E

**Exhibit A**

**Excerpts from January 25, 2017 Agenda  
Santa Clara Valley Water District  
Water Conservation and Demand Management Committee**



Committee:	Water Conservation and Demand Management
Meeting Date:	01/25/17
Agenda Item No.:	4.2
Unclassified Manager:	Garth Hall
Email:	<a href="mailto:GHall@valleywater.org">GHall@valleywater.org</a>

## COMMITTEE AGENDA MEMO

**SUBJECT:** Stakeholder Engagement in Evaluating New Authorities under the Sustainable Groundwater Management Act (SGMA).

### RECOMMENDED ACTION:

Discuss the proposed plan to engage stakeholders in the evaluation of new SGMA authorities and provide direction to staff.

### SUMMARY:

The Sustainable Groundwater Management Act (SGMA) provides Groundwater Sustainability Agencies (GSAs), like the District, with various authorities to ensure groundwater sustainability. In November 2016, the District Board of Directors (Board) adopted the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP) following a public hearing. The GWMP acknowledges new SGMA authorities, including the regulation of pumping and collection of different fee types, as potential tools that may be needed to ensure continued sustainability. Per the GWMP, the District will begin to evaluate these authorities in 2017 in coordination with water retailers and other interested stakeholders. Prior to adopting the GWMP, the Board affirmed a continued commitment to working with stakeholders, and referred consideration of stakeholder engagement on SGMA authorities to the Water Conservation and Demand Management Committee (Committee).

Staff is seeking the Committee's input on the proposed approach to engage stakeholders in the evaluation of new SGMA authorities, which is described in Attachment 1. Staff is also seeking preliminary input from the Committee, water retailers, and other interested stakeholders in terms of specific SGMA authorities and the District's evaluation of those potential tools.

### BACKGROUND:

To meet SGMA planning requirements and DWR Emergency Groundwater Sustainability Plan (GSP) Regulations, the District prepared the GWMP as an alternative to a GSP. The Board adopted the 2016 GWMP on November 22, 2016 after a public hearing, and directed staff to work with the Committee on stakeholder engagement options with regard to evaluating new SGMA authorities. On December 9, 2016, the Committee discussed the GWMP public comment letters and the draft District responses. Comment letters from several water retailers focused on concerns related to water rights and the potential regulation of pumping. Several retailers present at the December 9, 2016 meeting indicated a need to clearly define the process by which the District will evaluate SGMA authorities and involve stakeholders in a meaningful way as these authorities have potentially significant impacts on water retailer operations.

The comment letters and related responses were included as an appendix to the GWMP, which was submitted to DWR on December 21, 2016. Any interested person may submit comments on the District's GWMP to DWR



at <http://sgma.water.ca.gov/portal/alternative/all> during a 60-day public comment period, which ends on February 20, 2017.

Several comment letters were submitted for the GWMP public hearing related to concerns over new SGMA authorities, and the Board noted the need to involve water retailers and other interested stakeholders as the District considers these potential tools. Staff is seeking Committee and stakeholder input on the proposed stakeholder engagement plan related to the evaluation of new SGMA authorities (Attachment 1). Staff is also seeking preliminary input on specific SGMA authorities and the related District evaluation of those authorities.

**ATTACHMENT(S):**

Attachment 1 – Proposed Stakeholder Engagement Plan

## **Evaluation of New Sustainable Groundwater Management Act (SGMA) Authorities Proposed Stakeholder Engagement Plan**

The District will be evaluating new SGMA authorities to determine how they may support long-term groundwater sustainability and to develop a related framework for implementation should they be needed. This stakeholder engagement plan describes how the District plans to involve water retailers and other interested stakeholders in the evaluation of new SGMA authorities.

### **Background**

The Sustainable Groundwater Management Act (SGMA) provides Groundwater Sustainability Agencies (GSAs), like the District, with various authorities to ensure groundwater sustainability. In November 2016, the District Board of Directors (Board) adopted the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP) following a public hearing. The GWMP acknowledges the need to involve stakeholders in the evaluation of new SGMA authorities in GWMP Section 1.4.2:

“Potential new authorities under SGMA include the ability to regulate groundwater pumping and assess different types of groundwater charges. The District plans to evaluate these new authorities in cooperation with water retailers and other interested stakeholders and consider what conditions might necessitate their implementation to sustainably manage groundwater into the future.”

Several water retailers submitted comment letters related to the GWMP public hearing expressing concern with the potential regulation of pumping and interference with water rights and retailer operations. Letters from both San Jose Water Company and Great Oaks Water Company included a proposed Memorandum of Agreement (MOA) between the District and public water retailers based on a shared governance approach. This draft MOA proposed the development of a Water Rights Committee composed of public water retailers and an at-large representative for other pumpers. The draft MOA proposed that this Water Rights Committee develop and implement plans to curtail or allocate pumping, if needed.

Pursuant to groundwater management authority granted by the Santa Clara Valley Water District (District Act), the District has sustainably managed groundwater for the benefit of the community for many decades. While the District maintains sole authority with regard to groundwater management, continued coordination and collaboration with water retailers and stakeholders will help ensure effective management of groundwater resources. New SGMA authorities may have significant implications for water retailers and are of interest to other basin stakeholders. In addition to considering potential groundwater management benefits from these tools, stakeholder input should be carefully considered.

### **Proposed Forum for Stakeholder Engagement**

Prior to adopting the GWMP, the Board affirmed a continued commitment to working with stakeholders, and referred consideration of stakeholder engagement on SGMA authorities to the Board's Water Conservation and Demand Management Committee (Committee). Committee meetings are publicly-noticed and open to any interested person. This forum also allows for interested stakeholders to provide input directly to Board Committee members. Promoting dialog and exchange through this Committee ensures an open and transparent process as the District evaluates new SGMA authorities.

## **DRAFT**

The District maintains a list of stakeholders interested in the development and implementation of the GWMP, and will notify these stakeholders in advance of Committee agenda items related to the evaluation of SGMA authorities. District staff will also provide related updates to water retailers through meetings of the Water Retailers Committee and/or Groundwater Subcommittee.

### **Preliminary Evaluation of New SGMA Authorities**

Potential authorities to regulate pumping or collect different types of fees are complex and have limitations related to water rights, land use authorities, and regulatory requirements. District staff will conduct a preliminary analysis of new SGMA authorities and bring related information to the Committee to facilitate Committee and stakeholder discussion and input. Questions to be considered during the preliminary District analysis of these authorities include:

- What basin conditions might trigger the use of SGMA authorities?
- Which specific SGMA tools are best suited to help ensure sustainability or further the District's ability to manage groundwater?
- What process or steps would be followed prior to implementing these tools?
- How might these authorities be implemented – who would be affected, what actions would be required, etc.?

Evaluation of new SGMA authorities will rely on a phased approach, with Committee and stakeholder input at various milestones as outlined below.

#### **Phase 1 – Evaluation of SGMA Fees**

SGMA allows GSAs to impose fixed fees and fees charged on a volumetric basis, including, but not limited to, fees that increase based on the quantity of groundwater produced annually, the year in which the production of groundwater commenced from a groundwater extraction facility, and impacts to the basin. As noted in the GWMP, fees imposed pursuant to SGMA must comply with applicable provisions of Proposition 218.

Currently, the District collects volumetric fees based on the quantity of groundwater produced in accordance with the District Act. The District will conduct a preliminary analysis of the various fees that can be collected pursuant to SGMA to determine if they further sustainable groundwater management or reduce volatility in revenue and rates.

Staff will further define fee types consistent with SGMA and conduct a preliminary analysis of these fee types by August 2017. This analysis will be included on a Committee agenda in late summer 2017 for review and input by the Committee and stakeholders.

#### **Phase 2 – Evaluation of Groundwater Extraction Regulation**

SGMA provides GSAs with various authorities related to the regulation of groundwater extraction, including the ability to:

- Impose spacing requirements on new well construction to minimize interference;
- Impose reasonable operating regulations on existing wells to minimize interference, including requiring extractors to operate on a rotation basis;

## DRAFT

- Regulate, limit, or suspend groundwater extraction, construction of new wells, enlargement of existing wells, or reactivation of abandoned wells;
- Establish groundwater extraction allocations;
- Authorize temporary and permanent transfers of groundwater extraction allocations; or
- Establish rules to allow unused groundwater extraction allocations to be carried over from one year to another and voluntarily transferred.

SGMA acknowledges limitations related to controlling pumping. Local agencies are not authorized to make a binding determination of the water rights of any person or entity, and must also consider the land-use authority of cities and counties, which is not superseded by SGMA. The potential regulation of pumping is a complex and controversial topic that will require thoughtful analysis and meaningful exchange with those potentially affected.

The preliminary District staff analysis will evaluate specific pumping regulation authorities listed in SGMA to consider when they might be needed (e.g., basin condition triggers) and what would be required for implementation.

Staff will complete the preliminary analysis of SGMA pumping regulation authorities by August 2017. This analysis will be included on a Committee agenda in late summer 2017 for review and input by the Committee and stakeholders.

### **Phase 3 – Draft Implementation Framework**

Based on the preliminary technical analysis and stakeholder input, staff will prepare a draft implementation framework for the new SGMA authorities. This framework will identify the triggers and process for the implementation of these authorities, should they be needed. The proposed process is expected to range from voluntary, collaborative measures to more stringent, mandatory measures based on an increasing threat of harm to the groundwater subbasins. In developing the draft framework, staff will consider Committee and stakeholder input from previous phases, as well as concepts identified in the MOA proposed by San Jose Water Company and Great Oaks Water Company.

The draft implementation framework will be included on a Committee agenda item in December 2017 for review and input by the Committee and stakeholders. The Committee will provide direction to staff in terms of next steps with regard to new SGMA authorities. This could include additional technical analysis, stakeholder engagement, or discussion with the full Board of Directors.

**Exhibit B**

**Excerpts from February 23, 2017 Agenda  
Santa Clara Valley Water District  
Water Conservation and Demand Management Committee**



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

## COMMITTEE AGENDA MEMO

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

### RECOMMENDED ACTION:

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

### SUMMARY:

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

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

### BACKGROUND:

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

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

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

### ATTACHMENT(S):

None.



**Exhibit C**

**Agenda Memo on Groundwater Rights**

**March 24, 2017**

**Santa Clara Valley Water District**

**Water Conservation and Demand Management Committee**



Committee:	Water Conservation and Demand Management
Meeting Date:	03/24/17
Agenda Item No.:	4.2
Unclassified Manager:	Garth Hall
Email:	<a href="mailto:ghall@valleywater.org">ghall@valleywater.org</a>
Est. Staff Time:	20 minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Update on the Sustainable Groundwater Management Act (SGMA)

**RECOMMENDED ACTION:**

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

**SUMMARY:**

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

The potential regulation of pumping is a complex and controversial topic, and SGMA acknowledges related limitations. Local agencies are not authorized to make a binding determination of the water rights of any person or entity, and must also consider the land-use authority of cities and counties. Staff will present general information on groundwater rights as summarized below.

Staff will also provide an update on public comments received by the California Department of Water Resources (DWR) related to the District's GWMP, which was submitted as an Alternative to a Groundwater Sustainability Plan (GSP).

**BACKGROUND:**

In 2014, SGMA was enacted as California's first comprehensive, statewide regulatory program for groundwater. SGMA provides Groundwater Sustainability Agencies (GSAs), like the District, with various authorities to ensure groundwater is managed in a sustainable manner. Important for this agenda item, SGMA provides GSAs with various authorities related to the regulation of groundwater extraction by restricting or suspending well production, prohibiting new well construction, imposing well-spacing requirements, and requiring measurement and reporting of groundwater production by well owners. (Water Code §§ 10725.8, 10726.4(a).)

Implementation of the above authorities could impact existing water rights. Water Code § 10726.8(b) provides that, "Nothing in this part shall be construed as authorizing a local agency to make a binding determination of the water rights of any person or entity." While SGMA states that implementation of the statute does not alter water rights, allocating cutbacks on groundwater extractions, for example, will impact a particular user's ability to exercise its groundwater right. As such, significant conflicts could arise in the exercise of a GSA's powers, where water rights priorities are at issue or the equities of a proposed management action are disputed.

Given the intersection between groundwater rights and a GSA's authorities related to the regulation of groundwater extraction, understanding the framework and types of California's groundwater rights law will be important as the District considers whether and how to control pumping under certain circumstances. The following discussion provides a brief overview of California's law on groundwater rights, and is intended to support the Committee's understanding and discussions as District staff moves forward with evaluating SGMA's new authorities.

At the February 23, 2017 Committee meeting, staff reported there were no substantive updates regarding the analysis of new authorities. The preliminary analysis is underway, and staff plans to present related information to the Committee in late summer 2017. Staff provided handouts of three public comment letters submitted to DWR on the District's GWMP by February 20, 2017, the original DWR deadline. On February 21, 2017, DWR announced that the public comment period for Alternatives submitted throughout the state would be extended to April 1, 2017. Staff has since notified the list of interested stakeholders of the revised public comment deadline.

More detailed information on groundwater rights and public comments on the District's GWMP is provided below.

### **Summary of California Law of Groundwater Rights\***

Below is a brief discussion of the California law of groundwater rights. These are general provisions and are not intended to discuss specific water rights issues.

#### **1. Reasonable and Beneficial Use Doctrine**

Article 10, section 2 of the California Constitution prohibits the waste of water, and requires reasonable use, method of use and method of diversion for all surface and groundwater rights. The doctrine of reasonable and beneficial use is the basic principle defining California water rights: that holders of water rights must use water reasonably and beneficially.

#### **2. Groundwater Rights**

California groundwater law is based almost entirely in case law. Unlike the law governing rights to surface water and true underground streams, there is no comprehensive, statewide permitting scheme governing the extraction or use of groundwater.

Groundwater rights attach to percolating groundwater, which includes all groundwater that does not comprise a subsurface stream or the underflow of a surface stream. The courts have established three categories of groundwater rights with respect to native percolating groundwaters.

##### **Overlying Rights**

Overlying groundwater rights are analogous to riparian rights to surface water. Each owner of land that overlies a common groundwater supply has a right to reasonable, beneficial use of that water supply on or in connection with the overlying land. The courts have restricted that right to an amount which is reasonable in light of the competing demands of other overlying users; this is often referred to as a correlative right. The quantification of each overlying user's correlative right depends entirely on the facts and circumstances as they exist in the basin. However, the overlying user's correlative right is generally to a reasonable share of the common groundwater supply.

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\* Much of the language provided in this summary was derived from *A primer on California Water Rights*, Gary W. Sawyers, Esq., [http://aic.ucdavis.edu/events/outlook05/Sawyer\\_primer.pdf](http://aic.ucdavis.edu/events/outlook05/Sawyer_primer.pdf), and *A Summary of the California Law of Surface Water and Groundwater Rights*, Bartkiewicz, Kronick & Shanahan (2006), [http://www.norcalwater.org/wp-content/uploads/bks\\_water\\_rights.pdf](http://www.norcalwater.org/wp-content/uploads/bks_water_rights.pdf).

There is no priority in time among overlying users. The correlative right belongs to all overlying landowners in common, and each may use only a reasonable share when the water is insufficient to meet the needs of all.

The overlying right may be used for any reasonable, beneficial use. However, water devoted to public uses (for example, water acquired by municipalities and public utilities for distribution to the public) is not an overlying use.

### **Appropriative Rights**

Water users that do not use groundwater on their overlying land are not barred from using groundwater. Such water users include public agencies and owners of non-overlying land. They may extract groundwater, but their rights are analogous to appropriative rights to surface water. Appropriators generally have the right to take the available surplus from a groundwater basin and apply it to beneficial use inside or outside the basin. "Surplus" means available water not needed to provide for the reasonable, beneficial use by the overlying owners and of which the use of will not create an overdraft condition. There is no restriction as to where the water may be used, and no requirement that the appropriator be a landowner. The water may generally be used for private or public uses without restriction, subject to the requirement that the use of the water must be reasonable and beneficial.

Among appropriators, the priority of each appropriator's right is determined by the relative timing of the commencement of use, i.e., first in time is first in right.

### **Prescriptive Rights**

Prescriptive groundwater rights are not acquired by taking surplus or excess water. An appropriative taking of groundwater that is not surplus is wrongful, and may ripen into a prescriptive right when the use is actual, open and notorious, hostile and adverse to the original owner, continuous and uninterrupted for the statutory period of five years, and under the claim of right. Prescriptive rights do not begin to accrue until a condition of overdraft begins. Therefore, it is first necessary to determine when a condition of surplus ends and overdraft begins.

Once a groundwater basin reaches a condition of overdraft, no new appropriative uses may be lawfully made. Typically, however, appropriators continue extraction activities unless and until demand is made and/or suit is brought. If an appropriator continues pumping from an overdrafted basin for the prescriptive period after the other users from the basin have notice of the overdraft condition, then that appropriator may obtain a prescriptive right good as against any other private user.

Prescription generally may not occur as against public entities and public utilities.

An adjudication or court proceeding is necessary to confirm the existence and scope of prescriptive rights.

### **Adjudicated Water Rights**

Many groundwater rights in California are not quantified, but are simply claimed and/or exercised without objection by other parties. However, when competing demands for a groundwater basin's water supply become too great, formal adjudications are sometimes commenced by one or more of the competing groundwater users. The authority to adjudicate a groundwater basin exists in State courts, and in limited circumstances, with the State Water Resources Control Board. Adjudications typically take years or even decades to complete because of the complex legal and factual issues involved. Courts often retain continuing jurisdiction over the implementation of the adjudication order.

## **Public Comments on the District's GWMP**

To meet SGMA planning requirements and DWR Emergency GSP Regulations, the District prepared the GWMP as an Alternative to a GSP. The Board adopted the 2016 GWMP on November 22, 2016 after a public hearing. The District received several comment letters related to the public hearing, which were included with related District responses as an appendix to the GWMP. The District submitted the GWMP to DWR on December 21, 2016, beginning a public comment period during which any interested person could submit comments to DWR at <http://sgma.water.ca.gov/portal/alternative/all>. The DWR comment period for all Alternatives was originally 60 days, with the District's public comment period scheduled to end on February 20, 2017. Three comment letters were posted to the DWR web page by that date. However, on February 21, 2017, DWR extended the comment period for all Alternatives, including the District's GWMP, to April 1, 2017.

Comments from San Jose Water Company (SJWC), Stanford University, and the National Marine Fisheries Service (NMFS) submitted to DWR were handed out at the February 23, 2017 Committee meeting. The comments received from SJWC and Stanford University were similar to comments provided by those agencies during the District's GWMP public hearing. These include assertions that the GWMP is not an acceptable Alternative under SGMA, that the GWMP is deficient in demonstrating functional equivalence to a GSP, and that water rights and SGMA authorities are not adequately addressed. The District respectfully disagrees with these comments and believes that the GWMP adequately demonstrates functional equivalence to a GSP and the intent of SGMA. Comments received from NMFS relate to surface water flows in the Santa Clara Subbasin and the protection of instream aquatic habitat. Several comments relate to the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE). The District Board has recently emphasized its commitment to resolving FAHCE issues and implementing related operational changes as quickly as possible.

Although no formal deadline has been announced, DWR staff prefers that agencies that submitted Alternatives post any related response to public comments on the DWR website by April 1, 2017. Staff is preparing related District responses, and will provide those as handouts to the Committee on March 24, 2017 if available.

### **ATTACHMENT(S):**

None

**Exhibit D**

**March 21, 2017 Email from Santa Clara Valley Water District  
Regarding March 24, 2017 Water Conservation and Demand Management  
Committee Meeting**



**Subject:** Water Conservation and Demand Management Committee

**Date:** Tuesday, March 21, 2017 at 10:54 AM

**From:** GWMP <GWMP@valleywater.org>

**To:** GWMP <GWMP@valleywater.org>

## Interested Parties

On Friday March 24, 2017, the District Board's Water Conservation and Demand Management Committee will receive an update on the evaluation of new Sustainable Groundwater Management Act (SGMA) authorities.

As noted in the agenda memo for Item 4.2 linked below, there are no substantive updates on the evaluation at this time. Staff will present general information on groundwater rights. The meeting will begin at 10:00 am in the District Board Room and the complete agenda is available at:

<http://www.valleywater.org/WorkArea/DownloadAsset.aspx?id=15101>

## Background:

SGMA provides Groundwater Sustainability Agencies, like the District, with various authorities to ensure groundwater sustainability. In November 2016, the District Board of Directors adopted the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP) following a public hearing. The GWMP acknowledges new authorities conferred by SGMA to the District, including the potential regulation of pumping and collection of different fee types, as available tools that may be needed to ensure continued sustainability. Per the GWMP, the District will begin to evaluate these authorities in 2017 in coordination with water retailers and other interested stakeholders. Prior to adopting the GWMP, the Board affirmed a continued commitment to working with stakeholders, and referred related stakeholder engagement to the Board's Water Conservation and Demand Management Committee.

You are receiving this email because you are on the District's list of interested parties with regard to local groundwater management and compliance with the Sustainable Groundwater Management Act. If you would like to be removed from this list or would like additional information, please contact us at

GWMP@valleywater.org



## GREAT OAKS WATER COMPANY

P.O. Box 23490  
San Jose, California 95153  
(408) 227-9540

May 12, 2017

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

**Via U.S. Mail and by Email to *Trevor.Joseph@water.ca.gov***

RE: Great Oaks Water Company's Reply to  
Response of Santa Clara Valley Water District  
Regarding SCVWD Alternative Plan Deficiencies

Dear Mr. Joseph:

On March 30, 2017, Great Oaks Water Company (Great Oaks) submitted its comments to the Santa Clara Valley Water District's (SCVWD) Sustainable Groundwater Management Act (SGMA) Alternative Plan for the Santa Clara Valley Santa Clara Basin (2-009.02). On May 11, 2017, SCVWD sent a copy of its May 9, 2017 so-called "Response" to Great Oaks' Comments.

At the outset, it should be noted that the SGMA Alternative Plan Portal is described as a tool which "is for use by submitting agencies to submit Alternatives and for the public to access and comment on Alternatives."<sup>1</sup> There is no suggestion on the Alternative Plan Portal or in any of the regulations pertaining to Alternative Plan submissions that affording the public the ability to comment on Alternative Plan submissions is an open invitation for submitting agencies to engage in debate over those comments.

Given that all of the public comments point out that SCVWD's Alternative Plan is deficient and incomplete, SCVWD's obviously defensive responses are understandable, but no less inappropriate. In reality, that SCVWD believes it must engage in a debate with the public comments to its Alternative Plan

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<sup>1</sup> See <http://sgma.water.ca.gov/portal/#alt>; see also <http://www.water.ca.gov/groundwater/sgm/alt.cfm> ("DWR has developed an online **Alternative Reporting System** that allows local agencies to submit Alternatives and the public to review and comment on the Alternatives.").

is further proof of the inadequate opportunities SCVWD provided to interested parties to participate in the preparation of the Alternative Plan.

Looking to the substance of SCVWD's "Response," it is clear that there is no substance. Simply repeating the same mantra of false functional equivalence does not make it true. The fact that SCVWD's Board assigned the task of continuing vital and necessary work on the Alternative Plan is undeniable evidence that the Alternative Plan is incomplete and therefore deficient.

More to the point, however, is SCVWD's latest admission that it has not finished the work necessary to complete its Alternative Plan. Rather than suggest its Alternative Plan is complete, SCVWD confirms instead that it is not, and states it has "plans to complete the evaluation of the new SGMA authorities in calendar year 2017."<sup>2</sup> At that point, the evaluation may be submitted to the SCVWD Board for "consideration."<sup>3</sup> Put another way, after a full year of evaluation, SCVWD still may do nothing at all to address the acknowledged and legitimate concerns of Great Oaks and others.

Notably, SCVWD's late response makes no argument that requiring SCVWD to complete work on its Alternative Plan will burden or otherwise interfere with SCVWD's obligations or operations. In truth, SCVWD will not be hindered in any way if the Department of Water Resources (DWR) requires SCVWD to complete, disclose, and allow public input pertaining to its analysis of SGMA legal authorities before its Alternative Plan is approved by DWR. SCVWD should have completed this essential portion of the Alternative Plan *before* it was submitted, and it still cannot articulate even one legitimate reason why it should not be required to complete that process before its Alternative Plan is approved.

If DWR approves SCVWD's Alternative Plan as submitted, there is no assurance that SCVWD will continue the work it claims to have begun concerning SGMA legal authorities. If DWR approves SCVWD's incomplete Alternative Plan, DWR will remove any incentive for SCVWD to complete its analysis of SGMA legal authorities. That is certainly not an outcome desired by DWR or any interested party.

Only by either rejecting SCVWD's Alternative Plan as non-compliant or incomplete, or by withholding approval until the Alternative Plan is completed with a full explanation of how or if SCVWD will utilize SGMA legal authorities, will interested and affected stakeholders be assured that their interests are protected or at least addressed. Great Oaks requests that SCVWD's Alternative Plan be rejected or, in the alternative, that DWR's approval of SCVWD's Alternative Plan be withheld in a manner consistent with Great Oaks' March 30, 2017 comments and this Reply.

Respectfully submitted,



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

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<sup>2</sup> See SCVWD May 9, 2017 Response letter, at page 2.

<sup>3</sup> *Id.*

cc: Santa Clara Valley Water District Board of Directors (by U.S. Mail)  
James Fiedler (by email)  
Garth Hall (by email)  
Vanessa De La Piedra (by email)



May 9, 2017

Trevor Joseph  
Sustainable Groundwater Management Section Chief  
California Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236

**Subject: Response to The Nature Conservancy Comments on the Santa Clara Valley Water District's Submitted Alternative to a Groundwater Sustainability Plan**

This letter provides the Santa Clara Valley Water District (District) response to The Nature Conservancy (TNC) comment letter dated April 1, 2017, regarding the District's 2016 Groundwater Management Plan (GWMP), which was submitted to the Department of Water Resources (DWR) as an Alternative to a Groundwater Sustainability Plan (Submitted Alternative). TNC acknowledges the District has demonstrated a strong commitment to integrated water management throughout our service area, but concludes the Submitted Alternative does not adequately describe groundwater dependent ecosystems (GDEs) and interconnected surface waters. The District, however, believes the Submitted Alternative demonstrates alignment with Sustainable Groundwater Management Act (SGMA) objectives, including those related to interconnected surface waters. The District response to specific TNC comments is below.

TNC states that the Submitted Alternative is not functionally equivalent to a Groundwater Sustainability Plan (GSP) because "important information, such as identifying GDEs, seems to be at least somewhat known to SCVWD but omitted from the plan." The comment letter also notes the District does not identify interconnected surface waters or estimate the quantity and timing of any depletions. However, in response to these concerns, the District would like to point out that GWMP Sections 2.2.3 and 3.2.3 describe known areas of groundwater/surface water interaction and indicate the location of historic and current wetlands, riparian corridors, and ecological habitats. These sections include information on specific wetlands supported by groundwater (at least intermittently), such as the Laguna Seca area of the Santa Clara Subbasin and the Uvas-Carnaderos wetlands in the Llagas Subbasin. The Submitted Alternative demonstrates functional equivalence of GSP requirements related to groundwater/surface water interaction by providing best available information, describing related monitoring networks (Chapter 7) and recommending additional study (Section 8).

TNC comments note that the water budget does not include water needs for managed wetlands and native vegetation as defined water use sectors. TNC also states that the Submitted Alternative does not describe undesirable results for depletions of interconnected surface waters or provide a quantitative minimum threshold. In response to these concerns, note that the District manages groundwater for the benefit of current and beneficial users of water, including municipal, industrial, agricultural, and environmental uses. The Submitted Alternative





Mr. Trevor Joseph

Page 2

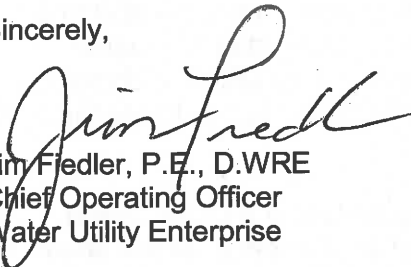
May 9, 2017

provides a description of known groundwater/ surface water interaction and all undesirable results that have been historically observed. As stated in the GWMP, the District is not aware of any areas where groundwater pumping has a significant or unreasonable effect on interconnected surface waters. The water budget presented in GWMP Section 4.4 demonstrates that the District's groundwater management framework results in long-term sustainable groundwater conditions, with an average annual positive change in storage for the Santa Clara Subbasin (1,500 acre-feet) and balanced conditions in the Llagas Subbasin. Groundwater levels in both subbasins also show long-term stability, which supports all beneficial uses of groundwater.

Because the interaction of groundwater and surface water is complex, groundwater management agencies, DWR, and non-governmental agencies generally recognize this as an area needing additional study, and potentially state guidance. However, the District believes the Submitted Alternative demonstrates long-term sustainable groundwater management that supports and protects all beneficial uses. The District plans to further evaluate surface water/groundwater interaction prior to the next update of the GWMP to ensure groundwater management continues to be protective of interconnected surface waters.

The District thanks TNC for its comments and looks forward to continued collaboration to protect fisheries and aquatic habitat in Santa Clara County.

Sincerely,



Jim Fiedler, P.E., D.WRE  
Chief Operating Officer  
Water Utility Enterprise

cc: Sandi Matsumoto, The Nature Conservancy  
N. Camacho, G. Hall, E. Soderlund, V. De La Piedra, B. Kassab, G. Cook

Attachment: TNC April 1, 2017 Comment Letter

1 April 2017

Acting Director William Croyle  
California Department of Water Resources  
P.O. Box 942836  
Sacramento, California 94236

*Submitted online via DWR's SGMA portal:*  
<http://sgma.water.ca.gov/portal/alternative/all>

**Re: Alternative Submittal from Santa Clara Valley Water District (basins 2-009.02, 3-003.01)**

Dear Director Croyle:

The Nature Conservancy (TNC) appreciates the opportunity to comment on the alternative submittal from Santa Clara Valley Water District (SCVWD) (basins 2-009.02, 3-003.01) under the Sustainable Groundwater Management Act (SGMA).

***Background on Our Interest***

TNC is a global, nonprofit organization dedicated to conserving the lands and waters on which all life depends. We have over 100,000 California members and seek to achieve our mission through science-based research, planning and implementation of conservation strategies. TNC participated in multiple stakeholder dialogues in framing SGMA policy objectives and worked actively in the legislative process to pass SGMA in 2015.

Our reason for engaging is simple: California's freshwater biodiversity is highly imperiled. We have lost more than 90 percent of our native wetland and river habitats, leading to precipitous declines in native plants and the populations of wildlife that call these places home. These natural resources are intricately connected to California's economy providing direct benefits through industries such as fisheries, timber and hunting, as well as widely shared benefits such as clean water supplies and diverse landscapes that make California America's most biodiverse State. Given the inextricable connection between groundwater and surface water, SGMA must be successful for a sustainable future in California.

California continues to use more water than nature provides. While surface water rights and access to surface water may be curtailed, the balance of water consumed is coming from groundwater – an estimated 60% of California's water during the drought was supplied by groundwater. SGMA provides a path for California to

sustainably manage groundwater so that the critical groundwater reserves are available when surface water is not.

SGMA is now law, but implementation is just beginning. The success of SGMA depends on bringing the best available science to the table, engaging all stakeholders in robust dialog, providing strong incentives for beneficial outcomes and rigorous enforcement by the State of California.

The recently submitted alternatives marks the first opportunity for the Department of Water Resources (Department) to hold local agencies accountable for sustainability. We ask the Department to fully exercise its authorities granted under SGMA to ensure the adequacy of plans. Given our mission "to preserve the plants and animals on which all life depends," we are particularly concerned about the inclusion of nature, as required, in groundwater sustainability plans (GSPs).

***"Functionally Equivalent" Requires Fully Addressing Nature's Water Needs***

Santa Clara Valley Water District submitted an alternative submittal based on an existing plan for two basins. To meet the requirements provided under SGMA, the alternative submittal must:

1. Provide "(a) plan developed pursuant to Part 2.75 (commencing with Section 10750) or other law authorizing groundwater management." (23 CCR §358.2(b)(1)); and
2. "(E)xplain how the elements of the Alternative are functionally equivalent to the elements of a Plan required by Articles 5 and 7 of this Subchapter and are sufficient to demonstrate the ability of the Alternative to achieve the objectives of the Act." (23 CCR §358.2(d))

To be "functionally equivalent," the alternative submittal must fully incorporate the numerous requirements to address nature's water needs under SGMA. While there are certainly additional provisions regarding nature's water needs, for the purposes of our review, we focused on the following:

1. Are groundwater dependent ecosystem (GDEs) identified? (23 CCR §354.16(g)) Are GDEs and surface water dependent species included as beneficial uses? (23 CCR §354.10(a))
2. Are interconnected surface waters identified and are estimates of the quantity and timing of any depletions specified? (23 CCR 354.16(f), §354.28(c)(6)(A))
3. Do water budgets include water needs for managed wetlands and native vegetation, as defined water use sectors, as well as total surface water inflows and outflows? (23 CCR §354.18(b))
4. Do undesirable results and minimum thresholds describe potential effects on beneficial uses (especially GDEs), land uses (including recreational uses) and

property interests (including open space and conservation lands), particularly for the chronic lowering of groundwater, degraded water quality and depletions of interconnected surface waters? (23 CCR §354.26, §354.28, §355.4(b)(4)) Are these undesirable results being avoided? (Water Code §10733.6(b)(3)) Has the basin operated sustainably for at least the past 10 years? (23 CCR §358.2(c)(3))

5. Does the sustainability goal include the environment, and if so, does the plan include measurable objectives and interim milestones to achieve the environmental portion of the sustainability goal within 20 years? (23 CCR §354.30)
6. Does the monitoring network monitor impacts to beneficial uses? (23 CCR §354.34(b)(2))

Our comments related to the above questions are provided in Attachment A: TNC Evaluation of SCVWD's Alternative Submittal. Based on our review, SCVWD's alternative submittal does not meet the requirements to be deemed "functionally equivalent" to a GSP under SGMA. SCVWD has demonstrated a strong commitment to integrated natural resource management across its service area, however important information, such as identifying GDEs, seems to be at least somewhat known to SCVWD but omitted from the plan.

Thank you for fully considering our comments as you evaluate the adequacy of this alternative submittal.

Best Regards,



Sandi Matsumoto  
Associate Director, Water Program  
The Nature Conservancy of California

## Attachment A: TNC Evaluation of SCVWD Alternative Submittal

- 1. Are groundwater dependent ecosystem (GDEs) identified? No. Are GDEs and surface water dependent species included as a beneficial uses? Yes, but beneficial uses are not substantively considered as required throughout the plan.**

The only reference to the term "groundwater dependent ecosystem" in the plan appears in the Appendix B "Functional Equivalency" chart showing the text of the regulations requiring identification of GDEs.

The term "ecosystem" only appears in Appendix A7 as text on the District's webpage, in a sidebar entitled "healthy creeks and ecosystems." Upon visiting that website and following the link, the following text can be found:

"The more than 800 miles of creeks and rivers in our valley need protection and care. Unique among water districts, state legislation authorizes the district "to enhance, protect, and restore streams, riparian corridors, and natural resources..."

Santa Clara Valley encompasses five major watersheds. A watershed is the land area from which surface runoff drains into a stream channel, lake, reservoir or the ocean. For example, all the creeks and rivers in the Guadalupe Watershed, including water from storm drains, flow into the Guadalupe River then downstream into San Francisco Bay.

The health of a creek reflects the conditions throughout the watershed, not just those along its banks. The water district's environmental work protects and restores habitats and encourages the return of endangered species such as the red-legged frog, steelhead trout and salt marsh harvest mouse.

In addition, the district also partners with cities and the county to provide open space and recreational opportunities at many of its 10 reservoirs and along creeks throughout the county. Since 2000, public access to more than 70 miles of new creekside trails has been made available in the county."

Source: visited 2/16/17

<http://www.valleywater.org/Services/HealthyCreeksandEcoSystems.aspx>

This District website indicates the presence of GDEs in the basin. The GDEs are required to be identified in the plan.

The District's glossary definition of beneficial use is, "One of many ways that water can be used either directly by people or for their overall benefit. The State Water Resources Control Board recognizes 23 types of beneficial use with water quality criteria for those uses established by the Regional Water Quality Control Boards".

Beneficial uses in the basin therefore include groundwater dependent ecosystems. However habitat and species are not explicitly included in the plan as a beneficial use in the many provisions requiring consideration of beneficial uses.

**2. Are interconnected surface waters identified and are estimates of the quantity and timing of any depletions specified? No.**

The District provides historical ecology maps intended to indicate where interconnected surface waters historically existed and have the potential to exist today. Current, verified interconnected surface waters were not identified, nor were estimates of the quantity or timing of depletions specified. The alternative submittal suggests that the District may have data that could inform whether water bodies are interconnected and whether and where depletions are occurring, but the District did not provide an analysis of that data, as required by SGMA.

The second paragraphs of Section 2.2.3 and 3.2.3 of the alternative submittal read:

"The District has a comprehensive surface water monitoring network to measure creek flows, comply with water rights reporting and reservoir restrictions, and meet environmental requirements. Stream gauging by the District is discussed in Chapter 7. 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."

Without and understanding of whether, where and to what extent depletions are occurring, it is impossible to know whether depletions are causing an undesirable result on interconnected surface waters.

**3. Do water budgets include water needs for managed wetlands and native vegetation, as defined water use sectors? No.**

The water budgets only include domestic, municipal and industrial and agriculture as components of groundwater demands. It is unclear whether managed wetlands exist in the basins, but if they do, the water demand for this use is not included in the water budget. It seems likely that the basins include native vegetation, however water use by this water sector is not included in the water budget.

**4. Do undesirable results and minimum thresholds describe potential effects on beneficial uses, land uses and property interests, particularly for the chronic lowering of groundwater, degraded water quality and depletions of**



**interconnected surface waters? No. Are these undesirable results being avoided? Unclear.**

The alternative submittal does not describe undesirable results for depletions of interconnected surface waters, nor does it provide a quantitative minimum threshold. Because the alternative submittal does not contain a minimum threshold for interconnected surface waters, it is unclear whether undesirable results are occurring.

Potential effects on GDEs, a beneficial use, from minimum thresholds for the sustainability indicators are not described.

- 5. Does the sustainability goal include the environment, and if so, does the plan include measurable objectives and interim milestones to achieve the environmental portion of the sustainability goal within 20 years? No.**

The sustainability goal does not include the environment.

- 6. Does the monitoring network monitor impacts to beneficial uses? No.**

The monitoring network includes surface flow gages, in part to "meet environmental requirements." (Section 7.4.2) The environmental requirements are not specified and it is therefore unclear whether these gages are sufficient to monitor impacts to environmental beneficial uses.

It is unclear whether water quality monitoring of groundwater and recharge supplies that contribute to interconnected surface waters adequately captures impacts to environmental beneficial uses, included listed fish species.

Monitoring of groundwater levels in an around GDEs is not included.

The District's website seems to indicate that the District at least contemplated ecological monitoring that could help assess impacts to environmental beneficial uses related to groundwater conditions. The website contains a link

(<http://www.valleywater.org/Services/HealthyCreeksandEcoSystems.aspx>, visited 3/20/17) to a report entitled *Ecological Monitoring and Assessment Framework*, dated April 15, 2011. The purpose of the report reads,

"This Ecological Monitoring and Assessment Framework Technical Plan (Technical Plan) describes the recommended strategic approach to implementing an ecological monitoring and assessment framework (Framework), to improve the efficiency and effectiveness of the Santa Clara Valley Water District's (District) ecological monitoring activities, as called for in the District Monitoring Activities Evaluation Report (Ali-Adeeb et al. 2002) and the District's Strategic Plan for 2009 – 2014 (SCVWD 2009b). The Framework is one of four key elements included in the

District's Ecological Monitoring and Assessment Program (EMAP) (Table ES-1). The intent of EMAP is to ensure that cost-effective and timely ecological information, of known quality, is available to inform, evaluate, and improve watershed management decisions."

The monitoring network would greatly benefit from integration of any monitoring under the Technical Plan because ecological monitoring provides critical information on the interaction of groundwater conditions and GDEs.

1 April 2017

Acting Director William Croyle  
California Department of Water Resources  
P.O. Box 942836  
Sacramento, California 94236

*Submitted online via DWR's SGMA portal:*  
<http://sgma.water.ca.gov/portal/alternative/all>

**Re: Alternative Submittal from Santa Clara Valley Water District (basins 2-009.02, 3-003.01)**

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***Background on Our Interest***

TNC is a global, nonprofit organization dedicated to conserving the lands and waters on which all life depends. We have over 100,000 California members and seek to achieve our mission through science-based research, planning and implementation of conservation strategies. TNC participated in multiple stakeholder dialogues in framing SGMA policy objectives and worked actively in the legislative process to pass SGMA in 2015.

Our reason for engaging is simple: California's freshwater biodiversity is highly imperiled. We have lost more than 90 percent of our native wetland and river habitats, leading to precipitous declines in native plants and the populations of wildlife that call these places home. These natural resources are intricately connected to California's economy providing direct benefits through industries such as fisheries, timber and hunting, as well as widely shared benefits such as clean water supplies and diverse landscapes that make California America's most biodiverse State. Given the inextricable connection between groundwater and surface water, SGMA must be successful for a sustainable future in California.

California continues to use more water than nature provides. While surface water rights and access to surface water may be curtailed, the balance of water consumed is coming from groundwater – an estimated 60% of California's water during the drought was supplied by groundwater. SGMA provides a path for California to

sustainably manage groundwater so that the critical groundwater reserves are available when surface water is not.

SGMA is now law, but implementation is just beginning. The success of SGMA depends on bringing the best available science to the table, engaging all stakeholders in robust dialog, providing strong incentives for beneficial outcomes and rigorous enforcement by the State of California.

The recently submitted alternatives marks the first opportunity for the Department of Water Resources (Department) to hold local agencies accountable for sustainability. We ask the Department to fully exercise its authorities granted under SGMA to ensure the adequacy of plans. Given our mission "to preserve the plants and animals on which all life depends," we are particularly concerned about the inclusion of nature, as required, in groundwater sustainability plans (GSPs).

***"Functionally Equivalent" Requires Fully Addressing Nature's Water Needs***

Santa Clara Valley Water District submitted an alternative submittal based an existing plan for two basins. To meet the requirements provided under SGMA, the alternative submittal must:

1. Provide "(a) plan developed pursuant to Part 2.75 (commencing with Section 10750) or other law authorizing groundwater management." (23 CCR §358.2(b)(1)); and
2. "(E)xplain how the elements of the Alternative are functionally equivalent to the elements of a Plan required by Articles 5 and 7 of this Subchapter and are sufficient to demonstrate the ability of the Alternative to achieve the objectives of the Act." (23 CCR §358.2(d))

To be "functionally equivalent," the alternative submittal must fully incorporate the numerous requirements to address nature's water needs under SGMA. While there are certainly additional provisions regarding nature's water needs, for the purposes of our review, we focused on the following:

1. Are groundwater dependent ecosystem (GDEs) identified? (23 CCR §354.16(g)) Are GDEs and surface water dependent species included as beneficial uses? (23 CCR §354.10(a))
2. Are interconnected surface waters identified and are estimates of the quantity and timing of any depletions specified? (23 CCR 354.16(f), §354.28(c)(6)(A))
3. Do water budgets include water needs for managed wetlands and native vegetation, as defined water use sectors, as well as total surface water inflows and outflows? (23 CCR §354.18(b))
4. Do undesirable results and minimum thresholds describe potential effects on beneficial uses (especially GDEs), land uses (including recreational uses) and

property interests (including open space and conservation lands), particularly for the chronic lowering of groundwater, degraded water quality and depletions of interconnected surface waters? (23 CCR §354.26, §354.28, §355.4(b)(4)) Are these undesirable results being avoided? (Water Code §10733.6(b)(3)) Has the basin operated sustainably for at least the past 10 years? (23 CCR §358.2(c)(3))

5. Does the sustainability goal include the environment, and if so, does the plan include measurable objectives and interim milestones to achieve the environmental portion of the sustainability goal within 20 years? (23 CCR §354.30)
6. Does the monitoring network monitor impacts to beneficial uses? (23 CCR §354.34(b)(2))

Our comments related to the above questions are provided in Attachment A: TNC Evaluation of SCVWD's Alternative Submittal. Based on our review, SCVWD's alternative submittal does not meet the requirements to be deemed "functionally equivalent" to a GSP under SGMA. SCVWD has demonstrated a strong commitment to integrated natural resource management across its service area, however important information, such as identifying GDEs, seems to be at least somewhat known to SCVWD but omitted from the plan.

Thank you for fully considering our comments as you evaluate the adequacy of this alternative submittal.

Best Regards,



Sandi Matsumoto  
Associate Director, Water Program  
The Nature Conservancy of California

## Attachment A: TNC Evaluation of SCVWD Alternative Submittal

- 1. Are groundwater dependent ecosystem (GDEs) identified? No. Are GDEs and surface water dependent species included as a beneficial uses? Yes, but beneficial uses are not substantively considered as required throughout the plan.**

The only reference to the term "groundwater dependent ecosystem" in the plan appears in the Appendix B "Functional Equivalency" chart showing the text of the regulations requiring identification of GDEs.

The term "ecosystem" only appears in Appendix A7 as text on the District's webpage, in a sidebar entitled "healthy creeks and ecosystems." Upon visiting that website and following the link, the following text can be found:

"The more than 800 miles of creeks and rivers in our valley need protection and care. Unique among water districts, state legislation authorizes the district "to enhance, protect, and restore streams, riparian corridors, and natural resources..."

Santa Clara Valley encompasses five major watersheds. A watershed is the land area from which surface runoff drains into a stream channel, lake, reservoir or the ocean. For example, all the creeks and rivers in the Guadalupe Watershed, including water from storm drains, flow into the Guadalupe River then downstream into San Francisco Bay.

The health of a creek reflects the conditions throughout the watershed, not just those along its banks. The water district's environmental work protects and restores habitats and encourages the return of endangered species such as the red-legged frog, steelhead trout and salt marsh harvest mouse.

In addition, the district also partners with cities and the county to provide open space and recreational opportunities at many of its 10 reservoirs and along creeks throughout the county. Since 2000, public access to more than 70 miles of new creekside trails has been made available in the county."

Source: visited 2/16/17

<http://www.valleywater.org/Services/HealthyCreeksandEcoSystems.aspx>

This District website indicates the presence of GDEs in the basin. The GDEs are required to be identified in the plan.



The District's glossary definition of beneficial use is, "One of many ways that water can be used either directly by people or for their overall benefit. The State Water Resources Control Board recognizes 23 types of beneficial use with water quality criteria for those uses established by the Regional Water Quality Control Boards".

Beneficial uses in the basin therefore include groundwater dependent ecosystems. However habitat and species are not explicitly included in the plan as a beneficial use in the many provisions requiring consideration of beneficial uses.

**2. Are interconnected surface waters identified and are estimates of the quantity and timing of any depletions specified? No.**

The District provides historical ecology maps intended to indicate where interconnected surface waters historically existed and have the potential to exist today. Current, verified interconnected surface waters were not identified, nor were estimates of the quantity or timing of depletions specified. The alternative submittal suggests that the District may have data that could inform whether water bodies are interconnected and whether and where depletions are occurring, but the District did not provide an analysis of that data, as required by SGMA.

The second paragraphs of Section 2.2.3 and 3.2.3 of the alternative submittal read:

"The District has a comprehensive surface water monitoring network to measure creek flows, comply with water rights reporting and reservoir restrictions, and meet environmental requirements. Stream gauging by the District is discussed in Chapter 7. 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."

Without an understanding of whether, where and to what extent depletions are occurring, it is impossible to know whether depletions are causing an undesirable result on interconnected surface waters.

**3. Do water budgets include water needs for managed wetlands and native vegetation, as defined water use sectors? No.**

The water budgets only include domestic, municipal and industrial and agriculture as components of groundwater demands. It is unclear whether managed wetlands exist in the basins, but if they do, the water demand for this use is not included in the water budget. It seems likely that the basins include native vegetation, however water use by this water sector is not included in the water budget.

**4. Do undesirable results and minimum thresholds describe potential effects on beneficial uses, land uses and property interests, particularly for the chronic lowering of groundwater, degraded water quality and depletions of**

**interconnected surface waters? No. Are these undesirable results being avoided? Unclear.**

The alternative submittal does not describe undesirable results for depletions of interconnected surface waters, nor does it provide a quantitative minimum threshold. Because the alternative submittal does not contain a minimum threshold for interconnected surface waters, it is unclear whether undesirable results are occurring.

Potential effects on GDEs, a beneficial use, from minimum thresholds for the sustainability indicators are not described.

**5. Does the sustainability goal include the environment, and if so, does the plan include measurable objectives and interim milestones to achieve the environmental portion of the sustainability goal within 20 years? No.**

The sustainability goal does not include the environment.

**6. Does the monitoring network monitor impacts to beneficial uses? No.**

The monitoring network includes surface flow gages, in part to “meet environmental requirements.” (Section 7.4.2) The environmental requirements are not specified and it is therefore unclear whether these gages are sufficient to monitor impacts to environmental beneficial uses.

It is unclear whether water quality monitoring of groundwater and recharge supplies that contribute to interconnected surface waters adequately captures impacts to environmental beneficial uses, included listed fish species.

Monitoring of groundwater levels in an around GDEs is not included.

The District’s website seems to indicate that the District at least contemplated ecological monitoring that could help assess impacts to environmental beneficial uses related to groundwater conditions. The website contains a link

(<http://www.valleywater.org/Services/HealthyCreeksandEcoSystems.aspx>, visited 3/20/17) to a report entitled *Ecological Monitoring and Assessment Framework*, dated April 15, 2011. The purpose of the report reads,

“This Ecological Monitoring and Assessment Framework Technical Plan (Technical Plan) describes the recommended strategic approach to implementing an ecological monitoring and assessment framework (Framework), to improve the efficiency and effectiveness of the Santa Clara Valley Water District’s (District) ecological monitoring activities, as called for in the District Monitoring Activities Evaluation Report (Ali-Adeeb et al. 2002) and the District’s Strategic Plan for 2009 – 2014 (SCVWD 2009b). The Framework is one of four key elements included in the

District's Ecological Monitoring and Assessment Program (EMAP) (Table ES-1). The intent of EMAP is to ensure that cost-effective and timely ecological information, of known quality, is available to inform, evaluate, and improve watershed management decisions."

The monitoring network would greatly benefit from integration of any monitoring under the Technical Plan because ecological monitoring provides critical information on the interaction of groundwater conditions and GDEs.



Committee:	Water Conservation and Demand Management
Meeting Date:	06/15/17
Agenda Item No.:	4.3
Unclassified Manager:	Darin Taylor
Email:	<a href="mailto:dtaylor@valleywater.org">dtaylor@valleywater.org</a>
Est. Staff Time:	5 minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Sustainable Groundwater Management Act (SGMA) Update – Discussion of Fixed Charges and/or Tiered Fees

### RECOMMENDED ACTION:

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

### SUMMARY:

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

As stated in the GWMP, fixed charges are of interest due to the potential to reduce revenue volatility. This agenda item focuses on the fees that can be collected pursuant to SGMA, and is intended to promote discussion by the Committee and stakeholders to inform the potential implementation of different fee types.

### BACKGROUND:

At the April 27, 2017 Committee meeting, staff presented an updated stakeholder engagement plan for the evaluation of new SGMA authorities. Major elements of this plan, including this discussion of SGMA fees, are reflected in the 2017 Committee workplan to ensure an open forum for discussion and opportunity for stakeholder input.

SGMA allows GSAs to impose fixed charges and fees charged on a volumetric basis, including, but not limited to, fees that increase based on the quantity of groundwater produced annually, the year in which groundwater production at a well began, and impacts to the basin. As noted in the GWMP, fees imposed pursuant to SGMA must comply with applicable provisions of Proposition 218.

Currently, the District collects volumetric fees based on the quantity of groundwater produced in accordance with the District Act. Staff will conduct a preliminary analysis of the various fees that can be collected pursuant to SGMA to determine if they further sustainable groundwater management or reduce volatility in revenue and rates, and will seek Committee, stakeholder, and Board input as described below. Of particular interest is the concept of a fixed charge, which if implemented, would help reduce revenue volatility associated with swings in water usage. Revenue volatility was a serious issue during the recent historic drought. If the Board wishes to pursue implementation based on the preliminary analysis, a fixed charge would address a portion of the

District's revenue requirement. Accordingly, the volumetric charge would be lower, such that the implementation of the fixed charge would be revenue neutral to the Water Utility Enterprise Fund. It is expected that the majority of revenue requirements would continue to be based on volumetric fees. The high-level plan to evaluate the fixed charge concept includes, but is not limited to, the following steps:

1. June 2017 – Obtain Committee and stakeholder input on the fixed charge concept
2. July 2017 – Complete internal finance staff assessment of feasibility
3. August 2017 – Obtain Committee feedback on the preliminary feasibility analysis
4. October 2017 – Obtain feedback from the Water Retailers Finance Subcommittee on the preliminary feasibility analysis
5. October 2017 – Provide Committee and Water Retailer input to the Board and obtain Board direction on whether to pursue implementation

If the feasibility analysis indicates the fixed charge concept is beneficial and the Board directs staff to pursue implementation, the proposed development process would include, but not be limited to, the following steps:

1. October 2017 to February 2018 – Request for Proposal (RFP) process to engage consultant
2. March to October 2018 – Detailed fixed charge proposal preparation including subsequent revisions, and review with the Committee, Water Retailers, and Board
3. October to November 2018 – Board approval of fixed charge proposal to be incorporated in to FY 2019-20 groundwater charge proposal (Feb 2019 PAWS report)

These steps are consistent with the steps taken by Zone 7 Water Agency, which implemented a fixed charge component for their calendar year 2017 rates. The fixed charge component recovers 35% of the Zone 7 revenue requirement, and the volume-based rate now recovers 65% of the revenue requirement, which will help revenue stability and future fiscal sustainability.

Regarding the concept of a tiered wholesale charge, staff has explored that with the water retailers in past years, and has reported to the Board the many challenges associated with the concept, including the fact that a wholesale tiered charge would not impact the price signal to the end consumer. The retail agencies control the price signal to the end consumer, and the majority of retailers, with the exception of the City of Santa Clara and the City of Milpitas, have tiered rates. In addition, the water retailers have expressed unanimously that they do not support a wholesale tiered charge.

Staff is requesting Committee and stakeholder input on the concept of fixed charges and tiered rates as well as the related evaluation steps above.

**ATTACHMENT(S):**

None.



Committee:	Water Conservation and Demand Management
Meeting Date:	06/15/17
Agenda Item No.:	4.4
Unclassified Manager:	Michele King
Email:	<a href="mailto:mking@valleywater.org">mking@valleywater.org</a>
Est. Staff Time:	5 Minutes

## COMMITTEE AGENDA MEMO

**SUBJECT:** Review of Water Conservation and Demand Management Committee Work Plan, any Outcomes of Board Action or Committee Requests and the Committee's Next Meeting Agenda

### RECOMMENDED ACTION:

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

### SUMMARY:

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

### BACKGROUND:

#### Governance Process Policy-8:

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

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

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

### ATTACHMENT(S):

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

Attachment 2: Water Conservation and Demand Management Committee August 24, 2017 Draft Agenda





# 2017 Work Plan: Water Conservation and Demand Management Committee

Update: June 2017

ITEM #	WORK PLAN ITEM	MEETING	ACTION/DISCUSSION OR INFORMATION ONLY	ACCOMPLISHED OUTCOMES
1	Update on Golf Course Coalition Proposal	1-25-17 2-23-17 3-24-17 4-27-17 8-24-17 12-14-17	Discussion/Action Item	<p><b><u>Accomplished January 25, 2017:</u></b> The Committee received an update on Golf Course Coalition Proposal and took no action.</p> <p><b><u>Accomplished February 23, 2017:</u></b> The Committee received an update on Golf Course Coalition Proposal and took no action.</p> <p><b><u>Accomplished March 24, 2017:</u></b> The Committee received an update on Golf Course Coalition Proposal and took no action.</p> <p><b><u>Accomplished April 27, 2017:</u></b> The Committee received an update on Golf Course Coalition Proposal and took no action.</p>
2	Receive Information on Conservation Measure Connections/Obligations addressed in the CA Waterfix	1-25-17	Discussion/Action Item	<p><b><u>Accomplished January 25, 2017:</u></b> The Committee received information on conservation measure connections/Obligations addressed in the CA Waterfix and took no action.</p>
3	Consideration of potential approaches for receiving input from key stakeholders on development of plans, where necessary, for implementation of authorities available to the District under the Sustainable Groundwater Management Act (SGMA)	1-25-17	Discussion/Action Item	<p><b><u>Accomplished January 25, 2017:</u></b> The Committee considered potential approaches for receiving input from key stakeholders on development of plans, where necessary, for implementation of authorities available to the District under the Sustainable Groundwater Management Act (SGMA) and took no action.</p>

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

Attachment 1

Page 1 of 5

# 2017 Work Plan: Water Conservation and Demand Management Committee

Update: June 2017

ITEM #	WORK PLAN ITEM	MEETING	ACTION/DISCUSSION OR INFORMATION ONLY	ACCOMPLISHED OUTCOMES
4	Receive an Update on the District's Outreach Campaign (HOAs, Neighborhood Groups, Developers, Planning Agencies)	1-25-17	Discussion/Action Item	<b><u>Accomplished January 25, 2017:</u></b> The Committee received an update on the District's Outreach Campaign (HOAs, Neighborhood Groups, Developers, Planning Agencies and took no action.
5	Review of 2017 Water Conservation Ad Hoc Committee Work Plan and the Outcomes of Board Action of Committee Requests	1-25-17 2-23-17 3-24-17 4-27-17 6-15-17 8-24-17 10-19-17 12-14-17	Discussion/Action Item	<b><u>Accomplished January 25, 2017:</u></b> The Committee reviewed their work plan for 2017 and added Safe, Clean Water Conservation Grant Research Results to their work plan. Joined items #11, 12 and 13 to #4 Water Master Plan and correct #14f to read hold conversations.  <b><u>Accomplished February 23, 2017:</u></b> The Committee reviewed their work plan for 2017 and removed item #12 since all of its elements are included in work plan items 1 - 11.  <b><u>Accomplished March 24, 2017:</u></b> The Committee reviewed their work plan for 2017 and took no action.  <b><u>Accomplished April 27, 2017:</u></b> The Committee reviewed their work plan for 2017 and took no action.
6	Update on State Water Resources Control Board (SWRCB) (Emergency Regulation; Making Water Conservation a California Way of Life)	2-23-17	Discussion/Action Item	<b><u>Accomplished February 23, 2017:</u></b> The Committee received an update on State Water Resources Control Board (SWRCB) (Emergency Regulation; Making Water Conservation a California Way of Life) and took no action.

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

Attachment 1

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# 2017 Work Plan: Water Conservation and Demand Management Committee

Update: June 2017

ITEM #	WORK PLAN ITEM	MEETING	ACTION/DISCUSSION OR INFORMATION ONLY	ACCOMPLISHED OUTCOMES
7	Update on the Evaluation of New Sustainable Groundwater Management Act (SGMA) Authorities	2-23-17 3-24-17 4-27-17	Discussion/Action Item	<p><b><u>Accomplished February 23, 2017:</u></b> The Committee received an update on the Evaluation of New Sustainable Groundwater Management Act (SGMA) Authorities and took no action.</p> <p><b><u>Accomplished March 24, 2017:</u></b> The Committee received an update on the Evaluation of New Sustainable Groundwater Management Act (SGMA) Authorities and took no action.</p> <p><b><u>Accomplished April 27, 2017:</u></b> The Committee received an update on the Evaluation of New Sustainable Groundwater Management Act (SGMA) Authorities and took no action.</p>

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Blue = Action taken by the Board of Directors

Attachment 1

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# 2017 Work Plan: Water Conservation and Demand Management Committee

Update: June 2017

ITEM #	WORK PLAN ITEM	MEETING	ACTION/DISCUSSION OR INFORMATION ONLY	ACCOMPLISHED OUTCOMES
8	<p>Presentation on Conservation and Demand Management Elements of the Draft 2017 Water Supply Master Plan Include in the plan:</p> <p>Water Use Efficiency Standards and Requirements</p> <ul style="list-style-type: none"> <li>• Green Business Program</li> <li>• LEED certification</li> <li>• CalGreen</li> <li>• Ordinances</li> </ul> <p>Information on new technology related to water conservation, including:</p> <ul style="list-style-type: none"> <li>• Smart metering (AMI),</li> <li>• Leak detection/repair</li> <li>• Others?</li> </ul> <p>If needed, invite experts to present to the Committee</p> <p>Should District invest/get involved in development of new local water, i.e.</p> <ul style="list-style-type: none"> <li>• Rainwater harvesting</li> <li>• On-site storm water retention</li> <li>• Infiltration of high quality storm water</li> <li>• Gray Water</li> </ul> <p><i>Committee to review the issue question, and include working with cities on building codes and future planning, offering incentives, and identifying District role.</i></p>	<p>1-25-17 3-24-17</p>	<p>Discussion/Action Item</p>	<p><b><u>Accomplished January 25, 2017:</u></b> The Committee received a presentation on conservation and demand management elements of the Draft 2017 Water Master Plan and took no action.</p> <p><b><u>Accomplished March 24, 2017:</u></b> The Committee received a presentation on conservation and demand management elements of the Draft 2017 Water Master Plan and took no action.</p>
9	<p>Making Water Conservation a California Way of Life) State Long-Term Framework</p>	<p>4-27-17 10-19-17</p>	<p>Discussion/Action Item</p>	<p><b><u>Accomplished April 27, 2017:</u></b> The Committee received a presentation on making water conservation a California Way of Life and took no action.</p>

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

Attachment 1

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# 2017 Work Plan: Water Conservation and Demand Management Committee

Update: June 2017

ITEM #	WORK PLAN ITEM	MEETING	ACTION/DISCUSSION OR INFORMATION ONLY	ACCOMPLISHED OUTCOMES
10	The water conservation and demand management components of the Water Supply Master Plan (AMI, leak detection, rainwater harvesting, stormwater capture, model ordinance, etc.	6-15-17 8-24-17 12-14-17	Discussion/Action Item	
11	SGMA Update – Potential Basin Triggers Related to SGMA Authorities	6-15-17	Discussion/Action Item	
12	SGMA Update – Discussion of Fixed and/or Tiered Fees	6-15-17	Discussion/Action Item	
13	Outreach/Messaging	8-24-17 10-19-17	Discussion/Action Item	
14	SGMA Update – Preliminary Analysis of Groundwater Extraction Regulation	8-24-17	Discussion/Action Item	
15	SGMA Update – Preliminary Analysis of SGMA Fees	8-24-17	Discussion/Action Item	
16	SGMA Update – SGMA Authority Implementation Framework Concepts	10-19-17	Discussion/Action Item	
17	Legislative Update	10-19-17	Discussion/Action Item	
18	SGMA Update – SGMA Authority Draft Implementation Framework and Next Steps	12-14-17	Discussion/Action Item	

Yellow = Update Since Last Meeting

Blue = Action taken by the Board of Directors

Attachment 1

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**AGENDA  
WATER CONSERVATION AND DEMAND MANAGEMENT COMMITTEE**

**THURSDAY, AUGUST 24, 2017**

**10:00 a.m. - 12:00 p.m.**

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

**Time Certain**

**10:00 a.m.**

**1. Call to Order/Roll Call**

**2. Time Open for Public Comment on Any Item Not on the Agenda**

*Comments should be limited to two minutes. If the Committee wishes to discuss a subject raised by the speaker, it can request placement on a future agenda.*

**3. Approval of Minutes**

3.1 Approval of Minutes – June 15, 2017, meeting

**4. Discussion/Action Items**

4.1 Golf Course Proposal (Jerry De La Piedra/Ron Zraick)

**Recommendation: This is an information only item and no action is required.**

4.2 Outreach Messaging (Marty Grimes/Jose Villarreal)

**Recommendation: This is an information only item and no action is required.**

4.3 The water conservation and demand management components of the Water Supply Master Plan (AMI, leak detection, rainwater harvesting, stormwater capture, model ordinance, etc.) (Tracy Hemmeter)

**Recommendation: This is an information only item and no action is required.**

4.4 SGMA Update – Preliminary Analysis of Groundwater Extraction Regulation (Vanessa De La Piedra)

**Recommendation: This is an information only item and no action is required.**

4.5 SGMA Update – Preliminary Analysis of SGMA Fees (Vanessa De La Piedra)

**Recommendation: This is an information only item and no action is required.**

4.6 Review of Water Conservation and Demand Management Committee Work Plan, any Outcomes of Board Action or Committee Requests and the Committee's next meeting agenda (Committee Chair)

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

**5. Clerk Review and Clarification of Committee's Requests**

*This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during discussion of Item 4.*

6. **Adjourn:** Adjourn to next regularly scheduled meeting at 10:00 a.m., **October 19, 2017**, in the Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, CA 95118

REASONABLE EFFORTS TO ACCOMMODATE PERSONS WITH DISABILITIES WISHING TO ATTEND COMMITTEE MEETINGS WILL BE MADE. PLEASE ADVISE THE CLERK OF THE BOARD OFFICE OF ANY SPECIAL NEEDS BY CALLING (408) 630-2277.

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

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

Water Conservation and Demand Management Committee:

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