



SAN JOAQUIN COUNTY

# FLOOD CONTROL & WATER CONSERVATION DISTRICT

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KRIS BALAJI  
DIRECTOR OF PUBLIC WORKS

## ADVISORY WATER COMMISSION

November 18, 2015, 1:00 p.m.

Public Health Conference Room, 1601 E. Hazelton Avenue, Stockton, California

### AGENDA

#### Roll Call

Approve Minutes for the Meeting of October 21, 2015

#### SCHEDULED ITEMS

##### **I. Action Items:**

- A. Discussion and Possible Action on the pros and cons of the County filing as a Groundwater Sustainability Agency under the Sustainable Groundwater Management Act in those portions of the Cosumnes, Eastern San Joaquin and Tracy Sub-basins within San Joaquin County (See Attached) – Brandon Nakagawa
- B. Discussion and Possible Action to Recommend to the Board of Supervisors that the County Submit a Grant Proposal to DWR for the Counties with Stressed Basins Solicitation in the amount of \$250,000 – Brandon Nakagawa

##### **II. Discussion Items**

- A. Update on Lower San Joaquin River Feasibility Study – Roger Churchwell
- B. Update on Smith Canal Gate Project – Roger Churchwell
- C. Update on Federal Rule Making Process Defining Waters of the US (See Attached) – Brandon Nakagawa

##### **III. Communications (See Attached):**

- A. October 20, 2015, Recordnet.com, “County Remains Opposed to ‘Water Fix’.”
- B. November 2, 2015, The Sacramento Bee, “Southern California Water Agencies Push Forward on Delta Land Purchase.”
- C. November 8, 2015, The Sacramento Bee, “Jerry Brown’s Tunnels Meet Flurry of Criticism, But Will it Matter?”

**Next Regular Meeting: December 16, 2015, 1:00 p.m.**  
Public Health Conference Room

*Commission may make recommendations to the Board of Supervisors on any listed item.*

If you need disability-related modification or accommodation in order to participate in this meeting, please contact the Water Resource Staff at (209) 468-3089 at least 48 hours prior to the start of the meeting. Any materials related to items on this agenda distributed to the Commissioners less than 72 hours before the public meeting are available for public inspection at Public Works Dept. Offices located at the following address: 1810 East Hazelton Ave., Stockton, CA 95205. These materials are also available at <http://www.sjwater.org>. Upon request these materials may be made available in an alternative format to persons with disabilities.

**REPORT FOR THE MEETING OF  
THE ADVISORY WATER COMMISSION OF THE SAN JOAQUIN COUNTY  
FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
October 21, 2015**

The regular meeting of the Advisory Water Commission of the San Joaquin County Flood Control and Water Conservation District was held on Wednesday, October 21, 2015, beginning at 1:00 p.m., at Public Health Services, 1601 E. Hazelton Avenue, Stockton, California.

**Roll Call**

Present were Commissioners Nomellini, Uecker, Flinn, Winn, Herrick, Holbrook, Alternate Heberle, Commissioners Salazar Jr., Hartmann, Secretary Nakagawa, Alternate Henneberry-Schermesser, and Chairman McGurk. Others present are listed on the Attendance Sheet. The Commission had a quorum.

Commissioner McGurk introduced Mr. Kris Balaji, the recently appointed Director of San Joaquin County Public Works. Mr. Balaji thanked the group and expressed his enthusiasm to work with such qualified staff at the Public Works Department and looks forward to a good partnership with the Advisory Water Commission.

**Approval of Minutes for the Meeting of September 16, 2015.**

Motion and second to approve the minutes of September 16, 2015 (Hartmann/Holbrook). Unanimously approved.

**SCHEDULED ITEMS**

Tom McGurk, Chairman of the Advisory Water Commission, led the agenda.

**I. Action Items:**

**A. No action items**

**II. Discussion Items:**

**A. Presentation and Discussion with State Drought Task Force Representatives – Bill Croyle, Drought Manager, California Department of Water Resources (DWR); Dee Dee D’Adamo, Board Member, California State Water Resources Control Board; Jeff Le, Assistant Cabinet Secretary, Office of Governor Edmond G. Brown, Jr.; and Karen Ross, Secretary, California Department of Food and Agriculture (CDFA).**

Secretary Nakagawa introduced the State Drought Task Force representatives and stated the purpose of the discussion today is for the presenters to meet with County stakeholders and discuss local drought-related issues. San Joaquin County is one of several the Drought Task Force has met with thus far and the team has been noting issues to take back for discussion in Sacramento. Mr. Nakagawa proceeded to introduce the panel.

Chairman McGurk requested that each panel member provide a brief background and set a preference for the order in which each would like to receive questions for discussion.

Ms. Karen Ross began with a brief background about the formation and purpose of the group. The Drought Task Force has been together four years and has worked on building relationships between Federal and State agencies. In addition, the Governor has been firm about establishing ongoing working relationships, especially with the local authorities. Each level of government has been pressed to concurrently address emergency water issues, including the possibility of entering into a fifth year of drought as well as preparing for potential flood waters that may result from the anticipated El Niño conditions in the fall of 2015 and winter of 2016. The panel expressed interest in hearing local successes in addressing these issues as well as any recommendations to incorporate in the Drought Task Force planning process.

During Ms. Ross's past 10-years of experience working on the State Board of Food and Agriculture, the agency realized the drought "playbook" had to be rewritten. Droughts historically occur over a period of time in California and it seems the response to local conditions was reactive rather than proactive. The goal of the Drought Task Force is to assist in proactively planning for these periods and developing resources to address these conditions. It is the goal of the group to continuously capture lessons learned, identify hurdles and hear recommendations from local authorities and water managers. Some recommendations the State may implement, however some are not possible because the drought has uneven impacts at local levels. The State will consider incorporating local responses, where possible, and then use this improved "playbook" to respond proactively and creatively to future conditions.

One recent example of forward progression together between the local and State level is water use efficiency made possible by the California Department of Food and Agriculture (CDFA). For the past two years, CDFA has made \$10 million available in competitive grant awards for on-farm water efficient practices that reduce energy reliance and greenhouse gases. There is a total of \$40 million that CDFA will make available over the next two years for additional on-farm water use efficiency practices.

One of the State Drought Task Force members is from the State Water Resources Control Board (SWRCB). Ms. Ross introduced the SWRCB representative, Ms. Dee Dee D'Adamo, who is involved in California WaterFix issues. Ms. D'Adamo expanded on her role and began her presentation with key areas in which the SWRCB has been focusing recent efforts.

Ms. D'Adamo commented on the drought throughout the State and noted that some areas have been hit harder than others. However, there has been improved coordination among the agencies.

The job of the SWRCB is to balance and make the best use of the water in the system. It has been helpful to have improved coordination and communication between the projects petitioning the board, and projects with the fish agencies and the stakeholders. The State Water Board has been involved, in part with the Department of Water Resources (DWR), to expedite water transfers by streamlining the process to get petitions for transfers through as quickly as possible so the water goes where it is needed. She invited any recommendations to the State on these issues. With that said, she added the caveat that she is unable to discuss any Delta-related emergency change petitions as this process has involved temporary change of conditions of the barter rights, in particular, for State and Federal projects which could have an impact on the Delta.

Ms. D'Adamo stated that the SWRCB has also been involved in curtailments and their responsibility to administer the water rights system in the State. She acknowledged that while many may hold the opinion that the water rights system is antiquated, it is the only system in the State and provides stability. The SWRCB's role has been to closely track demand and supply, issue curtailments and

provide notice if there is not enough water for all demands. First to receive these notices are junior water rights holders in the system and, as conditions worsen, eventually notices go to senior water rights holders, which happened this year. Senior water rights holders, including those in the Delta, have received notice this year. A lack of accurate information has posed a great challenge for tracking the water usage. The State is working on the ability to better track data and thanked those who participated in the efforts to improve the measuring and reporting data.

Prior preliminary meetings and discussions resulted in a voluntary curtailment plan. Ms. D'Adamo stated that because our Delta region has widespread senior water rights, they would not be informed until later in the year if the State was going to limit or cut off their access to water supply, making it a difficult planning and growing season. The voluntary curtailment proposal was presented to the executive director of the California State Water Resources Control Board which involved a 25% cutback in exchange for enforcement discretion. Ms. D'Adamo thanked Commissioner George Hartmann for leading the development of this program. It has been highly successful with participation rate at 85-90%. These voluntary growers will submit reports by November 1, 2015 and the State Water Master will compile a summary report based upon data received. Ms. D'Adamo encouraged all to view the summary report, once available. She also acknowledged the collaboration with other leaders on Delta issues, such as Commissioners Dante Nomellini and John Herrick. There had also been discussions for voluntary cutback in transfers south of the Delta. These discussions were never implemented but did allow for relationship building which is beneficial for San Joaquin County and South Delta interests. The State Legislature has also expressed the need for an improved data system. In the budget trailer bill, there is language requiring surface water diverters to measure and report the diversions. Thus, the SWRCB is currently working on a proposal, due by January 1, 2016, to develop emergency regulations. There will be opportunities for public outreach meetings, the first being held in Sacramento in early November. In addition, there will be a workshop held on November 18, 2015 before the SWRCB adoption at its December 18, 2015 meeting.

Ms. D'Adamo reported that the SWRCB ordered mandatory conservation for all urban water suppliers. Last year, the Governor called upon Californians to reduce water usage by 20%. Minimal restrictions were set in place (i.e., cannot hose off sidewalk, must wash cars with shut-off nozzle) and those voluntary efforts were not successful. As a State, there was only a 9% average conservation rate last year, consequently, emergency regulations were adopted by the SWRCB requiring an average 25% reduction for cities. Recent statistics show the results of the following conservation efforts:

<b>City/Agency</b>	<b>Target Reduction</b>	<b>Actual Reduction</b>
<b>City of Lathrop</b>	20%	33%
<b>California Water Service Co.</b>	20%	27%
<b>City of Tracy</b>	28%	32%
<b>City of Ripon</b>	36%	30%

Some communities are struggling to meet requirements and the SWRCB is currently working to develop alternative compliance strategies.

Ms. D'Adamo also reported on the Sustainable Groundwater Management Act of 2014 (SGMA). She stated that the Department of Water Resources is "front and center" on this issue. If local SGMA agencies are not formed or if these agencies do not develop a sustainable groundwater management plan by the established deadlines, the SWRCB will step in on a temporary basis and develop a plan for the communities with regulations for reporting, measuring, extracting limits and fees. She urged communities to come together quickly as there is funding available for counties who engage now in

collaborative efforts and for counties that enter into discussions about local ordinances, well permits, etc.

Following Ms. D'Adamo, Mr. Bill Croyle gave an overview on the Governor's Drought Task Force, which has been described as a "watershed moment" at the legislative level of an "all hands on deck" action. Subsequently, the State Drought Task Force has resulted in an unprecedented collaboration at the State level to support the local level. It is comprised of, but not limited to, the Real Time Water Operations Team (SWRCB – water rights and regulatory actions), the Environmental Resources Agency, the California Department of Fish and Wildlife as well as the Department of Water Resources (DWR). The team meets regularly to assess water conditions, discuss weather predictions, review Delta conditions and water usage throughout the State and also coordinates on issues such as permitting, funding and monitoring.

In addition, a multi-agency group has been formed to facilitate expediting water transfers. Their role is to identify who the willing buyers and sellers are, to facilitate discussions and make sure the water transfers happen. This multi-agency group aligns the benefits of water transfers to the environment.

The Real Time Water Operations Team also manages Delta water quality. They coordinate all three northern Delta water reservoirs, support the maintenance of fresh water conditions in the Delta and abide by permits. A challenge and lesson learned that the team faced two years ago was the loss of 95% of the salmon when water temperatures rose. By daily coordination and communication, changes were implemented to avoid the salmon loss issue by preserving the cool water pool in Shasta Reservoir until later in the year, then releasing cooler water when needed to keep salmon alive.

Snow pack levels were at a 20% historical low this past January in 2015, creating low cold water levels, so the Real Time Water Operations Team looked at the forecast and identified water needs. A decision was made to install a Delta emergency salinity barrier which was costly, but necessary, based upon the information available at the time. The price was well worth protecting Delta water quality. It was a difficult decision to make, a difficult project to install and removal of the barrier will be completed by November 15, 2015. Preparation for a dry 2016 has begun. The initial stages include developing a drought contingency plan and providing it to the State Water Resources Control Board and other agencies for review. Advance planning will include installing another barrier, if needed.

Mr. Croyle reported on water transfers stating that a lot of water was moved this year, but 2015 water transfers were at an above-average rate. Coordination with the SWRCB, U.S. Bureau of Reclamation (USBR), DWR and resource agencies allowed for permits and smooth transfers. With that said, not all water transfers were approved and processed. The Stakeholder Meeting is scheduled for November 3, 2015. DWR is working directly with buyers, sellers and technical resources to ensure agreement and/or streamline future water transfers.

Additional emergency action includes an Emergency Water Supply Project which addresses the dry wells due to drought conditions, especially in Porterville ("ground zero"). DWR, the U.S. Department of Agriculture (USDA) and Community Services Department (CSD) have been working with individuals and small businesses to support and consolidate these dry wells and establish connections to community systems.

Conservation programs include the "Turf and Toilet Rebate Program" which offers \$100 per old toilet as well as offering \$2 per square foot (up to 1000 square feet) to replace turf with drought tolerant landscapes. Both programs are up and running and information is available on-line.

Mr. Croyle applauded the northern California region for the conservation efforts. In the State-wide drought, the conservation actions that Northern California is taking helps to put pressure on Southern California to continue water conservation and water recycling efforts.

Agriculture Water Management Plans have grants for 10,000 to 25,000 acre agriculture lands. These grants are being funded under Prop 1 Drought Funding Packages. Guidelines are expected to be available in two weeks.

Mr. Croyle discussed El Niño and distributed a handout, "Will El Niño Make a Difference? Probably Not". He stated, El Niño is here. There are record sea surface temperatures, not only on the equator but off the California coast. The probability of high precipitation is increasing with a higher than average rainfall in the northern California area. Foreseen challenges include the need to prepare for flood and for a drier 2016.

State presentations were concluded and discussion was opened. Commissioner McGurk asked if the purpose of this presentation was to collect feedback to take to Sacramento agencies. Ms. Ross responded that when the drought was declared an emergency four years ago, it triggered the organization of a constant level of communication and outreach across agencies. The Drought Task Force aims to keep the efforts focused, report back within the timelines given, address issues immediately, and to maintain coordination through the California State Office of Emergency Services. She further answered that feedback is taken back to the panel's respective agencies. Feedback is also provided to the Drought Task Force to determine whether action needs to be taken, who is the appropriate lead agency, and what is the timeline for the action to be completed.

Commissioner Holbrook commented on the Governor's administration and southern California's opposition to using groundwater storage as a beneficial use in northern California. He is especially concerned that the reasoning behind this opposition is that should northern California store water underground, then that water would not be available to be conveyed to southern California. Commissioner Holbrook expressed further concern about the water use "efficiency" and conservation the State is promoting. It seems that the State will take away the water that is saved instead of the owner being able to sell it or use it in other ways to improve their facilities. It is not that the District wants to keep all its water, but it does want to be recognized as a partner.

Ms. D'Adamo responded that the State-adopted emergency water conservation regulations were expedited and critical to addressing the severe drought conditions. Her staff worked hard to regulate usage for the summer months and there were concerns expressed by those impacted in that process. With that said, the SWRCB is planning for another dry year and is busy having stakeholder discussions with water suppliers to consider options for next year. Collaborative and creative ideas between the State and local entities could yield a more desirable outcome. She stressed that voluntary conservation is good for the local water supplier and good for the State and could result in as much as 1.2 million acre feet of water conserved.

Ms. D'Adamo also commented on the complications of recharge. Assemblymember Susan Eggman introduced legislation this year proposing to divert river water and store in underground aquifers as a beneficial use. There are discussions at the SWRCB regarding potentially approving temporary permits to store water and consider using fully appropriated streams to use flexibly to move water around for flood flows.

Following Ms. D'Adamo's response, several commissioners engaged in the question and answer session. Commissioner Holbrook elaborated on local efforts to conserve water. South San Joaquin Irrigation District has developed water use efficiency for farmers who can now order water when

needed on-demand. This program has proven effective and efficient. It takes millions of dollars to establish efficiency programs and being able to sell saved water could help finance programs like this. He remarked that if the State is going to take the water, there is no incentive to be efficient. Ms. D'Adamo requested a follow-up discussion with Commissioner Holbrook after the meeting to further discuss the matter.

Commissioner Hartmann commented that water transfers were permitted for pumping of groundwater into surface waters. He questioned how this action aligns with groundwater sustainability mandated by the State. He also inquired about the installation of measuring devices on siphons in the Delta. He asked if there would be financial assistance available to farmers in the Delta who are required to install these measuring devices. Mr. Croyle responded that groundwater substitution transfers are one of three transfers permitted in the past and in the future. The Water Code requires analysis but the recent groundwater legislation will look at that process. From his perspective, Mr. Croyle believes that local agencies may be able to make that determination themselves. Ms. Ross confirmed this. She added that there will be financial assistance available to farmers to install on-farm meters, should it be used to improve water use efficiency. In addition, CDFA is in the process of creating a small-scale pilot project with dedicated funding for water districts demonstrating water use efficiency in their communities. This program should be announced later this year. In addition, Ms. D'Adamo added that there is flexibility in measuring and reporting. If there were required devices, there would not be enough available online by January 1<sup>st</sup>.

Commissioner Herrick asked about and expressed the following concerns: 1) Which DWR policy supports decisions to take water for uses other than fishery needs?; 2) How is the determination made to use water for benefits rather than obligations?; 3) Concern was expressed about violations given for poor meter quality; 4) How will DWR address actions such as not petitioning to be relieved from obligations, which that may result undesirable impacts to many stakeholders with additional salt water intrusion and loss of control in the Delta. Mr. Croyle stated that regional agencies, not just DWR, take the best plans from all agencies and make a decision based on protecting endangered species. Balancing benefits (environmental, urban, and agricultural) is the objective. Mr. Croyle also offered to meet with and listen to issues raised by the South Delta Water Agency.

Concerning the drought, Commissioner Nomellini mentioned that exports have not been restricted to the urban crisis. Regarding groundwater substitution, he stated that a lot of money has been spent on analyzing the proposal on long-term transfer. In some cases, transfers are being doubled up on demand and lessening the supply in the river. This is a very important issue which needs to be addressed. Commissioner Nomellini mentioned groundwater recharge options, stating that in Pasadena, southern California took treated waste water and ran it back down the pipe into the well without any modification to the well and recharged the groundwater. He followed up by expressing that there are unnecessary rigid groundwater limitations in agricultural areas. Commissioner Nomellini addressed water conservation in eastern San Joaquin County and noted that they reduce water consumption and lined canals, but funding is needed to build water recharge basins. He added he appreciates the hard-working efforts of Mr. Croyle.

Mr. Croyle noted that there are informational meetings coming up in Los Angeles, Visalia and a webcast on November 27<sup>th</sup> in Sacramento on the groundwater sustainability program. For better or worse, he feels it took a serious drought for agencies to "come to the table" on issues. He stated that improved data is achieved by real-time 3D modeling in the Delta and offers a better understanding of the dynamics. Such modeling is expensive and may be challenged. Conversations have begun and the State will need help and support to make progress..

Commissioner Salazar, Jr. requested a frankness from the agencies that, in his opinion, has not existed. The concept of “paper water” means nothing and stated that there needs to be discussion and a “pulling back of the curtain” with regards to actual water available, not estimated water based on formulas or over-committed water rights. He added that this would go a long way in developing credibility from the agencies.

Commissioner Winn has spoken with other County Supervisors throughout the State (El Dorado, Placer, Sacramento, Fresno, Stanislaus, Merced and Tuolumne) and all are interested in having discussions regarding the drought. He would like to see a more collaborative effort within the counties to discuss our similar concerns (i.e., above ground or underground storage, recycling, capture).

Ms. D’Adamo responded that Commissioner Winn’s comments sound similar to the Governor’s Water Action Plan for California. This document is available online on the Administration’s California Water Action Plan and contains points on climate change and a longer drought period. There is no one “silver bullet” and this water action plan looks at a variety of different strategies and ties it all together for integrated solutions. She feels this is a challenging but exciting time to be working on water issues as there are a number of “firsts”, such as the legislature agreeing on a water bond package, groundwater management, and better data.

Commissioner Flinn commented on the different regions within the County and the need for each region to become more independent and for locals to take charge with the necessary help to achieve this. Ms. Ross responded that regional resiliency is what they are trying to do for the short term and the long term with integrated regional water management plans and the funding that goes with it. She added that projects for integrated water management plans are getting a second look.

Commissioner Nomellini commented on the capability of moving water from south to north through the aqueducts, particularly in the valley. It is critical to survival and these opportunities exist to better integrate the system.

Chairman McGurk referenced a story in the media regarding the 7<sup>th</sup> largest flowing river in the United States—discharge from the Los Angeles sewer plants that flow into the ocean. He asked whether this one of the projects that the panel is going to “take home” to Sacramento. Ms. D’Adamo responded that there are a lot of dollars for recycled water projects and they are definitely looking at projects such as this in southern California as well as other storm water projects. Her Board just went through a petition process for the Los Angeles region for their storm water permits to capture storm flows and put them to use. There is also a move in southern California towards putting to use waste water recycling. Her Board has an expert panel that is compiling a report on indirect potable reuse and direct potable reuse but what will be needed is public acceptance of “Water Purification Projects”.

Ms. D’Adamo asked about the discussions being held on groundwater sustainability. Commissioner Winn responded that the County has encouraged districts and cities to decide how they want to proceed. As a result, one irrigation district and three cities are partnering to potentially form a GSA. There will be a need for an over-arching authority to coordinate all the agencies. So far, discussions have been cordial and open. The County has offered to assist in the planning stages. It is a step-by-step process and Mr. Fritz Buchman, Secretary Nakagawa, and Mr. Mike Callahan have been informative with details and initial costs. Commissioner Nomellini added that the struggle is that GSAs have the authority to control extractions which creates tremendous fear. He suggested having multiple groundwater basin authorities come together and create one groundwater sustainability plan. Currently, the law interpreted as once a local agency files to form a GSA, the other overlapping local agencies have 90-days to file or the first is presumed to be the GSA and this adds more confusion.



Ms. D'Adamo asked if there is a fair amount of modeling already in place that could inform the groundwater management basin operation discussions. Commissioner Nomellini responded that the County has worked a long time on groundwater basins, but it is challenging to define basin boundaries. There is first a need for political integration. Commissioner Winn added that there is a workgroup of 21 members, which includes those counties bordering this basin: Stanislaus County, Calaveras County and Sacramento County. These members are participating in the SGMA workgroup and developing a charter to guide decision making as the process moves forward.

Commissioner Holbrook shared that the Cities of Ripon, Escalon and Manteca have formed their own group to discuss GSA formation. South San Joaquin Irrigation District intends to file as a GSA, which may include these cities.

Commissioner Flinn commented that his district is one of the poorest districts and they cannot afford to file as a GSA. Given the lack of resources, he is concerned about whether constituents will be taxed and whether farmers should anticipate being asked to take their fields out of production, due to the basin being overdrafted. What is confusing about this basin is that there are areas of severe overdraft and areas of surplus. He stressed the need to balance this difference as a plan is implemented.

Ms. D'Adamo responded that the Commissioner raised some challenging issues. She followed by asking the questions, "Would agencies rather the State make the decisions?" She acknowledges that tough choices need to be made locally. With that said, local choices have greater rate of acceptance because those at the local level better understand basin characteristics and political dynamics. Commissioner Holbrook added that if the State came in, taxes would be higher so he suggested getting the process started and working through it.

Ms. D'Adamo inquired as to whom is the other entity that has filed to form a GSA and a participant answered that it was Stockton East Water District. Commissioner Heberle shared that Woodbridge Irrigation District has been considering how to proceed, and as a first step, held a public meeting for property owners within the district to inform them of SGMA. The forum was an open discussion. Secretary Nakagawa attended and the San Joaquin Farm Bureau was represented. Approximately 100 people were in attendance and many concerns expressed were regarding whether there would be an additional tax imposed in the area as a result of SGMA.

Mr. Croyle expressed appreciation for the comments and concerns shared. He realizes there are many challenges during continued drought conditions, including required communication, collaboration, record keeping, reporting, and all associated costs. He added that hearing the concerns at this meeting was very important and, from his perspective, the efforts of this group are ahead of other regions.

**Public Comment:**

No public comment received.

**Next Regular Meeting:** November 18, 2105, at 1:00 p.m.  
Public Health Conference Room

**Adjournment:** 3:10pm



**SAN JOAQUIN COUNTY  
FLOOD CONTROL & WATER  
CONSERVATION DISTRICT**

**ADVISORY WATER COMMISSION  
MEETING OF OCTOBER 21, 2015**

**ATTENDANCE SHEET**

NAME	AFFILIATION	E-MAIL ADDRESS	PHONE
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ATTACHMENT  
I.A.i



# Options for GSA Governance

## Centralized GSA

- Covers entire basin
- Assumes all authorities and responsibilities
- New or existing agency

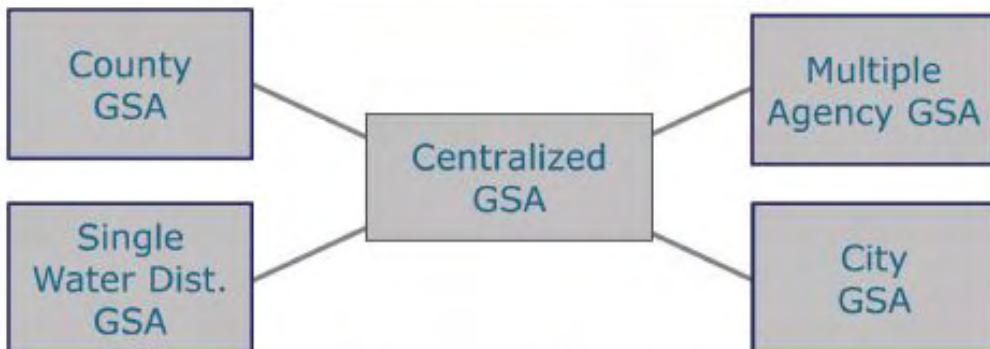
## Distributed GSA

### Coordination Agreement



- Each GSA assumes all responsibilities for their service area
- Coordination Agreement required (MOU)

## Combination GSA



- Centralized GSA: assumes some shared responsibilities
- Multiple GSAs: assume remaining responsibilities

ATTACHMENT  
I.A.ii

# Recommendation to Convene SGMA Workgroup

August 12, 2015

GBA Board of Directors





## Sustainable Groundwater Management Act (SGMA)

- Requires formation of Groundwater Sustainability Agency (GSA)
- Requires completion of Groundwater Sustainability Plan (GSP)
- Requires GSAs to manage groundwater basins through implementation of GSPs
- Provides GSAs with authority to collect fees and conduct enforcement actions





## SGMA cont.

- Multiple GSAs and GSPs allowed within a basin with a “Coordination Agreement”
- Coordination with adjoining basin GSA is required
- GSA is formed from one or more local agencies with water supply, water management or land use responsibility
- GSA can be formed under a joint powers agreement or a memorandum of agreement
- Failure to form GSA by June 30, 2017 will result in State intervention

# SGM Overview

## Framework

- Applicability
- Definitions

## Local's Role

- Establish GSA
- Powers & Authorities
- Sustainability Plans
- Deadlines

## State's Role

- Basin Boundaries & Priorities
- Technical Assistance
- State Evaluation and Assessment
- State Intervention



# *Sustainability*



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## **“Undesirable Results”**

Reduction in  
Groundwater  
Storage

Lowering of  
Groundwater  
Levels

Water Quality  
Degradation

Seawater  
Intrusion

Land  
Subsidence

Depletions of  
Surface  
Water





# SGM

- Required for High- and Medium Priority Basins
- Empowers GSAs:
  - Register groundwater wells
  - Measure extractions
  - Manage extractions
  - Require reports
  - Assess fees
- Creates State “Backstop”
- Establishes “sustainability goal”



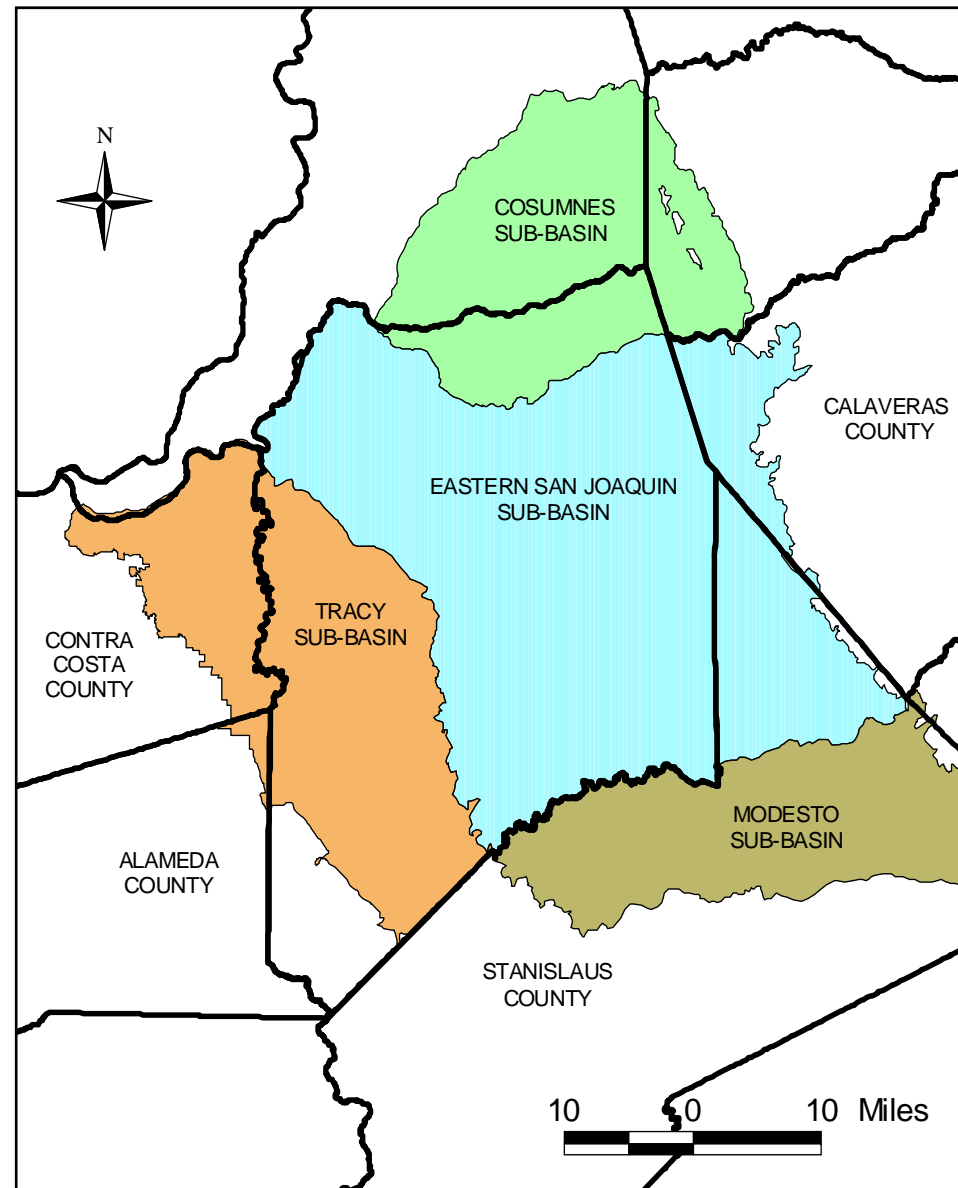


## Steps to Forming a GSA

1. Identify basins and their boundaries
2. Identify local agencies and parties of interest
3. Understand the basin conditions and issues
4. Engage parties of interest
5. Discuss assignment of authorities
6. Evaluate and propose governance model

# Identify Basins and Their Boundaries

- Basin boundaries defined by State Bulletin 118-03
- “Critically overdrafted” per Bulletin 118-80
- State regulations for adjusting basin boundaries are due January 1, 2016
- Boundary adjustment requests accepted January 1, 2016 – March 31, 2016



Source: California Spatial Information Library at <http://www.cis.ca.gov/>







## Identify Local Agencies and Parties of Interest

- Water supply and water management agencies
- Municipalities including land use planning entities
- Agricultural and domestic groundwater users
- Small public water systems
- Surface water users
- Federal agencies holding land in the basin
- Environmental users of groundwater
- California Native American Tribes
- Disadvantaged communities





## Engage Parties of Interest

- Prior to State acceptance of a GSA, a noticed public hearing must be held
- How will interested parties participate in the process?
- Will existing advisory groups be used?
- Will new structures or processes be needed?
- How will input be received on GSA formation, GSP development and GSP implementation?



# Discuss Assignment of GSA Authorities

- Range of authorities and tasks
  - Coordination
  - Planning
  - Monitoring and Reporting
  - Implementation
  - Financing
  - Enforcement
- Will any existing local agencies assume any of the authorities and tasks?



## Understand the Basin Conditions and Issues

- Condition of the basin
- Existing Groundwater Management Plans
- Groundwater basin models
- Groundwater monitoring data
- Identify key issues such as declining elevations, degrading water quality, subsidence, impacts to the ecosystem, impacts to surface water systems, need for additional water supply
- Develop a Groundwater Sustainability Plan



## STAFF RECOMMENDATION - 1

- GBA's Amended and Restated JPA
  - Expanded Membership
  - SGMA Implementation Planning
- 2015-16 GBA Budget
  - \$120,000 Professional Services
  - \$150,000 Special Studies and Reports
  - \$150,000 County Staff
- DWR Facilitation Application
  - Facilitator Selected and Working
  - Facilitation Scope of Work - Approval Pending

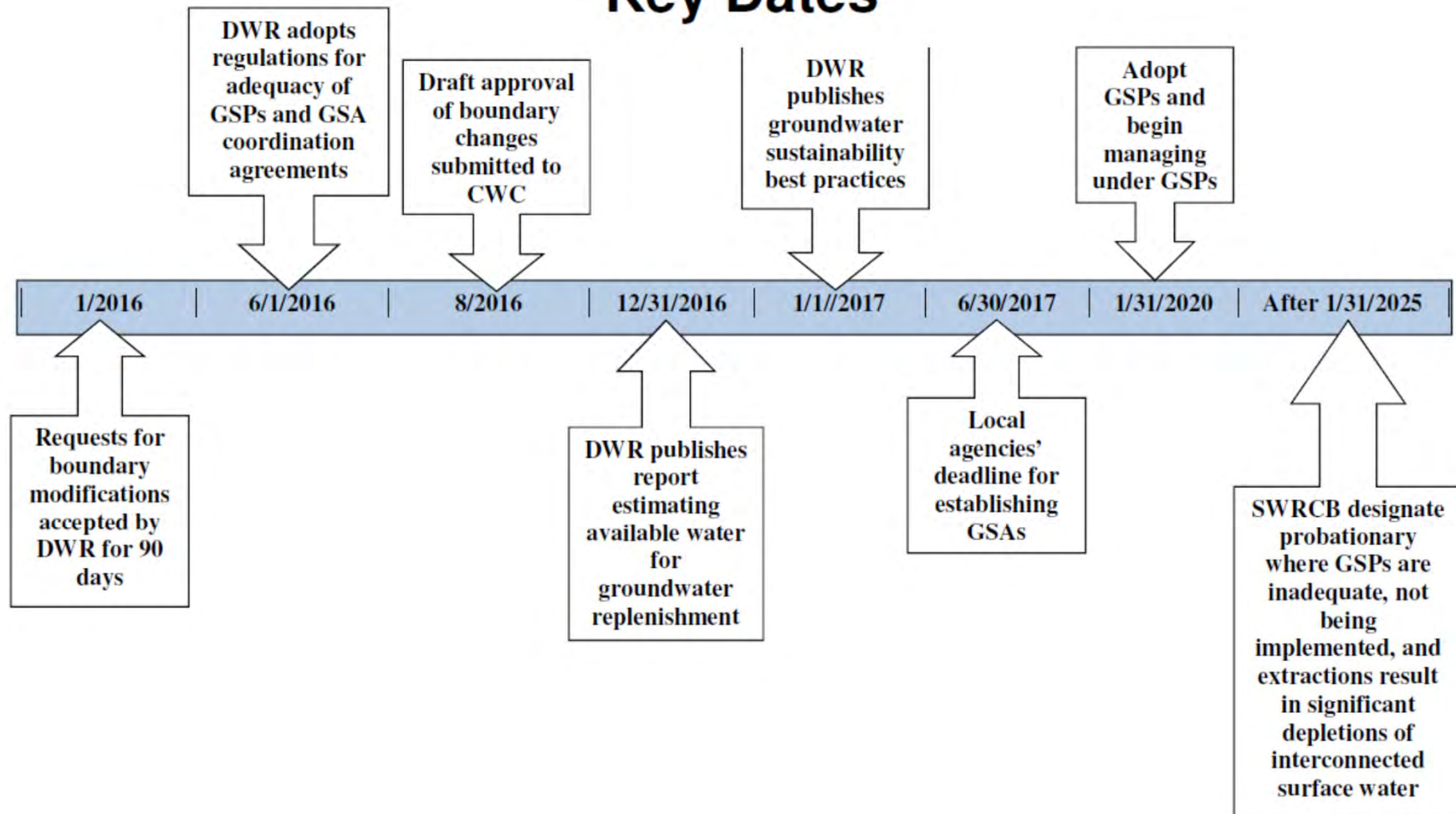


## STAFF RECOMMENDATION - 2

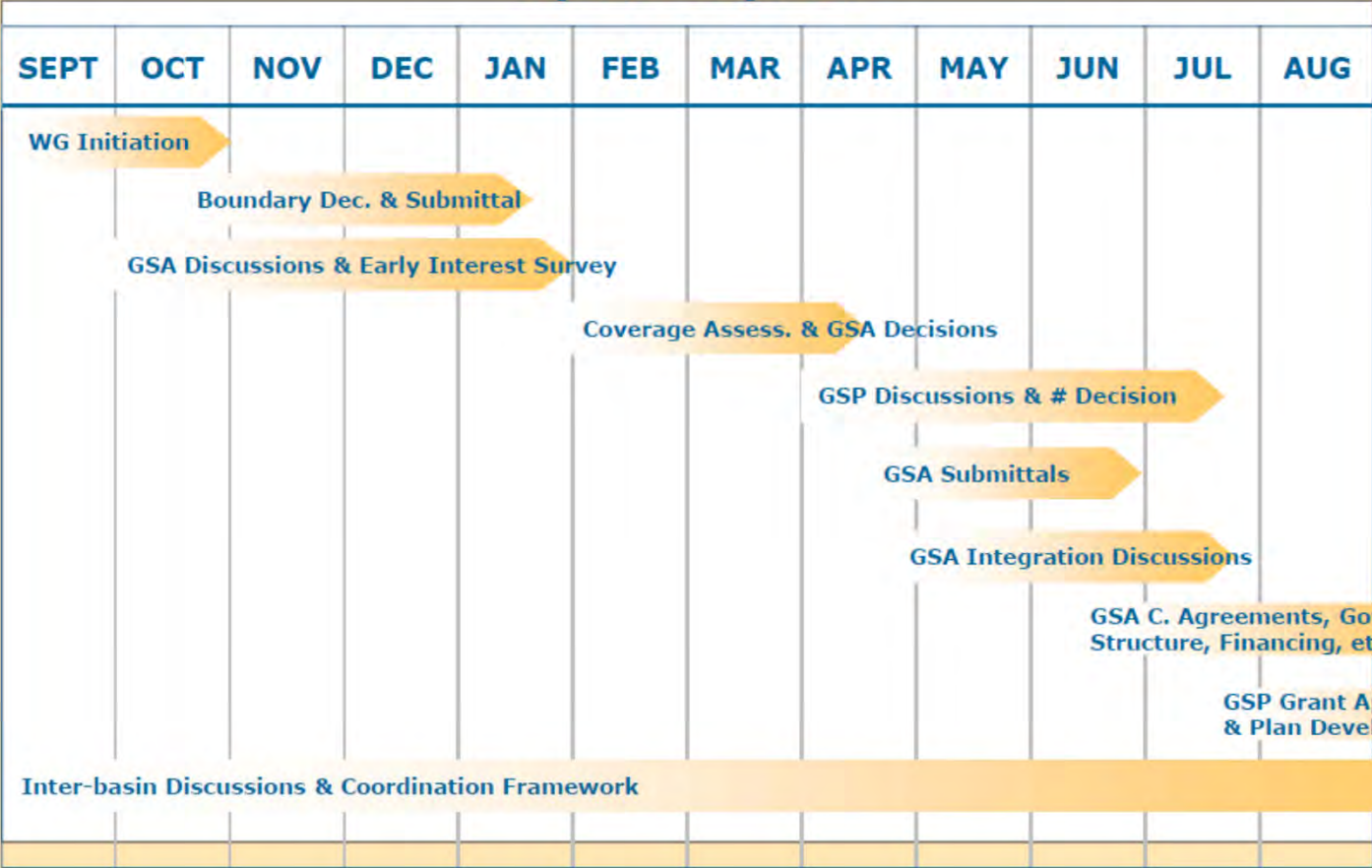
- Convene the SGMA Workgroup
- Develop Invitation List
- First Meeting September 9, 2015
- Possible 2<sup>nd</sup> Meeting on the 4<sup>th</sup> Wednesday of the Month if Needed
- Possible Move to Ag Commissioner's Assembly Room to Accommodate Group
- Develop Formal Charter for the SGMA Workgroup

# Sustainable Groundwater Management Act

## Key Dates



# DRAFT SGMA LAUNCH MILESTONES 9/15-8/16



Note: Based on multiple GSAs and DWR timeline.



# Questions?



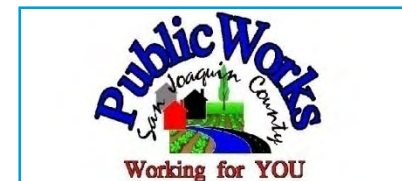
[www.GBAWater.org](http://www.GBAWater.org)

[www.SJWater.org](http://www.SJWater.org)

[www.SJCleanWater.org](http://www.SJCleanWater.org)

[www.MOREWATER.org](http://www.MOREWATER.org)

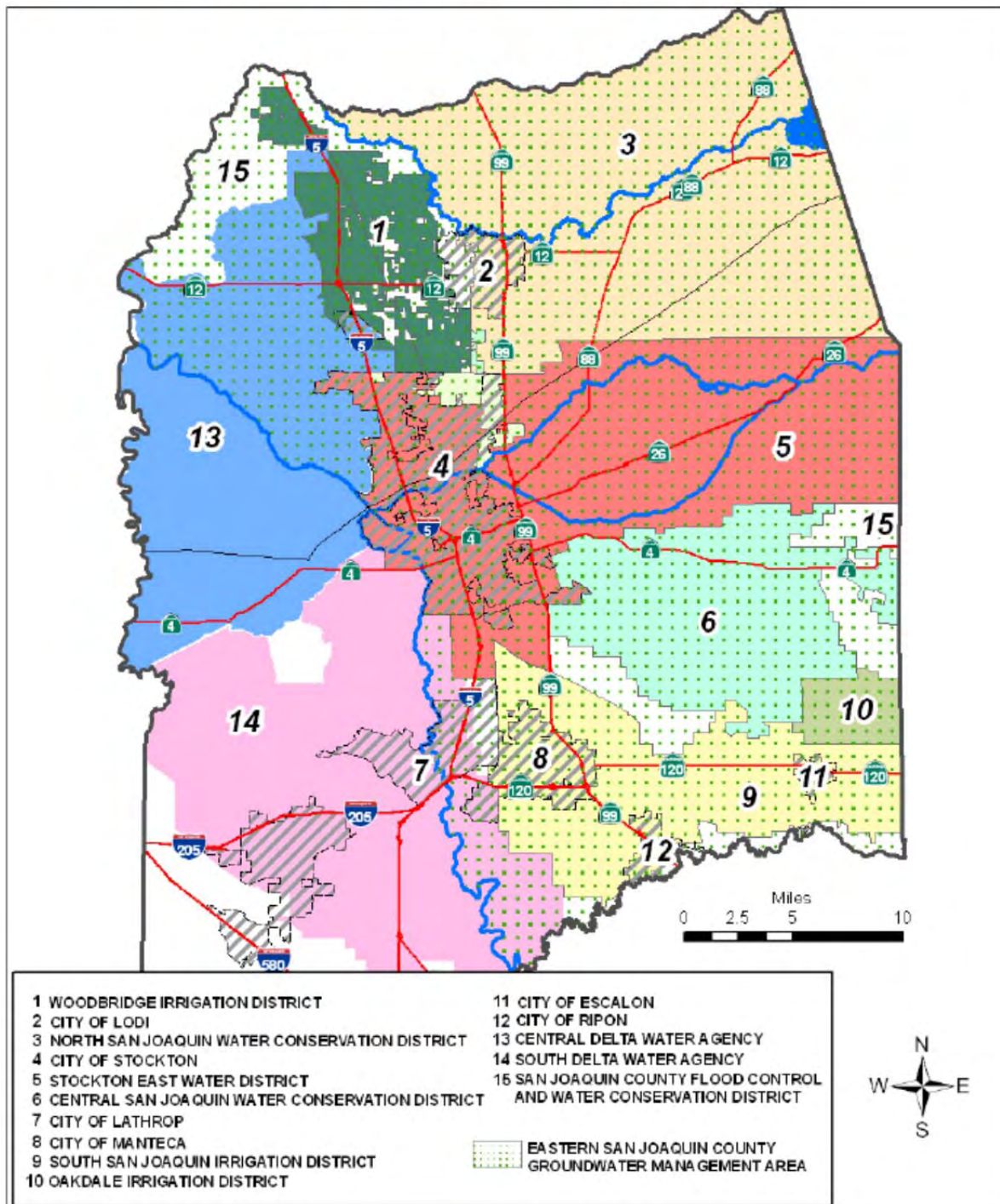
[www.SJCSavewater.org](http://www.SJCSavewater.org)





ATTACHMENT  
I.A.iii

Figure 4-12 Overlying Agencies within the Regional Planning Area



Agencies invited to participate on the SGMA Work Group (not illustrated above) include:

- 16. Stanislaus County
- 17. Calaveras County
- 18. Calaveras County Water District
- 19. Sacramento County
- 20. Southeast Sacramento Agricultural Water Authority
- 21. Oakdale Irrigation District

ATTACHMENT  
I.A.iv



## ACTIONS FOR LOCAL AGENCIES TO FOLLOW WHEN DECIDING TO BECOME OR FORM A GROUNDWATER SUSTAINABILITY AGENCY (GSA)

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### INTRODUCTION

The 2014 Sustainable Groundwater Management Act (SGMA) established a framework of priorities and requirements to help local agencies sustainably manage groundwater within a basin or subbasin. SGMA provides a basic minimum standard for outreach and notification regarding the formation of a groundwater sustainability agency (GSA). The information in this document highlights the requirements that must be followed pursuant to California Water Code (Water Code) Section 10723 *et seq.* in order to become or form a GSA. This document incorporates the amendments made to SGMA by Senate Bill (SB) 13 in September 2015.

Pursuant to Water Code Section 10723(a), any local agency or combination of local agencies overlying a groundwater basin or subbasin may decide to become a GSA for that basin or subbasin. A GSA is formed by using either a joint powers agreement (JPA), a memorandum of agreement (MOA), or other legal agreement, and the Department of Water Resources (DWR or department) must be notified after the GSA has been formed. The definitions for GSA and local agency, as defined in Water Code Section 10721, are as follows:

*“Groundwater sustainability agency” means one or more local agencies that implement the provisions of this part [Part 2.74]. For purposes of imposing fees pursuant to Chapter 8 (commencing with [Water Code] Section 10730) or taking action to enforce a groundwater sustainability plan, “groundwater sustainability agency” also means each local agency comprising the groundwater sustainability agency if the plan authorizes separate agency action.*

*“Local agency” means a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin.*

### SUMMARY OF INFORMATION REQUIRED TO BE SUBMITTED TO DWR

A local agency is required to submit the following information to DWR in order to complete the GSA formation notification requirements of Water Code Section 10723.8(a). A notice of GSA formation will not be determined to be complete unless all information is submitted.

- Information that clearly shows the GSA formation notification was submitted to DWR within 30 days of the decision to become or form a GSA.
- A map and narrative indicating (1) the local agency’s service area boundaries, (2) the boundaries of the basin or portion of the basin the agency intends to manage, and (3) the other agencies managing or proposing to manage groundwater within the basin. *Please include a hard-copy map and GIS shape files.*
- A copy of the resolution forming the new agency.
- A copy of any new bylaws, ordinances, or new authorities developed by the local agency.
- A list of the interested parties developed pursuant to Water Code Section 10723.2 and a detailed explanation how the GSA will consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing GSPs.

A representative of the local agency deciding to become a GSA, or a designated representative from the group of local agencies forming a GSA, shall include a statement in the notification to DWR that all applicable information in Water Code Section 10723.8(a) has been provided in the notification.

## GSA FORMATION NOTIFICATION GUIDELINES FOR LOCAL AGENCIES

While not specifically required by Water Code Section 10723.8(a), the local agency submitting the GSA formation notification may wish to include a copy of the Government Code Section 6066 notice, as well as evidence or a statement demonstrating that a public hearing in accordance with Water Code Section 10723(b) was held in the county or counties overlying the basin.

### GSA INFORMATION FOR LOCAL AGENCIES

The GSA formation notification requirements are located in Division 6 of the Water Code, Part 2.74, Chapter 4, Section 10723 *et seq.* The language in this document reflects the amendments made to SGMA by SB 13 which becomes law on January 1, 2016. DWR will review pre-SB 13 notifications for completeness and will retroactively address any GSA overlap and local agency service area issues pursuant to the process outlined in **Attachment A**.

The following Internet links provide the relevant SGMA legislation text:

- Summary of SGMA Legislation Text:  
[http://www.opr.ca.gov/docs/2014\\_Sustainable\\_Groundwater\\_Management\\_Legislation\\_092914.pdf](http://www.opr.ca.gov/docs/2014_Sustainable_Groundwater_Management_Legislation_092914.pdf)
- Senate Bill 13 Text:  
[http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=201520160SB13](http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160SB13)

The Water Code mandates that all local agencies are required to notify DWR within 30 days of deciding to become or form a GSA and submit in that notification specific information. The “exclusive” local agencies listed in Water Code Section 10723(c)(1), which are agencies created by statute to manage groundwater within their statutory boundaries, must also follow the notification requirements before they become GSAs.

Additional information related to a local agency’s decision to form a GSA is welcomed and will help demonstrate to DWR, the State Water Resources Control Board (SWRCB), and other local agencies that a proposed GSA has the long-term technical, managerial, and financial capabilities to sustainably manage basin-wide groundwater resources and prepare a groundwater sustainability plan (GSP) or coordinated GSP for an entire groundwater basin.

Pursuant to Water Code Section 10723.8(b), DWR shall post all complete notices it receives on its Internet Web site within 15 days of receipt. The list of GSA notifications received by DWR, an interactive map of the proposed GSA areas, and other helpful interactive planning maps are located on DWR’s Sustainable Groundwater Management Web site at the following Internet links:

- GSA Formation Table: [http://www.water.ca.gov/groundwater/sgm/gsa\\_table.cfm](http://www.water.ca.gov/groundwater/sgm/gsa_table.cfm).
- GSA Interactive Map: [http://water.ca.gov/groundwater/sgm/gsa\\_map.cfm](http://water.ca.gov/groundwater/sgm/gsa_map.cfm).
- Water Management Planning Tool: <http://water.ca.gov/groundwater/boundaries.cfm>
- Basin Boundaries Assessment Tool: <http://water.ca.gov/groundwater/sgm/bbat.cfm>

### FORMING A GSA AND LOCAL AGENCY NOTIFICATION REQUIREMENTS

The following information summarizes the GSA formation and public notification steps identified in SGMA. Relevant Water Code sections are included.

#### Step 1: Decision to Form a GSA

The first step in the GSA formation process is public notification that a local agency is either (1) deciding to become a GSA or (2) deciding to form a GSA together with other local agencies. Water Code Section 10723(b) requires that a local agency or group of local agencies hold a public hearing in the county or counties overlying the groundwater basin. The relevant Water Code sections are included below.

## GSA FORMATION NOTIFICATION GUIDELINES FOR LOCAL AGENCIES

### WATER CODE SECTION 10723

- (a) *Except as provided in subdivision (c), any local agency or combination of local agencies overlying a groundwater basin may decide to become a groundwater sustainability agency for that basin.*
- (b) *Before deciding to become a groundwater sustainability agency, and after publication of notice pursuant to Section 6066 of the Government Code, the local agency or agencies shall hold a public hearing in the county or counties overlying the basin.*
- (c) *[Includes list of 15 “exclusive” local agencies – these agencies do not become a GSA until they submit a notification of GSA formation to DWR].*

### GOVERNMENT CODE SECTION 6066

*Publication of notice pursuant to this section shall be once a week for two successive weeks. Two publications in a newspaper published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The period of notice commences upon the first day of publication and terminates at the end of the fourteenth day, including therein the first day.*

## Step 2: Consideration of Interests of Beneficial Uses and Users of Groundwater

Water Code Section 10723.2 requires GSAs to consider the interests of all beneficial uses and users of groundwater. Additional sections of the Water Code require that this information be submitted as part of the GSA formation notification to DWR by a local agency(s). The relevant Water Code sections are included below.

### WATER CODE SECTION 10723.2

*The groundwater sustainability agency shall consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans. These interests include, but are not limited to all of the following:*

- (a) *Holders of overlying groundwater rights, including:*
  - (1) *Agricultural users.*
  - (2) *Domestic Well owners.*
- (b) *Municipal well operators.*
- (c) *Public water systems.*
- (d) *Local land use planning agencies.*
- (e) *Environmental users of groundwater.*
- (f) *Surface water users, if there is a hydrologic connection between surface and groundwater bodies.*
- (g) *The federal government, including, but not limited to, the military and managers of federal lands.*
- (h) *California Native American Tribes.*
- (i) *Disadvantaged communities, including, but not limited to, those served by private domestic wells or small community water systems.*
- (j) *Entities listed in Section 10927 that are monitoring and reporting groundwater elevations in all or a part of a groundwater basin managed by the groundwater sustainability agency.*

GSAs are encouraged to engage additional stakeholders in order to develop the necessary relationships and expertise needed to develop and implement GSPs. Pursuant to Water Code Section 10727.8, *“The groundwater sustainability agency shall encourage the active involvement of diverse social, cultural, and economic elements of the population within the groundwater basin prior to and during the development and implementation of the groundwater sustainability plan.”*



### Step 3: Submittal of GSA Formation Information to DWR

A local agency or group of local agencies must notify DWR and document the process it chose to take in deciding to become or form a GSA. The GSA formation notification requirements are described in Water Code Section 10723.8(a). The requirement for DWR to post complete GSA notifications is included in the Water Code references below. DWR will not post notifications on its Internet Web site that are determined to be incomplete.

#### WATER CODE SECTION 10723.8

- (a) *Within 30 days of deciding to become or form a groundwater sustainability agency, the local agency or combination of local agencies shall inform the department of its decision and its intent to undertake sustainable groundwater management. The notification shall include the following information, as applicable:*
- (1) *The service area boundaries, the boundaries of the basin or portion of the basin the agency intends to manage pursuant to this part, and the other agencies managing or proposing to manage groundwater within the basin.*
  - (2) *A copy of the resolution forming the new agency.*
  - (3) *A copy of any new bylaws, ordinances, or new authorities adopted by the local agency.*
  - (4) *A list of interested parties developed pursuant to Section 10723.2 and an explanation of how their interests will be considered in the development and operation of the groundwater sustainability agency and the development and implementation of the agency's sustainability plan.*
- (b) *The department shall post all complete notices received under this section on its Internet Web site within 15 days of receipt.*

### GSA TIMELINE – OVERLAPPING AREAS AND SERVICE AREAS WITHIN A BASIN

The deadline for GSA formation in high- and medium-priority groundwater basins and subbasins is June 30, 2017. A local agency that decides to become a GSA within its service area, or a group of local agencies that decides to form a GSA within their combined service areas, does not effectively become a GSA unless the provisions of Water Code 10723.8(c) and (d) are also met – these provisions address overlapping GSAs and management within a service area. If multiple local agencies form separate GSAs in a basin or subbasin within a 90-day period, and if any of those proposed GSAs result in an overlap in the areas proposed to be managed, then none of the local agencies will become the GSA unless the overlap is resolved, which could require making a material change to the existing notification(s). The relevant Water Code sections are included below.

#### WATER CODE SECTION 10723.8

- (c) *The decision to become a groundwater sustainability agency shall take effect 90 days after the department posts notice under subdivision (b) if no other local agency submits a notification under subdivision (a) of its intent to undertake groundwater management in all or a portion of the same area. If another notification is filed within the 90-day period, the decision shall not take effect unless the other notification is withdrawn or modified to eliminate any overlap in the areas proposed to be managed. The local agencies shall seek to reach agreement to allow prompt designation of a groundwater sustainability agency. If agreement is reached involving a material change from the information in the posted notice, a new notification shall be submitted under subdivision (a) and the department shall post notice under subdivision (b).*
- (d) *Except as provided in subdivisions (e) and (f), after the decision to be a groundwater sustainability agency takes effect, the groundwater sustainability agency shall be presumed to be the exclusive groundwater sustainability agency within the area of the basin within the service area of the local agency that the local agency is managing as described in the notice.*

## CONDITIONS FOR DETERMINING A GSA NOTIFICATION INCOMPLETE

A GSA formation notification will be determined to be incomplete if (1) the local agency does not certify the notification as complete and (2) the provisions of Water Code Section 10723.8 are not clearly addressed. An incomplete notification will not be posted on DWR's Internet Web site and DWR staff will inform local agencies of the reason(s) for not posting. Local agencies will be given the opportunity to provide additional information.

Examples of what could deem a GSA notification to be incomplete include, but are not limited to, the following:

- Informing DWR of the decision to become a GSA more than 30 days after the decision was made in accordance with the required public hearing process.
- An incomplete map or insufficient information that clearly defines the local agency's service area boundaries with respect to the area of the basin or subbasin proposed to be managed as a GSA.
- No copy of a resolution or legal agreement forming the new agency.
- No copy of any new bylaws, ordinances, or new authorities adopted, if applicable.
- An incomplete list of interested parties developed pursuant to Water Code Section 10723.2.
- Submitting a GSA formation notification for a basin or portion of a basin where a local agency is already presumed to be the GSA.
- Deciding to become or form a GSA for an area that is outside the service area boundary of the local agency(s) forming the GSA.
- Forming a GSA outside the boundaries of a basin or subbasin defined in DWR's Bulletin 118.

Questions related to GSA notifications can be directed to DWR by contacting Mark Nordberg at [Mark.Nordberg@water.ca.gov](mailto:Mark.Nordberg@water.ca.gov) or calling 916-651-9673. Information is also located on DWR's GSA webpage at: <http://water.ca.gov/groundwater/sgm/gsa.cfm>.

Please e-mail your GSA formation notification and GIS shape files, and/or send via postal mail a hardcopy, to the following DWR staff:

**Mark Nordberg, GSA Project Manager**  
Sustainable Groundwater Management Program  
California Department of Water Resources  
901 P Street, Room 213-B  
P.O. Box 942836  
Sacramento, CA 94236

**DWR Region Office Groundwater Contact**  
<http://water.ca.gov/groundwater/gwinfo/contacts.cfm>  
Bill Ehorn, Northern Region  
Bill Brewster, North Central Region  
Dane Mathis, South Central Region  
Tim Ross, Southern Region





**ATTACHMENT A**  
**PROCESS FOR REVIEWING COMPLETE GSA NOTIFICATIONS –  
ADDRESSING OVERLAPPING GSAS AND SERVICE AREA BOUNDARIES**

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Note: The amendments to SGMA provided by Senate Bill 13 will be retroactively applied to GSA formation notifications already submitted to DWR.

1. DWR receives a GSA formation notification (notification) from a local agency(s).
2. DWR reviews the notification for completeness.
  - a. If incomplete, the local agency(s) is contacted and the notification is not posted. DWR informs the local agency(s) of the reason(s) for being determined incomplete.
  - b. If complete, the notification is posted on DWR’s GSA Formation Table within 15 days.
3. Complete GSA notifications are posted with (1) the posting date and (2) a date that indicates the posting-date-plus-90-calendar-days. This is the active 90-day period.
  - a. The GSA area submitted with the notification is included on DWR’s GSA Interactive Map after DWR Region Office staff determines the suitability of the GIS shape files. The area included as a shape file must match the area depicted in the notification.
4. If no other local agency(s) submits a notification within the 90-day period in all or a portion of the same basin area, the local agency(s) that submitted the notification will become the “presumed” GSA for the area claimed within the service area of the local agency(s).
  - a. Status as “presumed” GSA will be indicated on the GSA Formation Table and the area claimed by the GSA will be distinctly colored on the GSA Interactive Map.
  - b. If any other local agency(s) submits a notification for all or a portion of an area managed by a “presumed” GSA, DWR will determine that notification to be incomplete and will contact that local agency(s).
5. If another local agency(s) submits a complete notification within an active 90-day period, and that notification results in an overlap in all or a portion of the same area of an existing notification, then:
  - a. The notification will be included on the GSA Formation Table with a posting date.
  - b. The column with the posting-date-plus-90-days date for all affected notifications will be replaced with “overlap” to indicate a GSA formation overlap.
  - c. The GIS shape files on the GSA Interactive Map for all affected notifications will be labeled with a color that clearly indicates GSA formation overlap.
6. All local agencies that are affected by overlapping notifications will remain in overlap status until the conditions stated in Water Code Section 10723.8(c) are met.
  - a. “Presumed” designation of a GSA will not proceed unless conflicting notifications are withdrawn or modified to eliminate any overlap in the areas proposed to be managed.
7. If agreement is reached involving a material change from the information in the posted notice, a new notification shall be submitted in accordance with Water Code Section 10723.8(a) and the notification will be reviewed and posted by DWR as described in this process.
  - a. A material change includes, but is not limited to: a GSA boundary revision; a change of local agencies forming the GSA; or a consolidation of local agencies or proposed GSAs through a JPA or MOA or other legal agreement.
8. If overlapping GSA formation notifications exist in a basin after June 30, 2017, then that basin is subject to probationary status by the SWRCB per Water Code Section 10735.2. In addition, the groundwater extraction reporting requirements in Water Code Section 5202 *et seq.* apply to the portions of that basin where local agencies have not been determined “presumed” GSAs.

ATTACHMENT  
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## APPENDIX

### More detailed outline for Groundwater Sustainability Plans under the Sustainable Groundwater Management Act

- 1) Summary statement of local basin objectives and approach to groundwater sustainability
- 2) Basin geography
  - a. Location, boundaries and bordering areas
  - b. Area addressed by plan if not entire basin
  - c. Climate (historic, current and projected)
  - d. Land use and demography (historic, current and projected)
  - e. Water uses and volumes (historic, current and projected)
  - f. Sources of water (historic, current and projected)
  - g. Major basin problems related to groundwater
- 3) Summary of basin hydrogeology and water budget
  - a. Summary of basin hydrogeology
  - b. Summary of basin water budget and overdraft susceptibility
    - i. Summarize modeling and historical measurements for water balance analyses
    - ii. Current water budget component estimates
      1. Total groundwater extraction
      2. Recharge
      3. Groundwater/surface water interaction (recharge and discharge)
      4. Groundwater inflow/outflow at basin boundaries
      5. Change in storage
    - iii. Future water budget component estimates
      1. Surface water imports
        - a. Residual demand supplied by groundwater pumping
        - b. Annual average and variability of imports
        - c. Environmental challenges
        - d. Legal and regulatory considerations
      2. Potential effects of San Joaquin-Sacramento Delta infrastructure futures over planning horizon
      3. Natural surface water flows to and from basin (annual variability)
      4. Population and land use trends
      5. Potential effects of climate change over planning horizon
      6. Effects of potential (anticipated/planned) basin boundary adjustments

7. Summary of major uncertainties and estimated range of uncertainty in water balances
  - c. Summary of land subsidence problems and susceptibility
  - d. Summary of saltwater intrusion problems and susceptibility
  - e. Summary of other basin water quality problems and susceptibility
    - i. Relevant hydrogeochemistry and natural sources of contamination
    - ii. Nonpoint source water quality sources and future trends
    - iii. Point-source water quality sources and future trends
- 4) Sustainability objectives, options and analysis
- a. Basin-specific definition of sustainability (quantity, quality, land subsidence, groundwater/surface water interaction) compatible with the act's definition of sustainability
  - b. Forecast if nothing changes (bracketed by uncertainty)
  - c. Sustainability objectives
    - i. Arrest long-term groundwater level decline
    - ii. Increase groundwater storage
    - iii. Improve water quality
    - iv. Improve aquatic and terrestrial ecosystems
    - v. Stop land subsidence
    - vi. Stop/reverse seawater intrusion
    - vii. Mitigate impacts on surface water
  - d. Options for achieving sustainability. Actions to modify water budget
    - i. Increase recharge
    - ii. Decrease discharge
    - iii. Combination
    - iv. Amounts required (bracketed by uncertainty)
    - v. Water quality options
    - vi. Other options
  - e. Analysis and evaluation of options and combined options for achieving sustainability objectives. Possible refinement of analysis with aquifer modeling
  - f. Major uncertainties and ranking of uncertainties by relevance for beginning to manage towards sustainability
- 5) Plan activities
- a. Management activities
  - b. Responsibilities, timelines and milestones
  - c. Management, supply and information agreements with neighboring and regional basins, water suppliers and land-use authorities
  - d. Enforcement of implementation responsibilities
  - e. Funding
  - f. Measurement and verification

- i. Data to be collected
      - ii. Monitoring networks (type, locations, depths, frequencies)
      - iii. Procedures
    - g. Near-term efforts for moving forward while important data gaps are filled
    - h. Efforts for reducing uncertainties
      - i. Activities
      - ii. Science coordination
      - iii. Approximate costs and funding
      - iv. Timeframes of activity completion and plan updates
    - i. Recourse contingencies to make implementation robust
- 6) Implementation actions supporting GSP activities
- a. Near-term implementation actions and responsibilities
  - b. Efforts and responsibilities for improving information and refining uncertainties to manageable levels
- 7) Appendices
- I. Basin Hydrogeology
- a. Geology (structural and depositional)
  - b. Unconsolidated deposits
    - i. Groundwater basins identified in DWR Bulletin 118
    - ii. Architecture and stratigraphy
    - iii. Variations across basin
  - c. Deeper geology
    - i. Unconsolidated deposits
    - ii. Consolidated deposits
    - iii. Fractured hard rock
    - iv. Variations across basin
  - d. Water budget components and quantification
    - i. Descriptions and land use conditions
      - 1. Recharge
        - a. Diffuse recharge
          - i. Precipitation/runoff (natural and agricultural settings)
          - ii. Agricultural return flow (irrigated settings)
          - iii. Urban stormwater runoff/return flow
        - b. Localized recharge
          - i. Streams, lakes, wetlands, reservoirs, etc.
          - ii. Artificially induced/intentional recharge
      - 2. Discharge
        - a. Supply well pumping (historic, current and projected)
        - b. Evapotranspiration
          - i. Natural vegetation

- ii. Riparian vegetation
      - iii. Crops
        - 1. Irrigated crops
        - 2. Non-irrigated crops/dryland farming
      - iv. Bare soil
        - c. Baseflow/discharge to streams
        - d. Agricultural drains
    - 3. Groundwater inflow/outflow at basin boundaries
      - a. Interbasin flow
      - b. Bedrock-alluvial basin flows/mountain front recharge/discharge
    - 4. Change in storage
  - ii. Spatial variations of individual flow components
    - 1. Across basin
    - 2. With depth
  - iii. Magnitude of diurnal/seasonal/inter-annual dynamics in the transient (time-varying) changes of individual flow components
  - iv. Sensitivity analysis to show likely range of values and identify where uncertainty is important
  - v. Detailed methods and calculations presented in appendix
    - 1. Available data
    - 2. Estimation methods when data on flows are not available, derived using analytical/modeling/estimation tools
- e. Hydraulic heads and flows
  - i. Unconsolidated deposits
    - 1. Confined/unconfined
    - 2. Trends and cycles (historic, current and projected)
    - 3. Variations
      - a. Across basin
      - b. With depth
    - 4. Level of overdraft (as applicable)
  - ii. Deeper geology
    - Nature of confining beds and basement
- f. Water quality
  - i. Major constituents of interest
    - 1. Constituents of note and sources
    - 2. Variations
      - a. Across basin
      - b. With depth
    - 3. Trends (historic, current and projected)
    - 4. Depth of transition from fresh to brackish/saline water
    - 5. Hydrogeochemistry data and natural contaminants
  - ii. Unconsolidated deposits
  - iii. Deeper geology

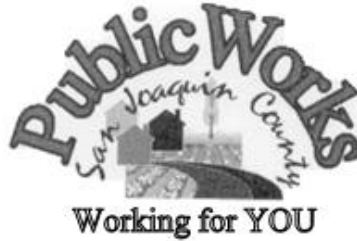
- g. Land subsidence (as applicable)
  - h. Saltwater intrusion (as applicable)
  - i. Groundwater model availability to represent: understanding of groundwater system; support of estimation of water and contaminant flows and their spatial-temporal variability; evaluation of effectiveness of planned actions (including uncertainty analysis)
- II. Details of calculations for water budget component estimation
- III. Options considered for achieving sustainable management
  - a. Potential options
    - i. Hydrologic
    - ii. Operational/logistical
  - b. Evaluation of options and alternatives
    - i. Financial
    - ii. Economic
    - iii. Regulatory and legal
    - iv. Other
  - c. Selected plan activities
    - i. Management activities
    - ii. Timelines and milestones
    - iii. Measurement and verification
      - 1. Data to be collected
      - 2. Monitoring networks (type, locations, depths, frequencies)
      - 3. Procedures
- IV. Process of basin GSP development – reviewing the process of local and stakeholder engagement, analysis and plan development
- V. Monitoring and assessment plan details
- VI. Other supporting documents
  - a. Supporting information regarding evaluation of uncertainty
  - b. Supporting information regarding sustainability analysis
  - c. Supporting information on measures for achieving sustainable management
  - d. Details on selected option to achieve sustainability



ATTACHMENT  
I.C.i



**KRIS BALAJI**  
DIRECTOR



P.O. BOX 1810 – 1810 E. Hazelton Avenue  
Stockton, California 95201  
(209) 468-3000 FAX (209) 468-2999  
[www.sigov.org/pubworks](http://www.sigov.org/pubworks)

**MICHAEL SELLING**  
DEPUTY DIRECTOR

**FRITZ BUCHMAN**  
DEPUTY DIRECTOR

**JIM STONE**  
DEPUTY DIRECTOR

**ROGER JANES**  
BUSINESS ADMINISTRATOR

Board of Supervisors  
44 North San Joaquin Street, Suite 627  
Stockton, California 95202

**ADOPT A RESOLUTION SUPPORTING REPEAL OF THE FINAL RULE DEFINING WATERS OF THE UNITED STATES UNDER THE FEDERAL CLEAN WATER ACT AND SUPPORTING S. 1140 AND HR 1732 (ALL DISTRICTS)**

**RECOMMENDATION:**

It is recommended that the Board of Supervisors of San Joaquin County adopt a Resolution supporting repeal of the Final Rule Defining Waters of the United States under the Federal Clean Water Act and supporting S. 1140 – Federal Water Quality Protection Act and HR 1732 – Regulatory Integrity Protection Act of 2015.

**REASONS FOR RECOMMENDATION:**

Historically, the Federal Government's authority to regulate navigable waters is recognized under the Rivers and Harbors Act of 1899, which had narrowly described the interest of the United States as only being able to regulate navigable waters for the purpose of transporting people and goods. Further, the Federal Water Pollution Control Act of 1948, reorganized and expanded in 1972 and now generally known as the Clean Water Act, broadly expanded the definition of navigable waters as, "...waters of the United States (WOTUS) including the territorial seas." Subsequently the Environmental Protection Agency (EPA) and the Army Corps of Engineers (USACE) embarked on a rulemaking process to define WOTUS for the purposes of determining Federal jurisdiction for regulatory requirements such as standards, limits, discharge limitations, permits and enforcement.

The definition of WOTUS under the Clean Water Act implementation by the EPA and the USACE has been challenged in numerous cases in Federal District Courts, the Court of Appeals, and ultimately by the Supreme Court of the United States. The 2001 and 2006 decisions of the Supreme Court in Solid Waste Agency of Northern Cook

Board of Supervisors

-2-

Adopt a Resolution Supporting Repeal of the Final Rule Defining Waters of the United States Under the Federal Clean Water Act and Supporting S. 1140 and HR 1732. (All Districts)

County v. USACE and the consolidated cases of Rapanos v. United States and Carabell v. United States, respectively, have guided the EPA and the USACE in determining jurisdiction in the implementation of the Clean Water Act. The most recent rulemaking process attempt by the EPA and the USACE to redefine WOTUS has led to the Final Clean Water Rule as published on June 29, 2015.

On August 28, 2015, the Final Clean Water Rule defining WOTUS under the Clean Water Act went into effect nationwide and, in staff's view, is further expansion of Federal jurisdiction beyond what the Clean Water Act originally intended relative to regulating activities on private and public property. Staff remains concerned that the definitions and exemptions provided for in the Clean Water Rule are still subject to interpretation by the EPA and the USACE, and as currently written, the proposed Clean Water Rule remains ambiguous. As with previous iterations of the Clean Water Rule, disputes over the regulatory interpretation of the definition of WOTUS have been costly for both public and private project proponents that have required the Courts and ultimately, the Supreme Court, to rule on the extent of the Federal Government's jurisdiction.

Currently, while there are a number of exemptions for certain maintenance activities, Public Works is generally required to apply for a permit when activities resulting from construction or major rehabilitation activities take place in jurisdictional lands defined as WOTUS. The USACE does have a permitting process in place to aid in the determination of Federal jurisdiction and the need for a permit. Under the Final Clean Water Rule, it is clear that the definition of WOTUS has been expanded and that additional permitting and oversight may be triggered by routine activities such as the maintenance of roads and roadside ditches, and the maintenance of levees, bridges, and drains near local streams. This expansion will lead to added project costs, as well as increased permit lead times.

The same will be true for a private property owner such as a developer, farmer, or rancher seeking to construct a project, plant a crop, or maintain existing land features such as drainage or irrigation ditches and ponds. Farmers in the County are particularly concerned that the exemptions once relied upon to maintain ditches and prepare fields for planting or replanting of crops after fallowing or rotation, may not be exempt under the Final Clean Water Rule. On August 3, 2015, the County Agricultural Advisory Board received a presentation by Mr. Brad Goehring, national spokesperson on WOTUS issues for the California and American Farm Bureau Federations, who confirmed these concerns. Further, as expressed in the attached letter from the Agricultural Advisory Board, "...we urge the Board to take a clear and strong stance against this taking of rights ... and its effects on agriculture, San Joaquin County's number one industry." (Attachment A)

On August 25, 2015, on behalf of the Board of Supervisors, the Board Chair sent letters of concern to Senators James Inhofe and Barbara Boxer, Chairman and Ranking Member of the Senate Committee on Environment and Public Works, respectively. The letters again relayed the concerns of expanded Federal jurisdiction and also expressed support for the enactment of S. 1140 – Federal Water Quality Protection Act, which would direct the EPA and the USACE to limit the expansion of the definition of WOTUS (Attachments B and C). The letters, as well as the staff recommendation to adopt a resolution to repeal the Final Rule are consistent with the Adopted 2015-2016 Federal Legislative/Regulatory Platform and Policy Guidelines. A similar bill, HR 1732 – Regulatory Integrity Protection Act of 2015 passed the House of Representatives on May 12, 2015, and awaits action in the Senate.

Board of Supervisors -3-  
 Adopt a Resolution Supporting Repeal of the Final Rule Defining Waters of the United States  
 Under the Federal Clean Water Act and Supporting S. 1140 and HR 1732. (All Districts)

FISCAL IMPACT:

Costs to the County consist of staff time and advocacy services provided by The Ferguson Group, the County's Federal Lobbyist, on Sacramento-San Joaquin Delta and other water related issues which are covered under the 2015-16 Delta Activities Budget.

ACTION TO BE TAKEN FOLLOWING APPROVAL:

Public Works staff, in coordination with the County Administrator's Office, County Counsel, and the Agricultural Commissioner, will continue to work closely with The Ferguson Group to advocate in support of repealing the Final Clean Water Rule on behalf of the County. Consistent with past practices, the EPA and the USACE are expected to release Regulatory Guidance Letters to clarify how the Final Rule will be enforced. Additional staff time will be required to track and respond to opportunities for comment as information becomes available.

Sincerely,

KRIS BALAJI  
 Director of Public Works

KB:BN:rc  
 WR-15J002-R2

c: Board Clerk  
 November 10, 2015 Agenda

Approved by County Administrator's Office:

Approved by County Counsel's Office:

Mark E. Loeser 10/23/2015

Larry Meyers 10/26/2015



**SAN JOAQUIN COUNTY  
AGRICULTURAL ADVISORY BOARD**

2101 E. Earhart Avenue, Suite 100  
Stockton, California 95206

August 21, 2015

Supervisor Katherine Miller, Chair  
San Joaquin County Board of Supervisors  
44 North San Joaquin Street  
Stockton, CA 95202

Dear Chair Miller:

We are writing to the San Joaquin County Board of Supervisors to advise of a matter of great concern to the landowners, farmers, and businesses of San Joaquin County.

The United States Environmental Protection Agency (EPA), along with the U.S. Army Corps of Engineers (Corps), have undertaken to redefine the meaning of "waters" of the United States. Ostensibly, this is being done to prevent "polluters" from tainting the water system of the United States. The actual impact of this redefinition is to ensure that almost every square foot of property in our County, our State, and our Country will be under the regulatory power of the Corps, and by extension the EPA.

The rule change as written would encompass regulatory authority over every ditch, drain, seasonal wet depression, and pothole, along with a 4,000 foot "buffer" in all directions of any of the aforementioned "waterway." It is likely that well over 95% of the land in California will be subject to this regulation, and certainly San Joaquin County will suffer a similar fate. These rules will affect not only agricultural and public lands but also municipalities.

In our role as an advisory body to the Board of Supervisors, we urge the Board to take a clear and strong stance against this taking of rights inherent to the property of our County and its potential effects on agriculture, San Joaquin County's number one industry. This re-write of an already onerous set of regulatory rules will devastate the use of both public and private property in our area and result in oversight by the Corps and EPA that will serve no purpose other than to expand an already increasingly burdensome regulatory atmosphere.

We thank you for your consideration of this matter. Members of the Agricultural Advisory Board are available to address members of your Board directly should that be helpful as you consider what action you might take.

Regards,

Gary M. Barton  
Chair, San Joaquin County Agricultural Advisory Board

c: Supervisor Steve Bestolarides  
Supervisor Bob Elliott  
Supervisor Carlos Villapudua  
Supervisor Chuck Winn

Attachment: SJC Agricultural Advisory Board (1442 : PW - Clean Water Act)



MIMI DUZJENSKI  
Clerk of the Board

# BOARD OF SUPERVISORS

44 NORTH SAN JOAQUIN STREET, SUITE 627  
STOCKTON, CALIFORNIA 95202  
TELEPHONE: 209/468-3113  
FAX: 209/468-3694

KATHERINE M. MILLER  
Chair  
Second District

CARLOS VILLAPUDDA  
Vice-Chairman  
First District

STEVE J. BESTOLARIDES  
Vice Chair  
Third District

CLUCK WINN  
Fourth District

BOB ELLIOTT  
Fifth District

August 25, 2015

The Honorable James Inhofe, Chairman  
Committee on Environment and Public Works  
United States Senate  
410 Dirksen Building  
Washington, District of Columbia 20510

SUBJECT: LETTER OF CONCERN – PROPOSED FINAL RULE DEFINING WATERS OF THE UNITED STATES UNDER THE CLEAN WATER ACT

Dear Chairman Inhofe:

The County of San Joaquin (County) is concerned that the proposed Final Rule to define "Waters of the United States" (WOTUS) under the Clean Water Act (CWA) (Clean Water Rule) is an expansion of Federal jurisdiction beyond what the CWA originally intended, relative to regulating activities on private and public property. Furthermore, the County remains concerned that the definitions and exemptions provided for in the Clean Water Rule are still subject to interpretation by staff at the Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (Army Corps), and as currently written, the proposed Clean Water Rule at times contradicts itself. As with previous iterations of the Clean Water Rule, disputes over the regulatory interpretation of the definition of WOTUS have been costly for both public and private project proponents that have required the Courts and ultimately, the Supreme Court of the United States to rule on the intended reach of the CWA.

During the public comment period, the County submitted detailed comments on the proposed draft Clean Water Rule. In addition, the County has had a long record of concerns on the definition of WOTUS. The final Clean Water Rule fails to adequately address the County's concerns. EPA and the Army Corps have incorrectly stated in their press release announcing their Clean Water Rule that the definition of WOTUS will lead to certainty in determining Federal jurisdiction for public and private lands. The County joins a multitude of other State and local governments and agencies, as well as numerous private property interests, in voicing opposition to the Clean Water Rule as currently written.

The County supports the enactment of S. 1140, the Federal Water Quality Protection Act, passed by your Committee and respectfully urges Congress to ensure that any Clean Water Rule resolve jurisdictional issues decided in relevant Supreme Court of the United States decisions without expanding the Federal jurisdiction into new categories of water, and without imposing unneeded new mandates on water already subject to CWA permits. The Clean Water Rule does not adequately address concerns regarding the regulation of stormwater, water delivery systems, ditches, and vernal pools. Prominent terms in the rule such as "dry land,"

Attachment: SJC Agricultural Advisory Board (1442 : PW - Clean Water Act)

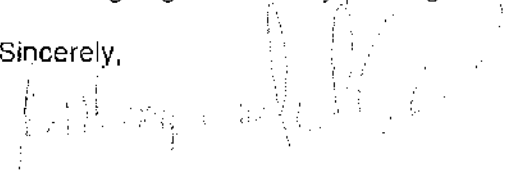


The Honorable James Inhofe, Chairman -2-  
PROPOSED FINAL RULE DEFINING WATERS OF THE  
UNITED STATES UNDER THE CLEAN WATER ACT

"perennial," "ordinary high water mark," "tributary" and "adjacent" are either not defined at all, vague, overly broad, or still under development, ensuring prolonged decision-making, costly study and review, subjective regulatory interpretations in the field, and inviting litigation from third parties.

The County believes the Clean Water Rule as written is certainly a broadening of the definition of WOTUS and an expansion of Federal jurisdiction under the CWA. As such, implementation by the EPA and the Army Corps will continue to cause uncertainty across the United States with the additional burdens borne by both public and private entities through increased costs and time delays for projects and routine maintenance of ditches and other drainage facilities or topographic features. The County urges Congress to take the necessary actions to address these ongoing concerns by passing S. 1140.

Sincerely,



KATHERINE M. MILLER  
Chair Board of Supervisors  
San Joaquin County

KMM:KV:me  
WR-15H065-ME1

c: Senator Diane Feinstein  
San Joaquin County House Delegation  
San Joaquin County Board of Supervisors

Attachment: SJC Agricultural Advisory Board (1442 : PW - Clean Water Act)



MIMI DUZENSKI  
Clerk of the Board

## BOARD OF SUPERVISORS

44 NORTH SAN JOAQUIN STREET, SUITE 627  
STOCKTON, CALIFORNIA 95202  
TELEPHONE: 209/468-3113  
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KATHERINE M. MILLER  
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Second District

CARLOS VILLAPUDUA  
Vice-Chairman  
First District

STEVE J. BESTOLARIDES  
Vice Chair  
Third District

CHUCK WINN  
Fourth District

BOB ELLICOTT  
Fifth District

August 25, 2015

The Honorable Barbara Boxer, Ranking Member  
Committee on Environment and Public Works  
United States Senate  
456 Dirksen Building  
Washington, District of Columbia 20510

SUBJECT: LETTER OF CONCERN – PROPOSED FINAL RULE DEFINING WATERS OF  
THE UNITED STATES UNDER THE CLEAN WATER ACT

Dear Senator Boxer:

The County of San Joaquin (County) is concerned that the proposed Final Rule to define "Waters of the United States" (WOTUS) under the Clean Water Act (Clean Water Rule) is an expansion of federal jurisdiction beyond what the Clean Water Act originally intended relative to regulating activities on private and public property. Furthermore, the County remains concerned that the definitions and exemptions provided for in the Clean Water Rule are still subject to interpretation by staff at the Environmental Protection Agency and the U.S. Army Corps of Engineers, and as currently written, the proposed Clean Water Rule at times contradicts itself. As with previous iterations of the Clean Water Rule, disputes over the regulatory interpretation of the definition of WOTUS have been costly for both public and private project proponents that have required the Courts and ultimately, the Supreme Court of the United States (Supreme Court) to rule on the intended reach of the Clean Water Act.

During the public comment period, the County submitted detailed comments on the proposed draft Clean Water Rule. In addition, the County has had a long record of concerns on the definition of WOTUS. The final Clean Water Rule fails to adequately address the County's concerns. EPA and the Army Corps have incorrectly stated in their press release announcing their Clean Water Rule that the definition of WOTUS will lead to certainty in determining federal jurisdiction for public and private lands. The County joins a multitude of other state and local governments and agencies, as well as numerous private property interests, in voicing opposition to the Clean Water Rule as currently written.

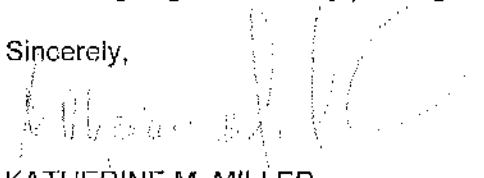
The County supports the enactment of S. 1140, the Federal Water Quality Protection Act, passed by your Committee and respectfully urges Congress to ensure that any Clean Water Rule resolve jurisdictional issues decided in relevant Supreme Court decisions without expanding the federal jurisdiction into new categories of water, and without imposing unneeded new mandates on water already subject to Clean Water Act permits. The Clean Water Rule does not adequately address concerns regarding the regulation of stormwater, water delivery systems, ditches, and vernal pools. Prominent terms in the rule such as "dry land," "perennial,"

The Honorable Barbara Boxer, Ranking Member -2-  
 PROPOSED FINAL RULE DEFINING WATERS OF THE  
 UNITED STATES UNDER THE CLEAN WATER ACT

"ordinary high water mark," "tributary" and "adjacent" are either not defined at all, vague, overly broad, or still under development, ensuring prolonged decision-making, costly study and review, subjective regulatory interpretations in the field, and inviting litigation from third parties.

We believe the Clean Water Rule as written is certainly a broadening of the definition of Waters of the United States and an expansion of federal jurisdiction under the Clean Water Act. As such, implementation by the Environmental Protection Agency and the U.S. Army Corps of Engineers will continue to cause uncertainty across the United States with the additional burdens borne by both public and private entities through increased costs and time delays for projects and routine maintenance of ditches and other drainage facilities or topographic features. The County of San Joaquin urges Congress to take the necessary actions to address these ongoing concerns by passing S. 1140.

Sincerely,



KATHERINE M. MILLER  
 Chair Board of Supervisors  
 San Joaquin County

KMM:KV:me  
 WR-15H065-ME2

c: Senator Diane Feinstein  
 San Joaquin County House Delegation  
 San Joaquin County Board of Supervisors

Attachment: SJC Agricultural Advisory Board (1442 : PW - Clean Water Act)

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN  
STATE OF CALIFORNIA

R E S O L U T I O N

R-15-\_\_\_\_\_

RESOLUTION SUPPORTING REPEAL OF THE FINAL RULE DEFINING  
WATERS OF THE UNITED STATES UNDER THE FEDERAL CLEAN WATER ACT  
AND SUPPORTING S. 1140 AND HR 1732

-----

WHEREAS, the jurisdiction of the Federal Government to regulate navigable waters is recognized under the Rivers and Harbors Act of 1899 and the Federal Clean Water Act of 1972, with additional amendments; and,

WHEREAS, the definition of navigable waters as defined in the Clean Water Act as being, "...waters of the United States including the territorial seas"; and,

WHEREAS, the Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (USACE) are tasked with clarifying the scope of the Clean Water Act through the rulemaking process to define waters of the United States for the purposes of determining Federal jurisdiction for regulatory requirements such as standards, limits, discharge limitations, permits and enforcement; and,

WHEREAS, the Clean Water Act, as enforced by the EPA and the USACE, has been clarified by numerous cases decided in various District Courts, Court of Appeals, and ultimately by the Supreme Court of the United States; and,

WHEREAS, the 2001 and 2006 decisions, respectively, of the Supreme Court of the United States in Solid Waste Agency of Northern Cook County v. USACE and the consolidated cases of Rapanos v. United States and Carabell v. United States, have guided the EPA and USACE in determining jurisdiction in the implementation of the Clean Water Act; and,

WHEREAS, the EPA and USACE had initiated the rulemaking process to clarify the definition of waters of the United States and on April 21, 2015, published the proposed Clean Water Rule: Definition of Waters of the United States in the Federal Register; and,

WHEREAS, the EPA and USACE, on June 29, 2015, published the Final Clean Water Rule in the Federal Register; and,

WHEREAS, on August 25, 2015, on behalf of the Board of Supervisors, the Board Chair sent letters of concern to Senators James Inhofe and Barbara Boxer, the Chairman and Ranking Member of Committee on Environment and Public Works, respectively, to again relay the concerns of expanded Federal jurisdiction and also to support the enactment of S. 1140, the Federal Water Quality Protection Act, which would direct the EPA and the USACE to limit the expansion of the definition of the WOTUS; and,

WHEREAS, the Final Clean Water Rule: Definition of Waters of the United States became effective on August 28, 2015; and,

WHEREAS, the House of Representatives had passed HR 1732 – Regulatory Protection act of 2015, and if enacted would direct the EPA and USACE to preserve existing rights and responsibilities with respect to waters of the United States; and,

WHEREAS, S. 1140 – Federal Water Quality Protection Act was introduced in the United States Senate and if enacted would direct the EPA and USACE to adhere to certain principles in the rulemaking process, and,

WHEREAS, the Senate and House of Representatives Committees on Appropriations have included policy provisions in Fiscal Year 2016 spending bills that would repeal the Final Clean Water Rule, and,

NOW, THEREFORE, BE IT RESOLVED, that this Board of Supervisors of San Joaquin County hereby objects to the Final Clean Water Rule: Definition of Waters of the United States and seeks its repeal in the 114<sup>th</sup> Congress; and,

FURTHER BE IT RESOLVED, that this Board of Supervisors supports all Federal legislative efforts to repeal the Final Clean Water Rule including HR 1732 – Regulatory Protection act of 2015 and S. 1140 – Federal Water Quality Protection Act.

PASSED AND ADOPTED \_\_\_\_\_, by the following vote of the Board of Supervisors, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST

MIMI DUZENSKI  
Clerk of the Board of Supervisors  
Of the County of San Joaquin,  
State of California

\_\_\_\_\_  
KATHERINE M. MILLER  
Chair of the Board  
of Supervisors  
State of California



By \_\_\_\_\_  
Clerk

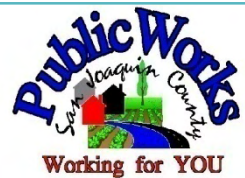
(05/2015)

Attachment: WR-15J002-R3 (1442 : PW - Clean Water Act)

ATTACHMENT  
I.C.ii

# Adopt a Resolution Supporting Repeal of the Final Rule Defining Waters of the U.S.

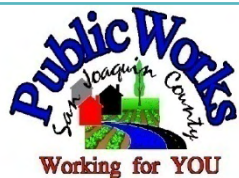
San Joaquin County  
Board of Supervisors  
November 10, 2015





# Background – Federal Jurisdiction

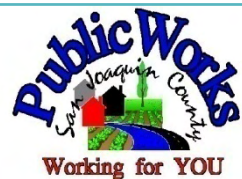
- ▶ Rivers and Harbors Act of 1899.
- ▶ Federal Pollution Control Act of 1948.
- ▶ Clean Water Act of 1972
- ▶ Traditionally, Federal Interest tied to “Navigable Waters” which are those that can carry boats or ships for the purposes of war, commerce, transportation, natural resources, etc.
- ▶ Clean Water Act calls for Federal Jurisdiction over Water of the US.
- ▶ Environmental Protection Agency (EPA) and US Army Corps of Engineers (USACE) tasked with defining Waters of the US through rulemaking process.



# Clean Water Act - Permitting Process

## CWA Section 404 Permit:

- ▶ Regulates the discharge of dredge or fill material to Waters of the US including wetlands.
- ▶ Public Agencies and Private Entities required to Obtain Permits if Project triggers Federal Jurisdiction.
  - ▶ Pump stations, Diversion structures, Levee Construction, Road Widening, Bridge Construction, Drainage Systems, etc.
- ▶ Adds time and costs to projects.
- ▶ New Rule which expands the scope of the Definition of Waters of the US could require more projects and possibly maintenance activities to be subject to Federal Permits.





# Background - Supreme Court Decisions

- ▶ The Supreme Court (SCOTUS) in 2001 and 2006 handed down decisions reminding the EPA and the USACE that the Clean Water Act **limits** federal power to “navigable waters.”
- ▶ 2001 - *Solid Waste Agency of Northern Cook County (SWANCC) vs. the United States*
- ▶ After *SWANCC*, the EPA and the USACE adopted a broad interpretation that “waters of the U.S.” include any water “connected” to navigable waters.
- ▶ 2006 - *Rapanos/Carabell vs. the United States*
- ▶ *Rapanos Decision* - SCOTUS ruled that the USACE did not correctly find that there was a “significant nexus” to the isolated wetlands in question.

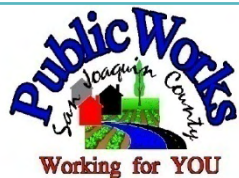
# WOTUS Under the Proposal

1. All waters in past, present, of possible future use in interstate or foreign commerce, including tidal waters;
  - ▶ Oceans, Bays, Cays, Estuaries, etc.
2. All interstate waters, including interstate wetlands;
  - ▶ Rivers (Mississippi, Colorado, Potomac, etc.)
3. The territorial seas;
  - ▶ Puerto Rico, American Samoa, etc.
4. All impoundments of waters identified in 1-3 above;
  - ▶ Ponds, Lakes, Basins, etc.
5. All tributaries of waters identified in 1-4 above;
  - ▶ Drainage Ditches, Irrigation Ditches, Sloughs, etc.
6. All waters, including wetlands, adjacent to waters (4,000 feet); and
7. On a case-specific basis, **other waters**, including wetlands, that alone or in combination with other similarly situated waters in the region have a significant nexus to a water identified in 1-3 above.



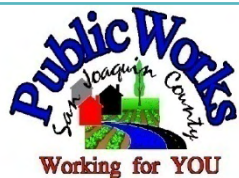
# Proposed Rule

- ▶ Numerous attempts to clarify Federal Jurisdiction both legislatively and administratively.
- ▶ 2012 - EPA and USACE submit Guidance Document for determining Federal Jurisdiction over WOTUS.
- ▶ 2013 - 2014 and 2015 - 2016 Adopted SJC Federal Legislative Platforms - Oppose Expansion of Federal Jurisdiction
- ▶ On March 25, 2014, EPA released a proposed rule
- ▶ Proposed Rule published in the Federal Register on April 21
- ▶ June 29, 2015, EPA publishes Rule in the Federal Register
- ▶ August 28, 2015, Rule Went Into Effect



# Current Status

- ▶ Approximately 30 States have filed litigation over New Rule.
- ▶ August 27, 2015, North Dakota US District Court Judge approves injunction for 13 States.
- ▶ October 9, 2015 - 6<sup>th</sup> Circuit Court of Appeals Issues Nationwide Stay of the New Rule.
- ▶ HR 1732 and S. 1140 seek to repeal the New Rule and direct the EPA and USACE to start over.
- ▶ House of Representatives passed HR 1732 and awaits action in the Senate.
- ▶ November 3, 2015, Senate Vote Fails 57-41 to Pass S. 1140
- ▶ White House Issued Veto Threat



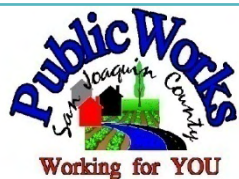
# Recommendation

Adopt a Resolution:

- ▶ Supporting Repeal of Final Rule Defining Waters of the US;
- ▶ Support HR 1732 - Regulatory Protection Act of 2015; and,
- ▶ Support S. 1140 - Federal Water Quality Protection Act.

Action Following Adoption:

- ▶ Work with Federal Advocates and Stakeholders to Represent County's Position on the CWA Rule.





ATTACHMENT  
III.A.

By Wes Bowers  
Record Staff Writer

October 20, 2015 7:54PM

## County remains opposed to 'Water Fix'

STOCKTON — As expected, San Joaquin County will continue to voice its opposition to the Bay Delta Conservation Plan.

The San Joaquin County Board of Supervisors voted 3-0 on Tuesday to adopt a resolution affirming the county's opposition to the BDCP/Water Fix, as well as to approve the county's comments on a revised draft environmental impact report and supplemental environmental impact statement.

In addition, the vote authorizes comments to be submitted to the proper state and federal agencies and reaffirms the county's support for the Delta Counties Coalition principles.

Comments to be submitted to the state include that the "Water Fix" rebranding fails to fix the fallacy of the tunnels project, which creates no new water supply for communities that rely on the Delta.

"Someone on the (proponents') side has a sense of humor calling this a water fix," Central Delta Water Agency manager Dante Nomellini said. "The fix is in. The governor has been putting so much dedication into one solution to (the water supply) problem, and that was to build tunnels."

In June 2014, the board of supervisors approved comments opposing the BDCP, which has billed itself as "a comprehensive conservation strategy aimed at protecting dozens of species and wildlife, while permitting the reliable operation of California's two biggest water delivery projects."

Supervisors, along with several other agencies opposing the projects, have maintained the BDCP will destroy the Delta and negatively impact the economy and residents of the county.

Faced with opposition from the Delta Counties Coalition and other agencies, including federal regulatory authorities, BDCP proponents were forced back to the drawing board. In July, they returned with a new version of the BDCP they called "Water Fix."

The Association of California Water Agencies says that the California Water Fix consists of a water conveyance facility with three new intakes on the Sacramento River and dual tunnels to convey water to existing state and federal pumping plants. The new plan is linked to California EcoRestore, which consists of accelerating restoration of 30,000 acres of Delta habitat over the next five years to protect native fish and wildlife species, according to ACWA.

However, Tuesday's staff report states the State Department of Natural Resources backed away from tying habitat conservation to the BDCP in the new plan.

In addition, attorney Antonio Rossmann said the new plan removes local government involvement from the project, where the previous plan allowed cities and counties to have an advisory role.

Rossmann said the new plan would divert a reliable water supply outside the county, forcing residents to rely on phantom 'paper water' instead of actual supplies.

"That's the long-term threat to the county," he said. "It's not just the proposed plumbing (the tunnels) in the plan, but the expectation of the exporters that they can increase their demands on our supply. This plan is leaving us worse-off than we were at the first go-around."

While the Water Fix plan removes the majority of habitat conservation efforts originally laid out last year, opponents said the plan retains the water conveyance system originally proposed.

This system includes two 45-mile long tunnels, each 40 feet in diameter and 150 feet underground.

The tunnels would pump as much as 9,000 cubic feet of water per second from the Sacramento River near Courtland, to the Clifton Court Forebay. Once there, the water would be diverted to state and federal water facilities.

"As pointed out, 'Water Fix' doesn't really fix the state's water problem, and it doesn't provide a single drop of water," Supervisor Bob Elliott said. "It's obvious this new plan continues to be just as deficient as the original plan."

To view the county's opposition to the BDCP Water Fix, go to <http://tinyurl.com/nuzbjqa>. To view the 30,000-page BDCP Water Fix plan, go to <http://tinyurl.com/omjzpn6>.

Board of supervisors chairwoman Kathy Miller was absent from Tuesday's meeting.

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III.B.

DELTA NEWS    NOVEMBER 2, 2015

# Southern California water agencies push forward on Delta land purchase

## HIGHLIGHTS

Metropolitan, three Kern County agencies eye four Delta islands

Islands could be used to move water south, assist with tunnels project

Possible purchase comes as south state agencies offer tepid support for tunnels





Stakeholders submitted final public comments to state and federal officials on the tunnels' environmental impact Oct. 30, and the reviews were generally unkind. While labor unions and building trades associations in line to benefit financially from the massive public infrastructure project offered their support, a cadre of environmental groups, Delta farmers and Northern California elected officials blasted the project, saying the tunnels would essentially suck the Delta dry and worsen the estuary's troubled eco-system. **Manny Crisosotomo** The Sacramento Bee

By Dale Kasler and Ryan Sabalow

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With the future of the Sacramento-San Joaquin Delta approaching a critical stage, a group of Southern California water agencies is working to buy four Delta islands, a move that has drawn accusations that the parcels could be used to orchestrate a south-state water grab.

The powerful Metropolitan Water District of Southern California and three water agencies in Kern County are working on a joint plan to buy the four agricultural islands, according to the head of the Rosedale-Rio Bravo Water Storage District in Bakersfield, one of the participants. Also involved are Semitropic and Wheeler Ridge-Maricopa water storage districts.

Eric Averett, general manager of the Rosedale district, said the buyers could pursue the same plan that the current owner has been working on for years: converting the islands into reservoirs as a way of moving additional water to agencies south of the Delta.

In addition, Averett said, the islands could be useful in forging ahead with the Delta tunnels project – officially known as California WaterFix – a \$15.5 billion plan championed by Gov. Jerry Brown to re-engineer the estuary's plumbing, shore up its ecosystem and improve the reliability of water deliveries to the San Joaquin Valley and Southern California.

The islands are “kind of strategically located,” Averett said Monday. “It might facilitate the California WaterFix just because of where it's at. There's a variety of interests, I think, at play.”

## Delta islands

*The four islands that a group of Southern California water agencies are considering purchasing:*



Averett said “there’s still a lot that has yet to jell” before the purchase can be completed, including financial terms.

Still, the deal appears to be gaining steam. According to its published agenda, Metropolitan’s board of directors is scheduled to vote next week on authorizing a “conditional purchase and sale agreement” with Delta Wetlands Properties, an affiliate of a Swiss insurance company that controls the four islands.



A Metropolitan spokesman declined comment on the plan, and officials with Delta Wetlands couldn’t be reached for comment.

Four years into the state’s historic drought, the prospect of Metropolitan and the agencies from Kern gaining a foothold in the Delta, the hub of California’s man-made water-delivery system, is arousing suspicion in Northern California water circles. Metropolitan’s efforts to buy the four islands first became public in September.

“I can’t say I feel good about powerful Southern California interests controlling Delta islands,” said George Hartmann, a Stockton attorney who represents farmers on McDonald Tract, an island near the four parcels eyed by Metropolitan and the Kern agencies.

The four islands – Bacon Island, Bouldin Island, Holland Tract and Webb Tract – have been controlled for 20 years by Zurich American Corp., the U.S. arm of a Swiss insurer. Zurich has been working with Semitropic to gain permits to turn Webb and Bacon into reservoirs. Both lie below sea level some 7 miles from the government-owned pumping stations that deliver Delta water to the south state.

The two islands, which could store a total of up to 70 billion gallons of water, would be flooded in wet years and drained in dry years. Bouldin and Holland would be used for habitat management to offset the impact of flooding the other two islands.

As for California WaterFix, controlling the four islands could help facilitate construction of the twin tunnels. Getting the tunnels built will require initiating potentially lengthy and expensive eminent domain proceedings with Delta landowners, many of whom are opposed to the project. Two of the islands, Bacon and Bouldin, are situated along the proposed tunnels route.



Barbara Barrigan-Parrilla, executive director of Restore the Delta, said her group – made up of Delta farmers, environmentalists and anglers – fears that Metropolitan and the Kern water agencies would gain the opportunity to cut in line in the state’s complicated water-rights system because property owners along a waterway have senior “riparian” rights to that water.

“Whether there’s a (tunnels) project or not, it’s a way for them to hold onto the water,” she said. “And even though you technically can’t transfer riparian rights, there are ways to work the law so that you can move and transfer water as needed. Either way, it’s a continued push to use the Delta as Metropolitan’s water source so they can resell water.”

Meanwhile, the tunnels project faces an uncertain path forward.

On Oct. 30, stakeholders submitted final public comments to state and federal officials on the tunnels’ environmental impact, and the reviews were generally unkind. While labor unions and building trades associations in line to benefit financially from the massive public infrastructure project offered their support, a cadre of environmental groups, Delta farmers and Northern California elected officials blasted the project, saying the tunnels essentially would suck the Delta dry and worsen the estuary’s troubled ecosystem.

Their criticisms brought a swift rebuke from the governor.

“The Delta pipeline is essential to completing the California Water Project and protecting fish and water quality,” Brown said in a prepared statement. “Without this fix, San Joaquin farms, Silicon Valley and other vital centers of the California economy will suffer devastating losses in their water supply. Claims to the contrary are false, shameful and do a profound disservice to California’s future.”

Yet even those who stand to benefit the most from the project offered tepid support at best. These include Metropolitan and other south-of-Delta water agencies that are counting on the tunnels to enhance Delta water deliveries. Their support is critical to Brown’s plan because they would pay for the cost of building the tunnels.

In one typical comment, the Kern County Water Agency said the plan doesn’t appear to be “economically feasible” yet.

“Additional efforts need to be taken to reduce the cost of the project, protect the project’s (water) yield, and improve the likelihood that the project will be constructed and implemented in a manner that improves water supplies at an affordable cost,” the Kern agency wrote.

In a joint letter, the state's two largest consortium of water agencies, the San Luis & Delta-Mendota Water Authority and the State Water Contractors, expressed similar concerns, saying they need "reliability in water supply and predictability in financial costs" before they can support the tunnels.

Even Metropolitan, which has been the most vocal proponent of the tunnels, said it fears the project will suffer from "operational constraints" that will hinder water deliveries in the name of helping the Delta's endangered fish species. Metropolitan said the tunnels' planners are relying on "untested or highly uncertain hypotheses" that would hurt water customers while doing little to actually help the fish.

With so much money on the line, experts said it isn't surprising that some of the project's advocates don't want to appear overly enthusiastic about the tunnels.

"There's an element of chicken in the discussion, where nobody really wants to give in first on anything for fear of undermining their negotiating position," said Jay Lund, director of the UC Davis Center for Watershed Sciences.

Agricultural districts in particular have complained that the tunnels project doesn't contain adequate guarantees about how much water they'd receive out of the Delta.

State officials have said the tunnels would actually reduce, on average, the amount of water pumped to the San Joaquin Valley and Southern California. They've also said the tunnels would bring improvements to the Delta's ailing ecosystem, enabling the pumping stations to deliver water on a more stable and reliable schedule.

A spokeswoman for Brown's Natural Resources Agency said state officials plan to have the environmental documents finalized in mid-2016.

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DELTA NEWS NOVEMBER 8, 2015

# Jerry Brown's tunnels meet flurry of criticism, but will it matter?

## HIGHLIGHTS

Governor pushes forward with Delta water project

Critics prepare for years-long battle

Financing concerns could force changes



Critics of the Delta water tunnels project say it will bury the Kaydix fruit packing facility near Walnut Grove, seen here in 2013. Despite vocal opposition to the plan in recent weeks as well as a measure qualifying for the November 2016 ballot that could complicate the project, the developments didn't appear to tilt controversy surrounding the project beyond its traditional bearings. **Randall Benton** RBenton@sacbee.com

By David Siders

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Gov. Jerry Brown's response to the latest volley of opposition to his plan to divert water under the Sacramento-San Joaquin Delta lacked the cheekiness he exhibited in May, when he playfully told his critics to "shut up."

He accused opponents of doing a "profound disservice to California's future," but the subtext was the same: No matter how difficult the financing or loud resistance to the project may grow, the fourth-term governor is plowing ahead.

He says the \$15.5 billion project, with implications for everything from the area's farming community to its scenic drives, will bring stability to a water system on which millions of Californians rely.

"The Delta pipeline is essential to completing the California Water Project and protecting fish and water quality," he said in a statement Oct. 30. "Without this fix, San Joaquin farms, Silicon Valley and other vital centers of the California economy will suffer devastating losses in their water supply."

In recent weeks, opponents protested at the state Capitol and submitted volumes of critical comments to state and federal officials on the environmental impact of the plan. A wealthy Stockton-area farmer and food processor, Dean Cortopassi, qualified for the November 2016 ballot a measure that could complicate the project, if not stop it altogether.

Yet the developments didn't appear to tilt controversy surrounding the project beyond its traditional bearings. Delta landowners, Northern Californians and many environmentalists have for years opposed a conveyance, while labor unions and building trades groups that stand to benefit from a project support it.

"What's new?" said Jerry Meral, who served as the chief steward of the tunnels project while deputy secretary of the state's Natural Resources Agency.

“The people who filed the comments who haven’t wanted this project for 10 years or so and are still upset, so that’s not surprising,” said Meral, who retired from the state in 2013 and now works for an environmental group supporting the tunnels plan. “I’m sure there were people who didn’t like the pyramids, but in the end they got built because, frankly, the people who had the power to build them built them.”

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**I’M SURE THERE WERE PEOPLE WHO DIDN’T LIKE THE PYRAMIDS, BUT IN THE END THEY GOT BUILT BECAUSE, FRANKLY, THE PEOPLE WHO HAD THE POWER TO BUILD THEM BUILT THEM.**

Jerry Meral, former deputy secretary of the state’s Natural Resources Agency

At Mel’s Mocha & Ice Cream in Walnut Grove, where “Stop the Tunnels” signs abound, Christina Doyle counted tips and said conversation about the tunnels has carried on persistently – and unchanged – for five years.

“People are hopeful that it will stop, but people are terrified at the same time,” she said. “Everyone’s pissed. Everyone has been, is, and will continue to be pissed.”

Brown has been seeking to build a water conveyance around the Delta since he was governor before. His earlier diversion plan, the peripheral canal, was defeated in a referendum in 1982.

In his return to office, Brown has argued that a conveyance is necessary to stabilize water deliveries that serve millions of Californians and to restore the Delta’s fragile ecosystem.

Opponents say the project will damage the environment, but the significance of their input is unclear. Brown’s tunnels plan, which would be permitted administratively by state and federal officials, does not require legislative approval or a public vote.



The prospect of financing, however, appears problematic. In public comments last month, downstream water agencies that would pay for the project raised concerns about the cost of the project and the reliability of future water deliveries.

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“I think it’s got quite a lot of hurdles ahead of it, in my view,” said Jeffrey Michael, director of the Center for Business and Policy Research at University of the Pacific. “It’s the commitment of the governor that’s propping the project up at this time.”

Michael said Brown “has the politics in his favor” without the need for a vote, but is “trying to harpoon many whales at once.”

“Even if it were to obtain some regulatory approval, it’s going to be very difficult to finance the project.” Michael said. “When you actually look at the numbers, there’s serious questions as to whether this will make sense.”

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**WHEN YOU ACTUALLY LOOK AT THE NUMBERS,  
THERE’S SERIOUS QUESTIONS AS TO WHETHER  
THIS WILL MAKE SENSE.**

Jeffrey Michael, director of the Center for Business and Policy Research at University of the Pacific

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The Brown administration plans to finalize environmental documents for the project by mid-2016. Before then, it is possible Brown will negotiate a modified project with the water users he needs to fund it, said Jay Lund, a professor of civil and environmental engineering at University of California, Davis.

“I think we might not have seen the final proposal yet,” he said.

Lund said the tunnels’ prospects have been helped by increasing concern about long-term water supplies, with awareness heightened by Brown’s focus on the issue and California’s long-term drought.

“You have to sort of look at this in a historical time frame,” he said. “I think that the chances of something like this happening are higher now than they’ve been in a long time.”

The water project and a \$68 billion high-speed rail system constitute Brown’s largest public works initiatives. He will term out in 2019, and “as always, we talk about the legacy ... the sand is going out of the hourglass,” said Bill Whalen, a research fellow at Stanford University’s Hoover Institution and former speechwriter for Gov. Pete Wilson.

“There’s an urgency in terms of the clock,” Whalen said.

Assemblyman Anthony Rendon, a Lakewood Democrat and the lower house’s incoming speaker, said the project “has a long way to go,” predicting it will take several years to know whether a project will be approved.

“I think, you know, the jury’s still out,” he said.

But Rendon, while unsure about the tunnels project, said the Delta ecosystem, “as a place, as a water supply, needs to be figured out.”

“I don’t think we have that long to wait,” he said.

Opponents of the tunnels project are settling in for a lengthy fight. Sen. Lois Wolk, a Davis Democrat who calls the tunnels an “expensive waste of time and taxpayer and ratepayer money,” said she expects the fate of the project to be decided by a court – and likely not for “many, many years.”

“In the meantime, there will be different administrations, there will be different priorities,” she said. “It’s becoming clear to me that these two tunnels are a relic of the 19th century.”

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