



SAN JOAQUIN COUNTY

# FLOOD CONTROL & WATER CONSERVATION DISTRICT

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KRIS BALAJI  
DIRECTOR OF PUBLIC WORKS

## ADVISORY WATER COMMISSION

January 20, 2016, 1:00 p.m.

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

### AGENDA

#### Roll Call

Approve Minutes for the Meeting of November 18, 2015

#### SCHEDULED ITEMS

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

- A. Election of Officers for 2016 (See Attached) – Brandon Nakagawa

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

- A. Update on California WaterFix and EcoRestore program (See Attached) – Brandon Nakagawa
- B. Presentation and Discussion on Local Drought Emergency – Mike Cockrell
- C. Presentation and Discussion on the Fall 2015 Groundwater Monitoring Program – Gerardo Dominguez
- D. Update on the Federal Rule Making Process Defining Waters of the US (See Attached) – Brandon Nakagawa
- E. Update on SGMA Activities – Brandon Nakagawa

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

- A. December 28, 2015, The Sacramento Bee, “Controversial Sale of Delta Islands Runs into Problems”.
- B. January 5, 2016, News Release, Sacramento District, “CVIFMS – A Unified Vision for Water and Ecosystem Studies in California’s Central Valley”.
- C. January 12, 2016, Press Release, Congressman David G. Valadao, “Valadao Introduces Legislation to Resolve Drainage Dispute”.

#### Public Comment

**Next Regular Meeting: February 17, 2016, 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  
November 18, 2015**

The regular meeting of the Advisory Water Commission of the San Joaquin County Flood Control and Water Conservation District was held on Wednesday, November 18, 2015, beginning at 1:00 p.m., at Public Health Services, 1601 E. Hazelton Avenue, Stockton, California.

**Roll Call**

Present were Commissioners Nomellini, Roberts, Flinn, Winn, Herrick, Holbrook, Christensen, Hartmann, Meyers, Neudeck, Secretary Nakagawa, Vice Chair Price, and Chairman McGurk.

Others present are listed on the Attendance Sheet. The Commission had a quorum.

**Approval of Minutes for the Meeting of October 21, 2015.**

Motion and second to approve the minutes of October 21, 2015 (Hartmann/Holbrook). Unanimously approved.

**SCHEDULED ITEMS**

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

**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 – Brandon Nakagawa.**

**Summary**

Secretary Nakagawa gave a PowerPoint presentation on the Sustainable Groundwater Management Act of 2014 (SGMA) – Groundwater Sustainability Agency Governance Formation (see attached). Mr. Nakagawa stressed the importance of the topic and the County's need to receive feedback regarding the pros and cons of the County filing as a Groundwater Sustainability Agency (GSA). The objective was to present options for governance, review what is required by SGMA, summarize Groundwater Sustainability Plan (GSP) development options and provide insight into the County's motivations to file as a GSA. All presentation elements have been discussed at multiple public meetings, including regular discussions held at the Eastern San Joaquin County Groundwater Basin Authority (GBA), in the SGMA Work Group, and in meetings with local irrigation districts, water districts, and cities. Many stakeholders throughout the County understand that SGMA requires basins and subbasins to be managed at a level to avoid undesirable results, achieve sustainability and avoid state intervention. Stakeholders have exhibited various levels of understanding the SGMA requirements and some remain committed to pursuing independent filings as an alternative to a County GSA. Details below were presented by Mr. Nakagawa with an active discussion among Commissioners, staff and members of the public following the presentation.

Presentation Highlights

Mr. Nakagawa presented three GSA Governance models.

- Centralized: In a centralized GSA, there would be one governing body covering the entire basin, assuming all authorities and responsibilities and it could be structured as a new agency or formed within an existing agency.
- Distributed GSA: A Distributed GSA would require multiple existing entities such as water districts, the County, cities, and other agencies, to establish a coordination agreement (MOU), and each entity would assume all responsibilities for their respective service areas or “spheres of influence”.
- Combination GSA: Should stakeholders elect a combination GSA, a centralized GSA would assume shared responsibilities (e.g., data collection reporting, coordination of governance amongst entities, GSP development and coordination of implementation, etc.).

Under SGMA, the deadline to form a GSA or multiple GSAs and submit filings is June 30, 2017. All GSAs statewide are required to comply with all elements of SGMA. GSAs have also been provided financial and enforcement authority to manage groundwater and prevent the six undesirable results: chronic lowering of groundwater levels, significant/unreasonable reduction of groundwater storage, seawater intrusion, degraded water quality/containment plume migration, land subsidence, and significant water depletions.

The entire basin must be covered by a GSA by June 30, 2017. Mr. Nakagawa further explained that Senate Bill 13, effective January 1, 2016, clarifies the process for agencies filing as or electing to become GSAs. The agency must conduct a public hearing, which must be properly advertised as a public notice in a newspaper pursuant to Government Code 6066. If an agency decides to become a GSA, they will elect to do so, have a hearing, and within 30-days, must file the paperwork with DWR at which time, a 90-day “clock” will start. Stockton East Water District (SEWD) filed GSA paperwork on October 22, 2015. South San Joaquin Irrigation District filed GSA paperwork on November 12, 2015. Both filings were done within 30-days of a public hearing.

If an agency has an overlapping area and wants to file as a GSA, they have 90-days to do so. If no other agency files within the 90-day filing of the provisional agency, that agency will be named GSA by the DWR. Currently, there are overlapping areas which may affect SEWD and SSJID. Possible future filings may include the City of Manteca (alone or with SSJID), Lockeford Community Services District, Linden County Water, and South Delta Water Agency. There is also a clear desire from SEWD and South Manteca to manage the groundwater in their area. DWR will conduct a “Review for Completeness” of all agency filings to become GSAs. Mr. Nakagawa distributed a map of San Joaquin County jurisdiction overlap. Some districts have narrow powers to serve surface water or manage groundwater; some provide business supply or agriculture supply; and some districts do everything. Pursuant to SB13, DWR will retroactively look at past filings of agencies, and possibly invalidate and return them, thus regenerating the 90-day clock.

There are several motivations for the County to file as a GSA at this time. The County already possesses the authorities to implement SGMA and the San Joaquin County Flood Control and Water Conservation District (District) holds assessment and fee authority county-wide (including cities). This authority allows the District to levy charges/fees, which may cover a portion of the cost to implement SGMA. Furthermore, the County has monitored and reported groundwater trends since 1971. San Joaquin County Environmental Health Department (EHD) also possesses a database with water quality and well construction information. EHD is the well-permitting “gatekeepers” for the County.

Given these authorities and others as well as the available resources, the County is well positioned to establish itself as a GSA and build upon existing systems that can provide a countywide benefit.

He stated there is much to consider in the decision of whether the County should file as a GSA. The planning and development is bigger than Public Works, alone, can offer and County departments including County Counsel, Environmental Health, Planning and Development, and Ag Commissioner will help coordinate this issue. The County will take the role as “back-stop” very seriously, and already holds much of the authorities needed and will recognize the authorities in the other districts and cities. In addition, the County already has established programs that SGMA requires.

Mr. Nakagawa concluded his presentation and discussion was opened.

### Discussion

Commissioner Flinn inquired on the language regarding the “basin.” The GSA will cover the San Joaquin basin – but there are actually two (2) basins. Would there be a GSA covering the eastern basin and another GSA for the western region? Commissioner Flinn also asked the advantage of having one GSA covering both basins or would it create confusion? Mr. Nakagawa responded that one GSA covering two basins could be a possibility and that this is an issue that would require coordination. Commissioner Flinn also asked in the event that the County elects not to file as a GSA, and there are entities that are not financially able to apply to be a GSA with no overlapping boundaries in their area – what happens to that area? Mr. Nakagawa responded that the County would, by default, become a GSA for uncovered areas pursuant to SB13 and DWR’s implementation.

Commissioner Hartmann asked how the County will fund the costs for becoming a GSA? Mr. Nakagawa responded that funding is currently coming from the Water Investigation Zone No. 2 budget but that it is clear costs will ramp up. He added that the monitoring program is inadequate and more data is needed thus the possibility of a special fee election to generate funds. Commissioner Hartmann asked where this funding will tie in to fees on water. Mr. Nakagawa responded it would be “fees on service” not necessarily water. Commissioner Hartmann questioned if there could be opposition for water taken out of an agricultural well to irrigate its 500-acres to which Mr. Nakagawa responded, “Possibly.” Commissioner Hartmann asked if all these issues need to be resolved before filing as a GSA. Mr. Nakagawa assured there is no way to know all these answers and filing only requires GSA coverage by the first deadline of June 30, 2017. Some additional funding considerations include front costs and long term cost, how many agreements may be needed, how cumbersome will the coordination be or how many hours or attorney fees.

A question from the public asked if we are far enough along to request a boundary modification on the basins or will they need to be modified at all? Mr. Nakagawa replied that the discussion is ongoing. North San Joaquin Water Conservation District (NSJWCD) has made a formal request to modify the boundary north of the Mokelumne River and there is a meeting scheduled with DWR to discuss the likelihood of this being approved.

Commissioner Nomellini asked Mr. Nakagawa if he is seeking a recommendation that the County should file as a GSA? He added that he feels the County should, in fact, file as a GSA and that agencies who want to join with the County could have the flexibility to sort out details, legally, in a Resolution. Mr. Nomellini expressed his opinion of preferring Central Delta Water Agency (CDWA) join with the County application as CDWA overlaps with Woodbridge Irrigation District (WID). Commissioner Christensen interjected that he could support a motion by Commissioner Nomellini if there is pre-coordination before the County files its map, as WID is planning to file and would like coordination so the County will not be filing over the top of WID. He added that coordination agreements could be worked out sharing acquired (well) data, but added there are still a lot of

unknowns and feels it would be a waste of resources to have the County file over districts that are filing as their own GSA. Commissioner Christensen expressed his opinion that there is an overdraft situation in San Joaquin County and responsible action has not been equally shared by all areas. Some agencies have spent a lot of money to bring the groundwater table up beneath their communities including SEWD, WID, SSJID, City of Lodi and the City of Stockton and want to protect their investments by filing as separate GSAs while others have done minimal to bring in surface water and hold up the existing groundwater table. Commissioner Nomellini responded that these are groundwater management plan issues to work out and how can they be resolved within the 90-day deadline (which has already started) but to join with the County and then sort out the details later. Commissioner Christensen addressed agency overlap and said other GSAs will not be included in their (WID) groundwater sustainability intention.

Commissioner Holbrook differentiated between a GSA and a GSP. A Groundwater Sustainability Plan (GSP) will include all GSAs (Groundwater Sustainability Agencies). It is important that GSAs do not overlap to avoid the filings being invalidated and result in the State taking over. We all want the same thing – to protect ourselves and work together as one group or several groups, work with our plan and protect our area(s).

Commissioner Hartmann inquired about whether districts that made the commitment to sustain and recharge their groundwater while others had not and would these issues be covered in the “chapter program?” Mr. Nakagawa responded that individual districts and cities would have their own service areas in position to maintain water levels, water quality, subsidence, and surface water interactions. He further added that the 90-day clock started with the provisional filing. If the County files as a GSA, it will suspend the 90-day clock thus allowing time to work out issues and still meet the long-term deadline of June 30, 2017.

Commissioner Flinn commented on having one plan for the entire basin which would introduce the need for implementation and question of a GSA. He added that the concerns of authority over certain areas would be answered and he is in favor of a unified plan to work together for the common good.

A member of the public asked that if the County files, does a 90-day clock start for those agencies that have not yet filed so they may decide to form a GSA and/or stop what the County is doing? Mr. Nakagawa replied, technically, yes, but the commitment of the County would be to work out those issues of overlap and jurisdiction authority without having a 90-day clock deadline. The member of the public further commented on the importance to coordinate at the County level. He is aware of agencies that have moved forward in GSA formation but if the County’s position is to truly coordinate all the GSA areas and agencies, he believes most will be on board with one single GSP. There is recognition for compliance by 2017 and that GSP guidelines will start coming out in June 2017. He further added that the closer we are in formation and having a governing structure established, the quicker we can start working on sustainability. The goal for his district is to have their local government set for easier coordination at the County level.

Mia Brown from Linden County Water District asked if a GSA, once formed, is a stand-alone legal entity? Mr. Nakagawa answered that it has to be an existing local public agency. Ms. Brown further questioned that should the County apply as a GSA, would the County Board of Supervisors be the governing body, by default, or is there a mechanism in place to form a Joint Power of Authority (JPA) of constituents from the agencies within the geographical boundaries? Attorney Kurtis Keller of Neumiller and Beardslee answered that with the County filing as a GSA, the County would be the governing board. However, modifications to the filing would be allowed and through conversations, developments of MOU’s, and future understandings of what the local agency authorities will need, what powers they want to yield or how they want to be implementing components of the GSP it might make sense to

develop a JPA and create a new body of governing structure. There will be recognition and autonomy of the separate districts.

Julianne Phillips from the San Joaquin Farm Bureau commented that if the County files and there are no additional filings within the 90-days, the County is presumed to be the GSA and there would be nothing to compel them to create MOUs. Mr. Nakagawa responded that the commitment of the County would compel them to do so.

Scot Moody from Stockton East Water District expressed his concern of some entities that are unable to provide water to maintain sustainability but intend to file as a GSA with authority over sustainability. He asked why would the County file when it does not have water rights.

Commissioner Nomellini referred back to the 90-day deadline stating that if agencies who have filed with the DWR withdrew their notice of intent to form a GSA, the deadline would be pushed back to June 30, 2017 allowing time to sort out issues and concerns. He further suggested another option is to form one GSA with the County and any interested agencies.

Commissioner Herrick commented that he believes this is an honest effort by the County to ensure overlap concerns and jurisdictional issues are satisfied and that there are less than 90-days for some entities to decide whether or not they relinquish control to the agencies that have already filed. Commissioner Christensen stated that he feels the County should try to coordinate jurisdiction maps before filing to avoid layering.

Mr. Nakagawa asked Commissioner Holbrook whether SSJID's Board will comprise the GSA board. Commissioner Holbrook acknowledged that his entire district will have representation. Commissioner Holbrook's opinion recognizes the fact that this "problem" was created by the State to take our water and take it south by intent to "divide and conquer."

Mia Brown, Linden County Water District, asked if the County files for GSA, do they have to file for full jurisdictional boundaries or will they "carve out" for the entities that wish to be their own GSA? Mr. Nakagawa replied that the County could "carve out" but is not feasible within the 90-day clock. The County will need to hold a Board hearing at the December 15, 2015 Board of Supervisors meeting with a Notice of Public Hearing advertised in local publications two weeks prior to the meeting. Immediately following the hearing, the County will have 30-days to file the paperwork to become a GSA – all before the provisional 90-day clock expires on January 20, 2016. The intention of this discussion is to move forward with a Board hearing whereupon the County must decide to file as a GSA.

Commissioner Hartmann inquired about the "remedy" for WID should the County file as a GSA "on top" of WID's filing? He referenced the County's commitment to "work out" issues and what would be the outcome should an agreement not be met? Mr. Nakagawa responded that the County would attempt to resolve all issues but if unresolved, WID could file within the County's 90-day clock and stake out their grounds. Mr. Nakagawa emphasized the need to work out issues to avoid State intervention. Clarification was made that this applied to all agencies that have already filed as a GSA.

Kris Balaji, Director of San Joaquin Public Works, clarified that should the County file over the top of previous filings, it will make all filed GSA application(s), including the County's, incomplete per DWR requirements regarding overlap. He recognized, previously mentioned, solutions including the formation of a JPA or a GSA with sub-chapters but added the "best thing" to protect the interest of the County is for the County to file as a GSA. This will allow time to work out differences while presenting a "unified front" to the State that all agencies involved will work out an honorable and meaningful

implementable plan. Commissioner Hartmann added that the County filing as a GSA would be a “protective filing” with the opportunity to work out issues later.

Commissioner Nomellini suggested all interested agencies form a JPA and file a Notice of Intent to file as a GSA. Commissioner Price asked if there can be filing as a GSA before the JPA is in place to which the answer was “yes.”

Commissioner Herrick asked if the County can file as GSA for all areas but prior to the deadline for entire GSA coverage (June 30, 2017), make amendments of their GSA coverage thus allowing for the areas that want to file as a separate GSA? Kurtis Keller, water counsel, responded that a substantial amendment to your filing will restart the 90-day clock and allow for other GSA filing(s).

Commissioner Holbrook asked in the event that the County has filed as a GSA but excluded areas that have also filed, can the agreement be modified to include the previously-excluded areas, should all issues be worked out? Mr. Nakagawa answered yes, the County can modify and resubmit their agreement.

Commissioner Roberts supports the County filing as a GSA but has concern if his District, Central San Joaquin Water Conservation District (CSJWCD) or any district doesn't file as a separate GSA, do they lose deciding interest(s) if the County files and no agreement has been met? He further added he feels there is no protection for agencies in not filing separately. Mr. Nakagawa responded the assumption is correct. Commissioner Nomellini further suggested a JPA. Commissioner Holbrook added that there is not enough time to form a JPA, boards to meet, etc., within the 90-day deadline already established.

Commissioner Winn commented that he understands the autonomy concern and assured that the County is not trying take control, but rather take pre-emptive action to ensure no area is left uncovered. GBA will, eventually, have to come up with a plan for those districts that have not yet participated in a sustainability plan for our basin. For that reason, there are questions that cannot be answered yet as there is no “framework” – it is not known who will or will not participate; there are inequities between urban and agriculture; inequities between districts; questions regarding funding; and enforcement aspects. He suggested bringing issues to the “front” with discussions regarding balance, equality, influence and framework of a JPA. After conversations with Supervisors from various counties, no counties have a clear idea of where this is going and no one wants the State to take control. Commissioner Winn's goal, as a representative of the County and a resident of the city, is to utilize the intelligence and resources available to come up with a plan to submit to DWR and preclude them from taking one acre of our area. He cautions moving too quickly.

Commissioner Hartmann asked when the deadline is for the County to act on filing as a GSA within the 90-day clock established by other filings. Mr. Nakagawa responded that the deadline with DWR is January 20, 2016 with a 30-day window back to December 21, 2015 for a vote from the Board of Supervisors. The last available meeting to go before the Board of Supervisors is December 15, 2015.

Commissioner Christensen stated he would support a motion for the County to file as a GSA contingent upon an amendment to the motion that the County would “carve out” the area that WID intends to file on the GIS mapping.

Commissioner Nomellini added that he wanted to get into a position to avoid individual filing by forming a JPA with the County made up of multiple GSAs. He added that he supports the County filing as a GSA but his district will also file separately and sort out issues later. But, ideally, he would like to see all districts file jointly with the County as one group with multiple GSAs.

Mr. Nakagawa clarified that the objectives of the GBA is to explore options, with a JPA being one, and set up a SGMA Work Group through GBA to offer a level playing field for discussions. He recognizes that SSJID, SEWD and WID are ahead of the curve in understanding the implications of SGMA. There has been nothing “taken off the table” and the goal remains to work towards a JPA.

Commissioner Herrick made comment that SSJID, SEWD and WID should have discussions with their boards to consider the possibility of an umbrella GSA that will assign obligations within their districts to avoid multiple GSAs. He referenced the original intent of the law is to control groundwater basins to avoid depletion thus the formation of groundwater sustainable agencies but foresees future issues with multiple GSAs controlling two basins.

Commissioner Nomellini moved to recommend that the County file as a GSA for the entire County and any agencies that want to join per a MOU or JPA to file a Notice of Intent. Overlapping issues will need to be resolved.

Mr. Nakagawa clarified what will be filed is not a Notice of Intent but rather a Notice of Public Hearing following action by the Board. Mr. Keller added that while it would normally be possible to create an MOU of intent between the groups, this is not the present issue within the timeline allowed. Mr. Nakagawa stated that a resolution to elect to become a GSA by the County could immobilize commitments. Attorney Keller further clarified that per DWR, the County filing will not start the 90-day mandate clock for anybody. The 90-day clock starts once the DWR posts that a filing is determined “complete”. Currently, there are no complete filings. He further added that SEWD and WID did start the 90-day clock but the County filing will make all applications incomplete.

Commissioner Nomellini suggested districts file separate Notices of Intent as separate GSAs.

Mr. Nakagawa responded that any future Notices of Intent will be incomplete. What is required to be filed are the actual election notices and submittals.

Commissioner Hartmann asked how the County will incorporate the various concerns brought up in the room so that there is confidence the issues will be worked out? Mr. Nakagawa believes it will be through the resolution electing to file as a GSA for the County.

Comments from the public referenced that not all are subject to the 90-day clock – only those that have filed a Notice of Intent with overlapping jurisdictions. If a district does not file, they have no leverage. By the County filing earlier than later, it starts the clock for everyone and if you don’t submit an application, you will be under the County umbrella. Mr. Balaji responded that by the County filing, it makes the two previously-filed applications, as well as the County’s filing, incomplete. The County’s filing actually opens up window of time for everyone to work together toward a better solution.

Mr. Keller stated per the new law, SB13, effective January 1, 2016, DWR requirements to file as a GSA are to file a resolution and the accompanying documents to form or elect to become a GSA.

Commissioner Herrick asked for clarification of the County filing as a GSA before the end of the year. His understanding is there is no clock suspended or added protection for any districts and the provisional 90-day clock will not have expired before the end of the year. Commissioner Nomellini responded that it will comply with the legality for this interim period of change in the law.

**MOTION:** Commissioner Nomellini moved and Commissioner Hartmann seconded a motion to recommend to the San Joaquin County Board of Supervisors to file as a Groundwater Sustainability Agency under the Sustainable Groundwater Management Act. The motion was passed with Commissioner Christensen and Commissioner Holbrook opposed and Commissioner McGurk abstained.



**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**

Mr. Nakagawa explained the purpose of the recommendation to the Board of Supervisors was to submit a proposal for a County grant in the amount \$250,000 eligible to counties with stressed basins. Requirements are a \$250,000 map of the County with the County in a good position for this match. The monies will be used for funding GSP ideas and data collection.

**MOTION:** Commissioner Nomellini moved and Commissioner Holbrook seconded a motion to recommend the County submit a \$250,000 grant proposal for counties with stressed basins. The motion passed unanimously.

The scheduled agenda discussion items (IIA, B and C) were postponed until a future Advisory Water Commission Meeting.

The Board and public wished Commission Winn a Happy Birthday.

**Public Comment:**

No public comment received.

**Next Regular Meeting:** December 16, 2105, at 1:00 p.m.  
Public Health Conference Room

**Adjournment:** 3:15pm

# SUSTAINABLE GROUNDWATER MANAGEMENT ACT OF 2014

## Groundwater Sustainability Agency Governance Formation

Advisory Water Commission Meeting

November 18, 2015

**Should the County File as a GSA?**

The background features an abstract geometric design. On the right side, there are several overlapping shapes in shades of blue and teal. One prominent shape is a large triangle with a fine grid pattern, pointing downwards. Other solid-colored shapes, including a dark teal triangle at the bottom right and a lighter teal shape above it, are also visible. The overall aesthetic is modern and professional.

## Local Objectives for SGMA Implementation

- ▶ Prevention of State Intervention;
- ▶ GSA coverage for the entire County;
- ▶ Development of a single GSP for each Sub-basin;
- ▶ Recognition of local public agency autonomy and authorities;
- ▶ Recognition of County's and cities' land use authority;
- ▶ Recognition of County's responsibilities to environmental protection;
- ▶ Submit a basin boundary modification request to DWR appending the portion of the Cosumnes Basin north of the Mokelumne River within San Joaquin County to the Eastern San Joaquin Sub-basin;
- ▶ Intra- and inter-Sub-basin coordination as required to achieve sustainable groundwater management.

## Should the County File as a GSA?

- ▶ Areas not covered by an electing GSA;
- ▶ County's role as the backstop before State intervention;
- ▶ Authorities necessary as a County, a County Flood Control Water Conservation District, and as a GSA to implement SGMA;
- ▶ Established programs that are already dealing with groundwater management issues;
- ▶ Authorities that cannot be delegated with respect to land use, police powers, and environmental protection.

# Groundwater Sustainability



*Undesirable Results:  
Significant and Unreasonable...*

Lowering of  
Groundwater  
Levels

Reduction of  
Groundwater  
Storage

Seawater  
Intrusion

Water Quality  
Degradation

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”



## Critical SGMA Milestones

- ▶ By June 30, 2017 - All high- or medium-priority sub-basin require GSA coverage;
- ▶ By January 1, 2020 - All sub-basins designated as in “critical groundwater overdraft” must adopt Groundwater Sustainability Plan (GSP);
- ▶ By January 31, 2040 - All Sub-basins must achieve sustainability.
- ▶ Ability for State Intervention begins on July 1, 2017.







## WHAT IS A GSA?

### Water Code §10721

- *“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 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.*



## WHO CAN BE A GSA?

*Chapter 4 of SGMA, Water Code §10723 et seq.*

- **§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 GSA for that basin.
  - Local agencies must consider their service area boundaries when deciding to also become a GSA.
  - “Service Area” is not defined in SGMA.
- **§10723(c)** identifies 15 “exclusive” local agencies that can manage groundwater with their statutory boundaries.
  - These 15 agencies must still form a GSA.
  - Any of these 15 agencies can opt-out of this role.



## WHO CAN BE A GSA?

*Chapter 4 of SGMA, Water Code §10723 et seq.*

- **§10723.6(a): A combination of local agencies** may form a GSA by using any of the following methods:
  - A joint powers agreement (**JPA**)
  - A memorandum of agreement or other legal agreement (i.e., a **MOU**)
- **§10723.6(b):** A water corporation regulated by the Public Utilities Commission or a mutual water company may participate in a GSA through a memorandum of agreement or other legal agreement.



## RESPONSIBILITIES OF A GSA

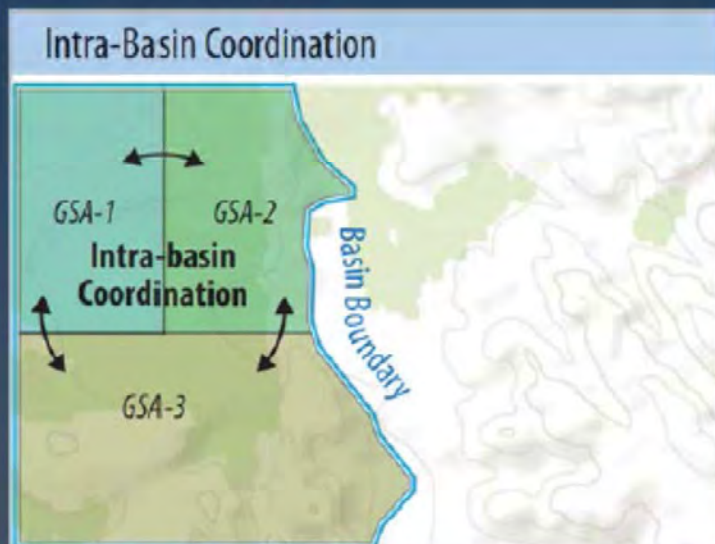
- COORDINATE WITH YOUR NEIGHBORS
- IMPLEMENT SGMA ON A BASIN-WIDE SCALE
- PREPARE A GROUNDWATER SUSTAINABILITY PLAN (GSP)
- A GSP may be any of the following – §10727(b):
  1. A **single plan** covering the ENTIRE BASIN developed and implemented by **one GSA**.
  2. A **single plan** covering the ENTIRE BASIN developed and implemented by **multiple GSAs**.
  3. Subject to §10727.6, **multiple plans** implemented by **multiple GSAs** and coordinated pursuant to a **single coordination agreement that covers the ENTIRE BASIN**.



# COORDINATION REQUIREMENTS OF A GSA

## Intra- and Inter-Basin Coordination

- Water Code §10727.6
- Intra-basin coordination is required when multiple GSAs develop multiple GSPs.
- Requires GSPs use same data and methodologies
- Water Code §10733(c)
- DWR shall evaluate whether a GSP adversely affects the ability of an adjacent basin to implement its GSP.
- GW can flow across subbasin lines



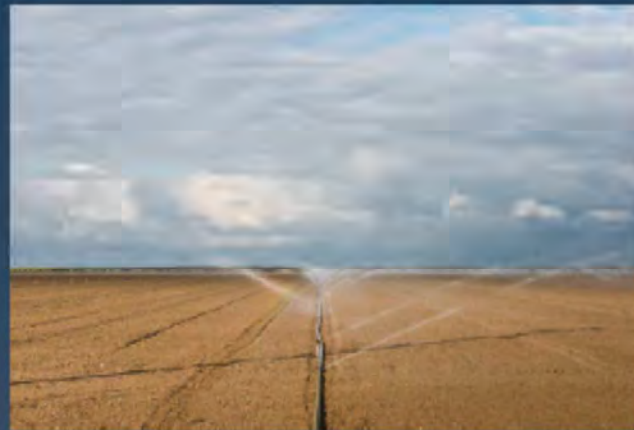


## INTRA-BASIN COORDINATION

### *Water Code §10727.6*

SGMA requires coordination among GSAs to ensure that multiple GSPs in a basin utilize the same data and methodologies for the following:

- Groundwater elevation data.
- Groundwater extraction data.
- Surface water supply.
- Total water use.
- Change in groundwater storage.
- Water budget.
- Sustainable yield.





# SENATE BILL 13 CHANGES TO SGMA

## As They Pertain to GSA Formation

### SUMMARY OF SB 13 AMENDMENTS TO SGMA:

- **Amended §10723(d):** Removed the Notice of Intent to be a GSA.
- **§10723.6(b)** allows a mutual water company to be part of a GSA through a legal agreement.
- **§10723.8(c)** addresses GSA overlap.
- **§10723.8(d)** addresses service area boundaries.
- **§10726.8(b)** says a local agency cannot impose fees or regulatory requirements on entities outside the local agency's boundaries.
- **Amended §10733.3:** DWR now is required to post all "complete" notices within 15 days of receipt.
- **SB 13 becomes law on January 1, 2016.**





## FORMATION OF A GSA

*Chapter 4 of SGMA, Water Code §10723 et seq.*

1. ENTIRE portion of a basin must be covered by a GSA(s) by June 30, 2017.
  - A GSA does not need to be formed for an Alternative GSP (§10733.6)
  - State intervention is discussed in §10735.2(a)
2. Conduct a public hearing in county or counties overlying the basin.
  - Pursuant to Government Code 6066
3. One local agency may decide to become a GSA.
  - §10723.8(c): Do not create overlapping GSA service area boundaries.
  - §10723.8(d): Do not exceed service areas (could require an agreement).
4. Multiple local agencies may decide to form a GSA.
  - Through a JPA, MOU, or other legal agreement
  - This approach could address overlapping service areas.
5. §10723.8(a): Inform DWR within 30 days of deciding to become or form a GSA.
6. Submit a complete GSA formation notification to DWR.



## FORMATION OF A GSA

### Notification to DWR

- Within 30 days of deciding to become or form a GSA, the local agency(s) shall inform DWR and submit specific information.
- **Amended §10723.8(a)** – A GSA shall submit:
  1. *The service area boundaries, boundaries of the basin or portion of the basin the agency intends to manage, and the other agencies managing or proposing to manage groundwater within the basin.*
  2. *Copy of the resolution forming the new agency.*
  3. *Copy of bylaws, ordinances, or new authorities adopted.*
  4. *A list of interested parties developed pursuant to §10723.2 and an explanation of how their interests will be considered.*
- **Added §10723.8(b)** – requires a completeness review by DWR.
  - *DWR shall post all complete notices within 15 days of receipt.*
  - *DWR will be reviewing new and existing GSA notifications for completeness.*



## FORMATION OF A GSA

### Overlapping Service Area Boundaries – §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).*
- **Direction moving forward:**
  - There cannot be any GSA overlap in a basin.
  - Existing GSAs that have overlap will need to resolve the overlap.
  - Material changes will require local agencies to re-submit GSA notices.



## FORMATION OF A GSA

### Exceeding Service Area Boundaries – §10723.8(d)

- *Except as provided in subdivisions (e) and (f), after the decision to be a GSA takes effect, the GSA shall be presumed to be the exclusive GSA 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.*
- **Direction moving forward:**
  - A local agency that decides to also become a GSA cannot exceed its service area boundaries as a GSA.
  - Those service area boundaries must be shown on a map pursuant to 10723.8(a)(1).
  - DWR will be relying upon a local agency's submitted information to determine the extent of a service area.



# DWR COMPLETENESS REVIEW

**SB 13 becomes law on January 1, 2016. Local agencies that have already submitted notifications to DWR are not exempt from review.**

1. DWR will review all GSA formation notifications for completeness.
2. Incomplete notifications will not be posted.
3. Complete notifications will be posted on GSA Formation Table.
4. DWR will show the posting date which establishes the 90-day period for that portion of the basin.
5. If no other GSA is formed within 90 days, the period is closed.
6. If another GSA is formed within the 90-day period, and that GSA results in an overlap, both notifications will be identified as "overlap status."
7. The 90-day period is stopped for overlapping notifications.
8. Local agencies must comply with 10723.8 before GSA formation can proceed.

## Local Objectives for SGMA Implementation

- ▶ Prevention of State Intervention;
- ▶ GSA coverage for the entire County;
- ▶ Development of a single GSP for each Sub-basin;
- ▶ Recognition of local public agency autonomy and authorities;
- ▶ Recognition of County's and cities' land use authority;
- ▶ Recognition of County's responsibilities to environmental protection;
- ▶ Submit a basin boundary modification request to DWR appending the portion of the Cosumnes Basin north of the Mokelumne River within San Joaquin County to the Eastern San Joaquin Sub-basin;
- ▶ Intra- and inter-Sub-basin coordination as required to achieve sustainable groundwater management.

# Multiple GSAs - Single GSP - Multiple “Chapters”

- **Multiple GSAs**

- Multiple areas self-designate as GSAs
- County covers areas not electing to become a GSA
- Coordination agreements required between GSAs

- **Single GSP**

- Cities and districts develop “chapters” for their respective service areas
- Each “chapter” is incorporated into one subbasin-wide GSP

## Hybrid Single GSA with Limited Role - Recognize Authority and Autonomy of Local Public Agencies - Multiple "Chapters"

- Single GSA with Limited Role

- County or JPA;
- Inter- and intra-basin coordination; monitoring and reporting; data collection standards;
- Development and coordination of Single GSP;
- Funding.

- Single GSP

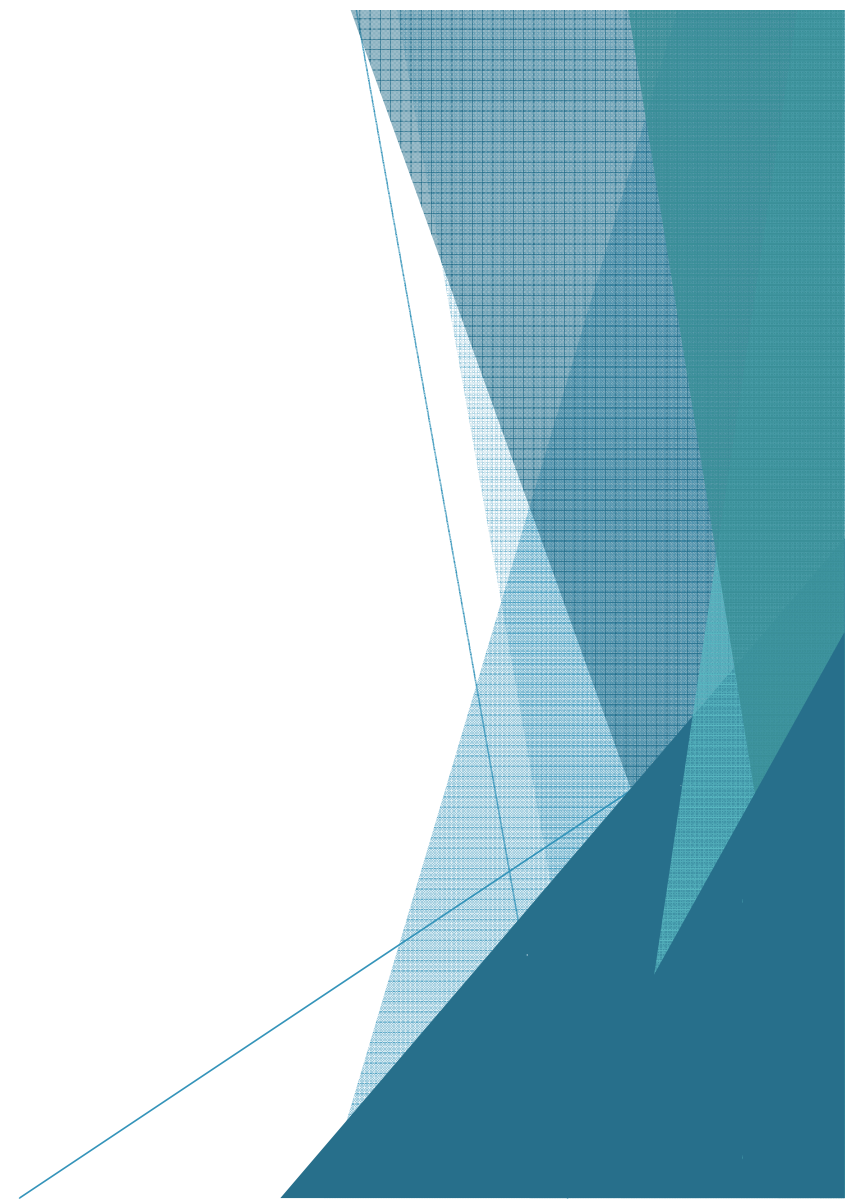
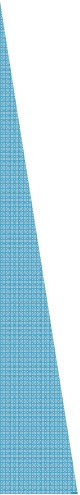
- Cities and districts develop "chapters" for their respective service areas
- Each "chapter" is incorporated into one subbasin-wide GSP
- Recognize authority and autonomy to implement and enforce GSP "chapter" in agencies' respective jurisdiction.
- County backstop if electing GSA fails to implement GSP "chapter".



## Should the County File as a GSA?

- ▶ Areas not covered by an electing GSA;
- ▶ County's role as the backstop before State intervention;
- ▶ Authorities necessary as a County and a County Flood Control Water & Water Conservation District to implement SGMA;
- ▶ Established programs that are already dealing with groundwater management issues;
- ▶ Authorities that cannot be delegated with respect to land use, police powers, and environmental protection.

Discussion?





SAN JOAQUIN COUNTY  
FLOOD CONTROL & WATER  
CONSERVATION DISTRICT

ADVISORY WATER COMMISSION  
MEETING OF NOVEMBER 18, 2015

ATTENDANCE SHEET

NAME	AFFILIATION	E-MAIL ADDRESS	PHONE
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Adrienne Elsaesser	EHD-SJC	aellaesser@sjehd.com	468 0343
Elise Sisson	Neumiller+Beardslee	elission@neumiller.com	948-8200
REGINA RUBIER	CITY OF STOCKTON	REGINA.RUBIER@STOCKTONCA.GOV	937.8782
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Brent Williams	Stakeholder	Same	
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Kris Balaji	SJC	kbalaji@sjgov.org	468-3100
JOHN MOYNIER	STANTEC	john.moynier@stantec.com	916-660-6683



ATTACHMENT  
I.A.

## DIVISION 1. - ADVISORY WATER COMMISSION

## CHAPTER 1 - ESTABLISHMENT AND DUTIES

**Sections:**

## F-1000 - CREATION.

Pursuant to Section 7 of the San Joaquin County Flood Control and Water Conservation District Act (Chap. 46, Stats. 1956, First Extra-Session), an Advisory Water Commission is hereby created.

(Res. R-86-438)

## F-1001 - MEMBERSHIP.

The members of the Commission shall be appointed by the Board of Supervisors and it shall consist of not more than twenty-six (26) members, including twenty-three (23) regular members and three (3) ex officio member. The regular members of the Commission shall serve for a term of four (4) years, or until the entity which the member represents revokes its recommendation of appointment of the member, whichever occurs first. All appointments shall also be at the pleasure of the Board of Supervisors, which may remove a member prior to the end of the member's term. In the event of a vacancy in office, a Commissioner appointed to fill that vacancy shall serve for the unexpired term of that vacancy, subject to the term restrictions as set out in this paragraph.

The Board of Supervisors shall appoint as regular members to the Commission, one (1) representative and one (1) alternate representative from two (2) or more nominees submitted by the districts, cities and agencies listed in this section. The names submitted to the Board shall clearly indicate which of the recommended appointments is to be the regular member and which is to be the alternate member.

- (a) North San Joaquin Water Conservation District;
- (b) Stockton East Water District;
- (c) Central San Joaquin Water Conservation District;
- (d) South Delta Water Agency;
- (e) Central Delta Water Agency;
- (f) Woodbridge Irrigation District;
- (g) The City of Stockton;
- (h) The City of Lodi;
- (i) The City of Manteca;
- (j) The City of Ripon;
- (k) The City of Escalon;
- (l) The City of Tracy;
- (m) The City of Lathrop;
- (n) South San Joaquin Irrigation District;
- (o) Oakdale Irrigation District;
- (p) The irrigation and water districts of southwestern San Joaquin County which are not

specifically listed above in this section;

- (q) The San Joaquin County Board of Supervisors;
- (r) An at-large representative who shall be a consumer of water;
- (s) A representative of an environmental or fish and wildlife organization;
- (t) Urban flood control reclamation district;
- (u) Urban flood control reclamation district;
- (v) Building and construction industry;
- (w) General business community.

In the event that the regular member cannot attend a meeting of the Commission, the alternate member may attend and serve as a full regular member during such absence. The absence for which the alternate member serves shall not constitute an absence for the purpose of determining whether there is a vacancy in office.

(Res. R-86-438: Ord. 3457; Ord. 3920 § 1, 1997)

(Ord. No. 4408, §§ 1, 2, 6-14-2011)

#### F-1002 - EX OFFICIO MEMBERS.

The Director of the San Joaquin County Department of Public Works or his designate, the County Counsel or his designate, and one (1) representative of the California Water Service Company, shall serve as ex officio members of the Commission. The ex officio members of the Commission shall not make motions or offer resolutions, or vote as members of the Commission, but may participate in Commission discussion. The ex officio members of the Commission shall not receive compensation for their services with the Commission other than the compensation to which they are otherwise entitled as County or District officers or employees.

(Res. R-86-438)

#### F-1003 - POWERS.

The Commission shall have advisory powers only and all action of the Commission, other than matters relative to the internal operation of the Commission, shall be subject to final approval by the Board. For the purpose of transacting business, five (5) regular members of the Advisory Water Commission shall constitute a quorum.

(Res. R-86-438: Ord. 3457)

#### F-1004 - RECOMMENDATIONS.

The Commission shall, either at the request of the Board or upon its own initiative, study and investigate matters of concern to the district and make recommendations thereon to the Board. Such matters shall include, but are not limited to, the following:

- (a) Flood control;
- (b) Drainage;
- (c) Water conservation;
- (d) Water distribution;
- (e) Underground water conditions;

- (f) Water pollution;
- (g) District water needs;
- (h) The exportation of water from the District area;
- (i) Supplemental water supplies for the District area;
- (j) State and federal water projects of benefit to the District;
- (k) Salinity control;
- (l) Water quality;
- (m) The protection of water rights of landowners within the District; and
- (n) Recreation activities and development in connection with water conservation and flood control activities.

(Res. R-86-438)

F-1005 - PLAN.

The Commission shall adopt a long range plan, which plan shall effectuate the intent and purposes of the San Joaquin County Flood Control and Water Conservation District Act, and shall further adopt policies to effectuate said long range plan.

(Res. R-86-438)

F-1006 - BUDGET.

The Commission shall have no responsibility or authority regarding an annual budget for the District, except as directed by the Board of Supervisors.

(Res. R-86-438)

F-1007 - SUBDIVISION MAPS.

The Commission shall perform such functions in connection with Subdivision Maps as may be assigned to the Commission by the San Joaquin County Subdivision Ordinance.

(Res. R-86-438)

F-1008 - GENERAL PLAN.

The Commission shall cooperate with the Planning Commission of the County of San Joaquin, with particular reference to the ultimate preparation of a conservation element of the general plan of San Joaquin County, and shall further cooperate with and advise the Planning Commission in connection with the timely review and revision of said conservation element.

(Res. R-86-438)

F-1009 - COORDINATING AGENCY.

It is recognized by this Board that there are numerous districts, municipalities, and private agencies within the District engaged in various activities relating to water. It is intended by this Board that the Commission shall serve as a coordinating agency with reference to activities concerning water matters as set out in Section F-1004.

(Res. R-86-438; Ord. 3457)



**F-1010 - PROJECTS, ZONES, TAX RATE.**

Prior to the undertaking of any project by the District, the creation of any zone by the District, or the establishment of any tax rate for any zone by the District, the matter shall be considered by the Commission and the Commission shall hold a public hearing thereon and make a recommendation to the Board. Prior to the holding of such hearing, notice shall be published once at least ten (10) days prior to the public hearing in a newspaper of general circulation published in the affected zone, or if none is published in the affected zone, then in a newspaper of general circulation published in the District. No hearing held by the Commission pursuant to this Section shall constitute a substitute for any hearing required to be held by the Board pursuant to the San Joaquin County Flood Control and Water Conservation District Act, and this Section shall not constitute a delegation of the duty of the Board to hold any hearing. This section shall not be construed to require the annual budget or assessment report of any zone to be submitted to the Commission for a hearing under this section.

(Res. R-86-438; Ord. 3552)

**F-1011 - OFFICERS.**

The members of the Commission shall, at the time of their initial appointment, and annually thereafter during the month of January, select from among their members a chairman and vice-chairman. At the time of selecting the chairman and vice-chairman the Commission shall also select a secretary who need not be a member of the Commission.

(Res. R-86-438)

**F-1012 - RULES.**

The Commission shall adopt rules for the conduct of its meetings.

(Res. R-86-438)

**F-1013 - MEETINGS—OFFICER VACANCY.**

The Commission shall establish regular meeting dates and may, from time to time, call special meetings. The Commission shall meet at least once each calendar month. The Office of any Commissioner may be declared vacant in the event a Commissioner is absent from three consecutive regularly scheduled meetings, unless said absences are excused by the Chairman of the Commission. Any declaration of vacancy by the Commission shall be referred to the Board of Supervisors with a recommendation that the Board make an appointment to fill that vacancy. Attendance and vacancy requirements shall not apply to the Board of Supervisors' representative and/or alternate.

(Res. R-86-438; Ord. 3920 § 2, 1997)

**F-1014 - COMPENSATION.**

The members of the Commission, other than the advisory ex officio members, shall receive such compensation for their services as is established by resolution of the Board, and shall in addition thereto receive their actual and necessary expenses incurred in the performance of their duties including, but not limited to, mileage to and from the meetings of the Commission.

(Res. R-86-438)

**F-1015 - REPORT TO BOARD OF SUPERVISORS.**

Once in each three (3) month period either the Chairman or the secretary of the Commission shall appear before the Board and report on the activities of the Commission during the preceding three (3) month period.

(Res. R-86-438)

ATTACHMENT  
II.A.



FRONT PAGE	LATEST POSTS	LATEST NEWS FROM AROUND THE WEB	NOTEBOOK NEWS ARTICLES
WEEKLY FEATURES	RESOURCE PAGES	CALENDAR	ABOUT

## This just in ... Tentative agreement reached for Cal Water Fix Design and Construction Enterprise

January 15, 2016 Maven Other News Item

From the Natural Resources Agency:

The California Department of Water Resources (DWR) and a Joint Powers



Authority comprised of public water agencies will collaborate in the design and construction of California WaterFix, should the project be permitted by various state and federal regulators and should the public water agencies choose to pursue the project. The terms by which DWR and the water agencies would coordinate are contained in a tentative agreement, available [here](#).

The tentative agreement between DWR and contractors of the state and federal water projects seeks to ensure accountability, transparency, and the safe, timely, cost-effective and efficient completion of California WaterFix.

The public water agencies that would pay for the estimated \$15 billion project and create a Joint Powers Authority to help build it receive water from the State Water Project, operated by DWR, and/or the Central Valley Project, which is operated by the U.S. Bureau of Reclamation.

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The tentative agreement will not be effective until it is approved by both DWR and a Joint Powers Authority that will be created by the public water agencies.

The California WaterFix would modernize the 50-year-old State Water Project delivery system in the Sacramento-San Joaquin Delta in order to improve ecological conditions in the Delta and stabilize water supplies for much of the state. The project would involve construction of three new intakes on the east bank of the Sacramento River south of Hood, with two 30-mile-long, large-diameter tunnels to carry water to the existing State Water Project pumping plant in the south Delta.

Key provisions of the tentative agreement include:

- Consistent with statutory authority, the DWR director shall have the final decision making authority on all aspects of the design, construction and implementation of the conveyance project.
- Matters that would have a material effect on the conveyance project must have the concurrence of the Board of the Joint Powers Authority. These issues involve any actions that:
  - would cause more than \$10 million in increased costs or a five percent increase in budgeted costs;
  - could add 60 days or more to the schedule;
  - could impact the water delivery capacity, project life, or operations and maintenance costs of the project; or
  - any permit that would result in a material impact as already defined.
- A unit within DWR called the Design Construction Enterprise (DCE) will manage construction and implementation of the project. All public project, equipment, and architectural and engineering procurements shall be conducted in accordance with the State Contracting Act and other contracting requirements imposed by law on DWR. The DCE may develop and implement procedures to improve efficiency, consistent with DWR policy and applicable State law.
  - DCE may be staffed with qualified people from DWR, other public water agencies, or private industry.

[Click here to read the agreement.](#)

**UPCOMING EVENTS**

**JAN 15**  
 Fri  
 ([http://mavensnotebook.com/calendar/action~oneday/exact\\_date~1-15-2016/](http://mavensnotebook.com/calendar/action~oneday/exact_date~1-15-2016/))  
**11:00 am** Delta Independent Science Board @ Park Tower Building, Sacramento ([http://mavensnotebook.com/event/delta-independent-science-board/?instance\\_id=189](http://mavensnotebook.com/event/delta-independent-science-board/?instance_id=189))

**JAN 19**  
 Tue  
 ([http://mavensnotebook.com/calendar/action~oneday/exact\\_date~1-19-2016/](http://mavensnotebook.com/calendar/action~oneday/exact_date~1-19-2016/))  
**9:00 am** State Water Resources Control Board ([http://mavensnotebook.com/event/state-water-resources-control-board/?instance\\_id=13](http://mavensnotebook.com/event/state-water-resources-control-board/?instance_id=13))

**JAN 20**  
 Wed  
 ([http://mavensnotebook.com/calendar/action~oneday/exact\\_date~1-20-2016/](http://mavensnotebook.com/calendar/action~oneday/exact_date~1-20-2016/))  
**9:30 am** California Water Commission ([http://mavensnotebook.com/event/california-water-commission/?instance\\_id=14](http://mavensnotebook.com/event/california-water-commission/?instance_id=14))

**2:00 pm** Legislative hearing on water rec... @ State Capital, Room 444 ([http://mavensnotebook.com/event/legislative-hearing-on-water-recycling-and-reuse/?instance\\_id=190](http://mavensnotebook.com/event/legislative-hearing-on-water-recycling-and-reuse/?instance_id=190))

**5:30 pm** San Francisco Bay

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### **Delta Counties Coalition**

Contra Costa County · Sacramento County · San Joaquin County · Solano County · Yolo County  
"Working together on water and Delta issues"

#### **FOR IMMEDIATE RELEASE**

January 15, 2016

#### **CONTACT: NATASHA DRANE**

916) 874-4627

### **SUPERVISORS DECRY LACK OF TRANSPARENCY IN GOVERNOR'S TUNNEL PLAN DESIGN AND CONSTRUCTION AGREEMENT**

**SACRAMENTO, CA**—In response to an announcement today by the California Department of Water Resources regarding a tentative agreement to begin construction of Governor Brown's tunnel plan through the Sacramento-San Joaquin Delta, the Delta Counties Coalition (DCC) issued the following statement:

"With no notice or collaboration despite numerous opportunities, including a public meeting we attended yesterday with Governor Brown and Resources Secretary Laird, the region most affected by this plan for taking additional water from the Delta, was never consulted or even made aware of this outrageous plan to begin construction before a mandatory environmental review is completed," said Sacramento County Supervisor Don Nottoli, chair of the DCC.

"To green light a construction authority, which will potentially have veto power over State oversight before environmental reviews are completed, is a breach of good faith in reaching a water solution for all Californians."

The DCC has advocated for protecting the interests of the Delta and California's water supply and produced a set of approaches that will achieve balance for the economic and environmental health of the Delta while also improving water supply stability. Those solutions include:

- Improving the ability to move water around as needed with cost-effective water system operation improvements.
- Increasing storage capacity.
- Reinforcing our levee system.
- Increasing opportunities for local storage, increased conservation plans, water reuse and recycling and desalination.
- Restoring the Delta's health so that it can continue its role as an economic, agricultural, recreational and environmental engine for the region and state.

*The DCC was formed to better represent the nearly 4 million people throughout the Delta region and works collaboratively to give one voice to the Delta and engage in efforts to achieve three goals: improve the Delta ecosystem, provide a more reliable water supply for the State, and protect and enhance Delta communities.*

# # #



MIMI DUZENSKI  
Clerk of the Board

## BOARD OF SUPERVISORS

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

MOSES ZAPIEN  
Chair  
Third District

BOB ELLIOTT  
Vice Chair  
Fifth District

CARLOS VILLAPUDUA  
First District

KATHRINE M. MILLER  
Second District

CHUCK WINN  
Fourth District

January 15, 2016

The Honorable Lois Wolk  
California State Senate, District 3  
State Capitol Room 5114  
Sacramento, CA 95814

SUBJECT: SENATE BILL 554 (WOLK) – SUPPORT

Dear Senator Wolk:

The San Joaquin County Board of Supervisors is pleased to support your Senate Bill 554, relative to the Delta Levee Subvention program. This important and timely legislation will make the program permanent and declare the State's legislative intent to continue reimbursement of up to 75 percent of costs incurred in any year for the maintenance and improvement of Delta levees in excess of \$1,000 per levee mile.

Availability of sufficient and reliable ongoing funding to improve and maintain Delta levees is critical to preserving their ongoing flood control and water supply functions, which are of Statewide importance. Funding provided through the levee subvention program over the years has been essential to significantly improved flood protection and reliability of water conveyance in the Delta.

Levees will always require some degree of maintenance, supervision, and upkeep – just like any other element of State or local infrastructure. To date, Delta Counties, Cities and local districts have had to rely on repeated legislative activity to extend the life of the program, which will no longer be required with elimination of the sunset under Senate Bill 554.

Thank you for your leadership on this issue. You have demonstrated during your many years of stellar representation of Delta Counties that you understand the needs and priorities of the Delta, and your timely introduction of this Bill is yet another shining example. San Joaquin County is pleased to support Senate Bill 554.

Sincerely,

MOSES ZAPIEN  
Chair, San Joaquin County Board of Supervisors

MZ:FB:nt  
1-15-16 SB 554 SUPPORT.DOCX

c: San Joaquin County Board of Supervisors  
San Joaquin County Legislative Delegation  
Delta Counties Coalition  
California Department of Water Resources  
California State Association of Counties

## The Board of Supervisors

County Administration Building  
651 Pine Street, Room 106  
Martinez, California 94553

**John Gioia**, 1<sup>st</sup> District  
**Candace Andersen**, 2<sup>nd</sup> District  
**Mary N. Piepho**, 3<sup>rd</sup> District  
**Karen Mitchoff**, 4<sup>th</sup> District  
**Federal D. Glover**, 5<sup>th</sup> District

## Contra Costa County



**David Twa**  
Clerk of the Board  
and  
County Administrator  
(925) 335-1900

January 12, 2016

The Honorable Lois Wolk  
California State Senate  
State Capitol, Room 5114  
Sacramento, CA 95814

### **RE: SB 554 (Wolk): Delta Levee Maintenance- SUPPORT**

Dear Senator Wolk:

On behalf of the Contra Costa County Board of Supervisors, I am pleased to communicate our support for your bill, Senate Bill 554. SB 554 is an important and timely bill that will remove the threat of automatic repeal of the current levee maintenance program cost-sharing formula.

SB 554 would also declare legislative intent to continue to reimburse up to 75% of those costs incurred in any year for the maintenance or improvement of the project or non-project levees in the Sacramento-San Joaquin Delta in excess of \$1,000 per mile of levee.

The State's Delta Levee Subventions program has dramatically improved flood control and increased the reliability of water conveyance in the Delta by utilizing an efficient process of partnering with the local flood control agencies for levee maintenance and improvements. Local agencies fund 100% of the work up front, and the State reimburses a percentage, creating an incentive for the local agencies to perform the work in the most cost effective and efficient manner possible.

Since the inception of the Delta Levee Subventions Program, levee improvements have dramatically reduced the risk of flood within the Delta, as evidenced by the lower number of levee failures during the flood events in 1997 and 2006. Failure due to high tides or high flows has been essentially eliminated thanks in large part to the success of the Delta Levee Subvention Program.

For these reasons, Contra Costa County is pleased to support SB 554. Thank you for authoring this legislation, and we look forward to working with you throughout the legislative process.

Sincerely,

A handwritten signature in blue ink that reads "Candace K. Andersen".

CANDACE K. ANDERSEN  
Chair, Board of Supervisors



cc: Members, Board of Supervisors  
Contra Costa County Legislative Delegation  
David Twa, County Administrator  
Cathy Christian, Nielsen Merksamer  
Delta Counties Coalition

ATTACHMENT  
II.D.

# Smith resolution passes House to nullify WOTUS

By Robert Pore

robert.pore@theindependent.com | Posted: Wednesday, January 13, 2016 11:00 pm

On Wednesday, the House passed a joint resolution to disapprove the Waters of the United States rule under a Congressional Review Act.

This resolution would nullify the rule submitted by the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers to redefine “waters of the United States” under the Clean Water Act.

Rep. Adrian Smith, R-Neb., said the House passed the Senate companion to his resolution to disapprove the EPA’s Waters of the U.S. rule, known as WOTUS. The legislation will now go to the president’s desk for signature.

Smith said the House’s bipartisan vote to kill the EPA’s WOTUS rule sends a strong message to President Obama and his administration about Americans’ opposition to “this abuse of executive power.”

“When the Obama administration pushed forward with WOTUS in defiance of a court-ordered stay, I introduced this resolution of disapproval in the House on behalf of all farmers, landowners and local officials frustrated by the administration’s refusal to acknowledge their concerns,” he said.

Smith introduced H.J. Res. 59, the House resolution to disapprove WOTUS under the Congressional Review Act, last July. The Congressional Review Act provides for an expedited process for Congress to overturn executive rulemaking, including expedited Senate consideration of legislation to block newly finalized rules.

He said WOTUS poses “a significant threat to America’s economy.” Smith said that under the rule, the EPA and the Army Corps of Engineers would have the power to “dictate land use decisions and farming practices of agriculture producers and business owners across the country.”

During a speech on the House floor on Wednesday, he gave his colleagues an example of what he called the “EPA and Army Corps abuse in Douglas County, Nebraska, with a population of over 500,000, in my home state.”

Smith said that in 2005, the county began the process of submitting the proper environmental permit applications needed to extend a section of road about one mile. He said the project was designated as having the lowest level of environmental impact.

But construction is not slated to begin until at least 2019 because there is a small ditch that runs adjacent to the proposed project, he said.

“Within the ditch there is a small rut about six to eight inches wide and no more than an inch deep,” Smith said. “It has no ordinary high water mark and there are no wetland plants growing in the ditch. However, the corps declared this ditch a water of the United States, costing the county thousands of dollars and numerous years.”

He said that was never the intent of Congress when the Clean Water Act was passed.

“The act clearly limits federal jurisdiction to navigable waters,” Smith said. “In fact, the term navigable appears more than 80 times in the Clean Water Act. There is no way one can tell me an inch-deep ditch is a navigable water.”

Smith said Congress has a responsibility to “guard against these bureaucratic power-grabs by executive agencies.” He said his resolution gained more than 70 co-sponsors, with supporters from both sides of the aisle.

Steve Nelson, president of the Nebraska Farm Bureau and spokesman for the Common Sense Nebraska Coalition, praised the House actions disapproving the WOTUS rules.

Nelson said the rule significantly expands the scope of the “navigable water” subject to federal Clean Water Act jurisdiction, meaning greater permitting requirements for landowners and greater exposure for legal liability for those individuals as well.

“The ‘Waters’ rule infringes on individuals’ basic rights to put their private property into productive use, which is why so many different public and private interests from across Nebraska have come together in opposition,” he said.

Not only has a federal district court in North Dakota ruled against the measure, Nelson said, but the U.S. Court of Appeals for the Sixth Circuit has granted a nationwide stay of the rule, pointing to many troubling aspects of the regulation.

Furthermore, he said, the U.S. General Accountability Office (GAO) recently issued an opinion clarifying that EPA unlawfully manipulated the rulemaking process through an unprecedented marketing campaign designed to generate public support for the proposal.

ATTACHMENT  
III.A.

# Controversial sale of Delta islands runs into problems

The Sacramento Bee, 12/28/15

A controversial plan that would put Southern California's most powerful water agency in control of a group of Sacramento-San Joaquin Delta islands has run into a potentially significant hurdle.

The Metropolitan Water District of Southern California has been working for months with three Kern County agricultural water agencies to buy five strategically placed islands now used for farming. The move has sparked accusations that Metropolitan, which serves 19 million Southern Californians, is looking for a way to extract more water from Northern California. Metropolitan says it's interested in conducting environmental restoration on the islands as a means of shoring up existing water deliveries.

The proposed land purchase has hit a snag in the form of pre-existing legal restrictions that govern how the islands are treated. The restrictions date to a 2013 settlement agreement that the islands' owner – Delta Wetlands Properties, controlled by Swiss insurer Zurich Insurance Group – made with officials of San Joaquin County, neighboring water agencies and other government entities.

The deal "is more complicated than we thought because of these settlements and other restrictions on this property," Metropolitan General Manager Jeff Kightlinger said Monday. "We told them we wanted to buy the land free and clear ... not to have heavily restricted lands."

Metropolitan's efforts to control Delta property come as the future of the estuary enters a crucial phase. A longstanding state plan to build a pair of tunnels beneath the Delta to streamline water deliveries between Northern and Southern California faces ongoing political and financial obstacles, with Metropolitan the only major water customer voicing real enthusiasm for the project. The environmental review is expected to be completed in 2016.

The tunnels project could get a boost from Metropolitan buying the five Delta islands. Getting the tunnels built will require potentially lengthy and expensive eminent domain proceedings with Delta landowners, many of whom are opposed to the project. Two of the islands under discussion are situated along the proposed tunnels route. One of the islands also could serve as a temporary repository for the mounds of dirt the project would create.

Kightlinger said he still thinks the land deal will be completed and added that "we have basically shaken hands on a price." He wouldn't go into specifics, but said the price would be between \$150 million and \$240 million for the 20,000 acres.

"There may be further discussion of price if those restrictions aren't removed," Kightlinger said. Ultimately, if the restrictions remain in place, Metropolitan will have to decide "is it really worth pursuing," he said.

Zurich has been trying for more than 20 years to convert the islands into giant for-profit reservoirs that would ship water to Southern California in dry years. Along the way, San Joaquin County and others sued, claiming the project could devastate the Delta. The negotiated settlements were intended to safeguard against environmental havoc and other problems.

One lawyer who was involved in drafting the settlements, George Hartmann of Stockton, said easing the restrictions is unlikely. "We have no intention of changing a word in any of those agreements," said Hartmann, a lawyer for farmers who own land near the Zurich properties and are parties to the settlements.

Officials with Zurich Insurance had no comment.

Metropolitan is working on the land deal with three Kern County water agencies: Semitropic, Rosedale-Rio Bravo and Wheeler Ridge-Maricopa. The islands, some in San Joaquin County and some in Contra Costa County, are Bouldin Island, Bacon Island, Webb Tract, most of Holland Island and a slice of Chipps Island.

The deal would represent Metropolitan's first direct land purchase in the Delta, the fragile estuary that serves as the hub of California's elaborate man-made water delivery system. The timing, with the tunnel controversy simmering, heightens suspicions about Metropolitan's intentions.

"If it was anyone other than Met or Kern or someone like them owning Delta islands, I don't think any of us would be concerned," Hartmann said.

Kightlinger has said Metropolitan is interested in the islands primarily as a means of restoring Delta wildlife habitats. However, he also has acknowledged that a healthier Delta would serve Metropolitan's aim of improving water deliveries to Southern California. Water deliveries are sometimes interrupted or curtailed to protect endangered fish in the Delta.

The \$15.5 billion tunnels plan, championed by Gov. Jerry Brown and known as California WaterFix, is also aimed at helping water flow more efficiently to regions south of the Delta. Supporters say the tunnels would improve water flows, protect fish and enhance reliability of Southern California water deliveries.

The Zurich settlements could get in the way of Metropolitan's plans. The settlements, among other things, place restrictions on excavating land on the properties. Digging the tunnels would involve massive amounts of excavation. Another clause requires the islands' owner to protect the levees on neighboring islands from seepage, a problem that could arise when islands are flooded to restore habitats.

"They're going to have to sign onto this and live up to this agreement," said Dante Nomellini Sr., a lawyer for the Central Delta Water Agency, one of the parties that settled with Zurich in 2013. "I'm sure they don't like the idea of being obligated to these things."

ATTACHMENT  
III.B.





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## CVIFMS -- A unified vision for water and ecosystem studies in California's Central Valley

Posted 1/5/2016

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By Robert Kidd

Synergy between the U.S. Army Corps of Engineers, California Department of Water Resources and local government leaders is powering a unified vision to lower flood risk, restore ecosystems and aid water conservation in California's Central Valley.

Despite its unwieldy title, the Central Valley Integrated Flood Management Study has a razor-sharp focus: start with existing data from previous studies and existing requests (authorities) from Congress and address problems at the watershed level in order to produce systemwide improvements within the Sacramento River Basin.

"CVIFMS is the federal companion to DWR's 2012 Central Valley Flood Protection Plan," said Rhiannon Kucharski, lead planner for the Corps. "We're riding the wave of research momentum that began with the Sacramento River and San Joaquin River Basins Comprehensive Study of 2002 and continued with several related studies in the Central Valley."

The Corps released a draft watershed plan Dec. 9, 2015, for an informal public review through Jan. 15, 2016. The same document is also undergoing agency technical review and South Pacific Division planning and policy review.

For purposes of the study, the Sacramento River watershed was divided into 50 opportunity areas. Within each area, possible measures were evaluated for efficiency in meeting flood risk management, ecosystem restoration and water supply objectives, and for cost effectiveness and policy compliance.

Four near-term studies have been identified as having tremendous potential:

- examine inland effects of climate change;
- San Joaquin River watershed study (CVIFMS Part II);
- Central Valley reservoir re-operation study; and
- Middle and Upper Sacramento River Basin study.

The Central Valley re-operation study would be a comprehensive investigation to optimize operation of reservoirs within the entire Central Valley to maximum benefits in flood risk management, ecosystem restoration and water supply, incorporating weather forecasts and climate change analysis.

"The re-operation study is especially appealing, since it has the potential to improve flood risk management and water conservation without new infrastructure investments," said Kucharski.

February 2013

January 2013

December 2012

November 2012

August 2012

July 2012

May 2012

April 2012

March 2012

February 2012

December 2011

Mid- to long-term studies suggested by CVIFMS include:

- non-structural flood plain management services;
- Upper American River and tributaries study; and
- ecosystem restoration studies under continuing authorities or tribal partnerships.

A final watershed plan is scheduled to be released by mid-March 2016, completing the initial high-level analysis before future, more-focused studies can identify specific projects.

"CVIFMS provides the compass to understand which direction we're going, but future studies will more clearly chart the path to implement some of the opportunities we've identified," said Kucharski.

The goal is for local government and agencies to see where the Corps is going and want to help pave the path to making some of the projects a reality.

California Central Valley California DWR civil works Corps of Engineers flood risk management sacramento district study U.S. Army

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### Valadao Introduces Legislation to Resolve Drainage Dispute

**Washington, Jan 12** | [Anna R. Vetter \(\(202\) 815-1685\)](#) | [comments](#)

Washington - Today, Tuesday, January 12, 2016, U.S. Congressman David G. Valadao (CA-21) introduced H.R. 4366, the *San Luis Unit Drainage Resolution Act* in the United States House of Representatives. This legislation would authorize a settlement of a long-standing dispute between the United States and the Westlands Water District concerning the management of drainage water within Westlands' service area in the San Luis Unit of the Central Valley Project (CVP) in California. In doing so, the legislation will save the American taxpayers billions of dollars.

Under the legislation, the United States will be relieved of potential liability of \$3.5 billion for the statutory obligation to manage drainage water. The bill includes concessions made by both the Federal Government and Westlands Water District to resolve the dispute. Westlands will dismiss its drainage related claims against the U.S. and indemnify the U.S. for any damages for landowner claims arising out of pending takings litigation against the federal government. According to the U.S. Bureau of Reclamation, the potential liability of the United States for these claims could exceed more than \$2 billion.

Importantly, no other CVP contractor will see their water supply jeopardized by the enactment of H.R. 4366.

Congressman David Valadao stated, "This legislation is necessary to approve and authorize the drainage settlement agreed to by both Westlands and the U.S. Department of Justice (DOJ) this past year." He continued, "Furthermore, enactment of this legislation has the potential to save taxpayers billions of dollars. Ensuring taxpayer dollars go towards meaningful projects, such as increased water storage rather than fighting unnecessary litigation, is the responsible and most efficient use of taxpayer dollars."

Specifically, the legislation will:

- Settle the above litigation and relieve the U.S. of its multi-billion dollar statutory and court-ordered drainage obligation
- Require Westlands to manage drainage water within its boundaries, in accordance with the federal and California law, and provide the Department of Interior the right to cease water deliveries to Westlands if it fails to do so
- Require Westlands to indemnify the U.S. for any damages and pay compensation for landowner claims arising out of the Etchegoinbery litigation
- Relieve Westlands of its existing approximate \$375 million capital repayment obligations under its water service contract with the United States
- Require Westlands to permanently retire 100,000 acres of land within its boundaries
- Authorize the Secretary of the Interior to convert Westlands' existing water service contract entered into under section 9(e) of the 1939 to a repayment contract under section 9(d) of the same act
- Cap Westlands contract deliveries at 75% of its CVP contract amount

*Congressman David G. Valadao represents the 21st Congressional District, which includes Kings County and portions of Fresno, Tulare, and Kern Counties.*

###

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