

ADMINISTRATION PROPOSAL FOR MODERNIZING THE
GROUNDWATER ADJUDICATION PROCESS

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SECTION 1. Section 105.5 is added to the Water Code to read:

105.5. Notwithstanding any other law, the state may intervene as a matter of right in any suit brought in any court for determination of rights to water.

SEC. 2. Section 10720.1 of the Water Code is amended to read:

10720.1. In enacting this part, it is the intent of the Legislature to do all of the following:

- (a) To provide for the sustainable management of groundwater basins.
- (b) To enhance local management of groundwater consistent with rights to use or store groundwater and Section 2 of Article X of the California Constitution. It is the intent of the Legislature to preserve the security of water rights in the state to the greatest extent possible consistent with the sustainable management of groundwater.
- (c) To establish minimum standards for sustainable groundwater management.
- (d) To provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater.
- (e) To avoid or minimize subsidence.
- (f) To improve data collection and understanding about groundwater.
- (g) To increase groundwater storage and remove impediments to recharge.
- (h) To manage groundwater basins through the actions of local governmental agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner.
- (i) To provide a more efficient and cost-effective groundwater adjudication process that protects water rights, ensures due process, prevents unnecessary delay, and furthers the objectives of this part.**

SEC. 3. Section 10720.5 of the Water Code is amended to read:

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

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

(c) Water rights may be determined in an adjudication action under Chapter 12 (commencing with Section 10737).

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SEC. 4. Section 10720.8 of the Water Code is amended to read:

(a) Except as provided in ~~subdivision (e)~~, **subdivisions (e) and (g)**, this part does not apply to the following adjudicated areas or a local agency that conforms to the requirements of an adjudication of water rights for one of the following adjudicated areas:

- (1) Beaumont Basin.
- (2) Brite Basin.
- (3) Central Basin.
- (4) Chino Basin.
- (5) Cucamonga Basin.
- (6) Cummings Basin.
- (7) Goleta Basin.
- (8) Lytle Basin.
- (9) Main San Gabriel Basin.
- (10) Mojave Basin Area.
- (11) Puente Basin.
- (12) Raymond Basin.
- (13) Rialto-Colton Basin.
- (14) Riverside Basin.
- (15) San Bernardino Basin Area.
- (16) San Jacinto Basin.
- (17) Santa Margarita River Watershed.
- (18) Santa Maria Valley Basin.
- (19) Santa Paula Basin.
- (20) Scott River Stream System.
- (21) Seaside Basin.
- (22) Six Basins.
- (23) Tehachapi Basin.
- (24) Upper Los Angeles River Area.
- (25) Warren Valley Basin.
- (26) West Coast Basin.

(b) The Antelope Valley basin at issue in the Antelope Valley Groundwater Cases (Judicial Council Coordination Proceeding Number 4408) shall be treated as an adjudicated basin pursuant to this section if the superior court issues a final judgment, order, or decree.

(c) Any groundwater basin or portion of a groundwater basin in Inyo County managed pursuant to the terms of the stipulated judgment in City of Los Angeles v. Board of Supervisors of the County of Inyo, et al. (Inyo County Case No. 12908) shall be treated as an adjudicated area pursuant to this section.

(d) The Los Osos Groundwater Basin at issue in Los Osos Community Service District v. Southern California Water Company [Golden State Water Company] et al. (San Luis Obispo County Superior Court Case No. CV 040126) shall be treated as an adjudicated basin pursuant to this section if the superior court issues a final judgment, order, or decree.

(e) If an adjudication action has determined the rights to extract groundwater for only a portion of a basin, subdivisions (a), (b), (c), and (d) apply only within the area for which the adjudication action has determined those rights.

(f) The watermaster or a local agency within a basin identified in subdivision (a) shall do all of the following:

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(1) By April 1, 2016, submit to the department a copy of a governing final judgment, or other judicial order or decree, and any amendments entered before April 1, 2016.

(2) Within 90 days of entry by a court, submit to the department a copy of any amendment made and entered by the court to the governing final judgment or other judicial order or decree on or after April 1, 2016.

(3) By April 1, 2016, and annually thereafter, submit to the department a report containing the following information to the extent available for the portion of the basin subject to the adjudication:

(A) Groundwater elevation data unless otherwise submitted pursuant to Section 10932.

(B) Annual aggregated data identifying groundwater extraction for the preceding water year.

(C) Surface water supply used for or available for use for groundwater recharge or in-lieu use.

(D) Total water use.

(E) Change in groundwater storage.

(F) The annual report submitted to the court.

(g) Notwithstanding subdivisions (a), (b), (c) and (d), a court with jurisdiction over a proposed expansion of the adjudicated area may order that the proceeding be conducted in accordance with Chapter 12 (commencing with section 10737).

SEC. 5. Section 10721 of the Water Code is amended to read:

10721. Unless the context otherwise requires, the following definitions govern the construction of this part:

(a) "Adjudication action" means an action filed in the superior or federal district court to determine the rights to extract groundwater from a basin or store water within a basin, including, but not limited to, actions to quiet title respecting rights to extract or store groundwater or an action brought to impose a physical solution on a basin.

(b) "Basin" means a groundwater basin or subbasin identified and defined in Bulletin 118 or as modified pursuant to Chapter 3 (commencing with Section 10722).

(c) "Bulletin 118" means the department's report entitled "California's Groundwater: Bulletin 118" updated in 2003, as it may be subsequently updated or revised in accordance with Section 12924.

(d) "Coordination agreement" means a legal agreement adopted between two or more groundwater sustainability agencies that provides the basis for coordinating multiple agencies or groundwater sustainability plans within a basin pursuant to this part.

(e) "De minimis extractor" means a person who extracts, for domestic purposes, two acre-feet or less per year.

(f) ***"Expert witness" means a witness qualified under Section 720 of the Evidence Code.***

(g) "Governing body" means the legislative body of a groundwater sustainability agency.

(g) (h) "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.

(h) (i) "Groundwater extraction facility" means a device or method for extracting groundwater from within a basin.

(i) (j) "Groundwater recharge" means the augmentation of groundwater, by natural or artificial means.

(j) (k) "Groundwater sustainability agency" means one or more local agencies that implement the provisions of this part. For purposes of imposing fees pursuant to Chapter 8 (commencing (7/21/2015)

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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.

~~(k)~~ **(l)** “Groundwater sustainability plan” or “plan” means a plan of a groundwater sustainability agency proposed or adopted pursuant to this part.

~~(l)~~ **(m)** “Groundwater sustainability program” means a coordinated and ongoing activity undertaken to benefit a basin, pursuant to a groundwater sustainability plan.

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

~~(n)~~ **(o)** “Operator” means a person operating a groundwater extraction facility. The owner of a groundwater extraction facility shall be conclusively presumed to be the operator unless a satisfactory showing is made to the governing body of the groundwater sustainability agency that the groundwater extraction facility actually is operated by some other person.

~~(o)~~ **(p)** “Owner” means a person owning a groundwater extraction facility or an interest in a groundwater extraction facility other than a lien to secure the payment of a debt or other obligation.

~~(p)~~ **(q)** “Personal information” has the same meaning as defined in Section 1798.3 of the Civil Code.

~~(q)~~ **(r)** “Planning and implementation horizon” means a 50-year time period over which a groundwater sustainability agency determines that plans and measures will be implemented in a basin to ensure that the basin is operated within its sustainable yield.

~~(r)~~ **(s)** “Public water system” has the same meaning as defined in Section 116275 of the Health and Safety Code.

~~(s)~~ **(t)** “Recharge area” means the area that supplies water to an aquifer in a groundwater basin.

~~(t)~~ **(u)** *“State small water system” has the same meaning as defined in Section 116275 of the Health and Safety Code.*

~~(u)~~ **(v)** “Sustainability goal” means the existence and implementation of one or more groundwater sustainability plans that achieve sustainable groundwater management by identifying and causing the implementation of measures targeted to ensure that the applicable basin is operated within its sustainable yield.

~~(v)~~ **(w)** “Sustainable groundwater management” means the management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results.

~~(w)~~ **(x)** “Sustainable yield” means the maximum quantity of water, calculated over a base period representative of long-term conditions in the basin and including any temporary surplus, that can be withdrawn annually from a groundwater supply without causing an undesirable result.

~~(w)~~ **(y)** “Undesirable result” means one or more of the following effects caused by groundwater conditions occurring throughout the basin:

(1) Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon. Overdraft during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.

(2) Significant and unreasonable reduction of groundwater storage.

(3) Significant and unreasonable seawater intrusion.

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(4) Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.

(5) Significant and unreasonable land subsidence that substantially interferes with surface land uses.

(6) Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.

~~(x)~~ **(z)** "Water budget" means an accounting of the total groundwater and surface water entering and leaving a basin including the changes in the amount of water stored.

~~(y)~~ **(aa)** "Watermaster" means a watermaster appointed by a court or pursuant to other law.

~~(z)~~ **(ab)** "Water year" means the period from October 1 through the following September 30, inclusive.

~~(aa)~~ **(ac)** "Wellhead protection area" means the surface and subsurface area surrounding a water well or well field that supplies a public water system through which contaminants are reasonably likely to migrate toward the water well or well field.

SEC. 6. Section 10722.2 of the Water Code is amended to read:

10722.2. (a) A local agency ***or an entity directed by the court in an adjudication action to file the request*** may request that the department revise the boundaries of a basin, including the establishment of new subbasins. A ~~local agency's~~ request shall be supported by the following information:

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

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

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

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

(b) By January 1, 2016, the department shall adopt regulations regarding the information required to comply with subdivision (a), including the methodology and criteria to be used to evaluate the proposed revision. The department shall adopt the regulations, including any amendments thereto, authorized by this section as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding the Administrative Procedure Act, emergency regulations adopted by the department pursuant to this section shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the department.

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

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

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

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

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

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

SEC. 7. Section 10735 of the Water Code is amended to read:

10735. As used in this chapter *and chapter 12 (commencing with Section 10737)*, the following terms have the following meanings:

(a) "Condition of long-term overdraft" means the condition of a groundwater basin where the average annual amount of water extracted for a long-term period, generally 10 years or more, exceeds the long-term average annual supply of water to the basin, plus any temporary surplus. Overdraft during a period of drought is not sufficient to establish a condition of long-term overdraft if extractions and recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.

(b) "Person" means any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, or public agency, including any city, county, city and county, district, joint powers authority, state, or any agency or department of those entities. "Person" includes, to the extent authorized by federal or tribal law and subject to the limitations described in subdivisions (c) and (d) of Section 10720.3, the United States, a department, agency or instrumentality of the federal government, an Indian tribe, an authorized Indian tribal organization, or interstate body.

(c) "Probationary basin" means a basin for which the board has issued a determination under Section 10735.2.

(d) "Significant depletions of interconnected surface waters" means reductions in flow or levels of surface water that is hydrologically connected to the basin such that the reduced surface water flow or levels have a significant and unreasonable adverse impact on beneficial uses of the surface water.

SEC. 8. Chapter 12 (commencing with Section 10737) is added to Part 2.74 of Division 6 of the Water Code, to read:

CHAPTER 12. Determination of Rights to Groundwater

Article 1. General Provisions

10737. (a) This chapter establishes methods and procedures for an adjudication action.

(b) This chapter shall be applied and interpreted consistently with all of the following:

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(1) Protecting water rights consistent with Section 2 of Article X of the California Constitution.

(2) Conducting an adjudication action in a manner that promotes efficiency, reduces unnecessary delays, and provides due process.

(3) Encouraging the compromise and settlement of adjudication actions.

(4) Conducting an adjudication action in a manner that is consistent with the achievement of the sustainability goal within the timeframes of this part.

(5) Establishing procedures by which courts may conduct comprehensive determinations of all rights and priorities to groundwater in a basin.

(6) Providing for the conduct of an adjudication action consistent with *Winters v. United States* (1908) 207 U.S. 564, the McCarran Amendment (43 U.S.C. Sec. 666), and any other federal laws regarding the determination of federal or tribal water rights, as applicable.

(7) Providing notice and due process sufficient to enable a court in an adjudication action under this chapter to determine and establish the priority for unexercised water rights consistent with the principles established in *In re Waters of Long Valley Creek Stream System* (1979) 25 Cal.3d 339.

10737.2. In an adjudication action for a basin required to have a groundwater sustainability plan under this part, the court shall manage the proceedings in a manner that minimizes interference with the timely completion and implementation of a groundwater sustainability plan, avoids redundancy and unnecessary costs in the development of technical information and a physical solution, and is consistent with the attainment of the sustainability goal within the timeframes established by this part.

10737.4. Except as provided in this chapter, all proceedings in an adjudication action shall be in accordance with the Code of Civil Procedure.

Article 2. Scope of the Action

10738. (a) Except as provided in subdivision (b), this chapter applies to the following:

(1) An adjudication action in a high- or medium-priority basin.

(2) Where a court determines, in consideration of the need for effective determination and administration of water rights and priorities, the purposes of this part, and the interest in judicial economy, that proceedings in an adjudication action should be conducted under this chapter.

(b) This chapter does not apply to any of the following:

(1) An action that concerns only allegations that a groundwater extraction facility, or a group of facilities, is interfering with another groundwater extraction facility or facilities and does not require an allocation of the basin's groundwater supply.

(2) An action that concerns only claims to extract, or prevent interference with extractions from, water stored in a basin as a result of artificial recharge, and does not involve an allocation of the basin's groundwater supply.

(3) An action that can be resolved among a limited number of parties and does not involve a comprehensive allocation of the basin's groundwater supply.

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10738.2. (a) In an adjudication action under this chapter, the court may determine all rights of a basin, whether based upon appropriation, overlying right, or other basis of right.

(b) The court's final judgment in an adjudication action, as to the right to groundwater of each party, may declare the priority, amount, purposes of use, extraction location, and place of use of the water, together with appropriate injunctive relief, subject to terms adopted by the court to implement a physical solution in the adjudication action.

10738.4. (a)(1) Except as otherwise provided in this section, the boundaries of the area subject to an adjudication action shall be consistent with the boundaries of a basin.

(2) If the department revises the boundaries of a basin under Section 10722.2 or subdivision (b) of Section 12924 after an adjudication action has been initiated, the court may revise the boundaries of the area subject to the adjudication action as the interest of justice and the objectives of this chapter require.

(3) Upon a showing that a revision of the basin boundaries would further a fair effective determination of water rights, the court may direct any of the following to submit a request to the department under Section 10722.2 for revision of basin boundaries:

(A) A party to the adjudication action;

(B) The board, if the court has made a reference under Part 3 (commencing with Section 2000) of Division 2; or

(C) A special master, if one has been appointed.

(b) If the court finds that including an interconnected surface water body or subterranean stream flowing through known and definite channels is necessary to the fair and effective determination of the rights to a basin, the court may require the joinder of persons who claim rights to divert and use water from that surface water body or subterranean stream in an adjudication action under this chapter.

(c) If the court finds that claims of right to extract or divert only minor quantities of water, not to exceed five acre-feet per year, would have no material effect on the rights of other parties, the court may exempt those claimants with respect to those claims for only minor quantities of water, provided that a person who is exempted may elect to continue as a party to the adjudication action.

Article 3. Selection of Judge

10739. (a) In an adjudication action under this chapter, a judge of a superior court of a county within which a portion of the groundwater adjudication lies shall be disqualified. The chair of the Judicial Council shall assign a judge to preside in all proceedings in the adjudication action.

(b) An adjudication action is presumed to be a complex action within the meaning of Rule 3.400 of the California Rules of Court unless a party demonstrates that the adjudication action is not complex.

(c) Sections 170.6 and 394 of the Code of Civil Procedure shall not apply in an adjudication action.

(d) (1) Notwithstanding subdivision (b) of Section 10726.2, an action against a groundwater sustainability agency that is located in a basin that is being adjudicated under this chapter shall be subject to transfer, coordination, and consolidation with the adjudication action, as appropriate, if the action concerns the adoption, substance, or

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implementation of a groundwater sustainability plan, or the agency's compliance with the timelines in this part.

(2) The judge assigned by the Judicial Council pursuant to subdivision (a) shall determine whether transfer, coordination, or consolidation is appropriate.

Article 4. Electronic service

10740. Service of pleadings and papers in an adjudication action, other than service of the complaint under Article 5 (commencing with Section 10741) of this chapter, shall occur electronically to the greatest extent possible. The parties shall serve documents by email or other equivalent electronic means to the greatest extent possible. To enable electronic service of pleadings, the attorneys or record or parties representing themselves shall include an email address for service in the captions of pleadings and papers that they file in the adjudication action.

Article 5. Notice and Service of Complaint

10741. (a) . The plaintiff shall publish notice of the complaint pursuant to Section 6065 of the Government Code in each county that overlies the basin or a portion of the basin.

(b) (1) The plaintiff shall provide notice of the adjudication to all of the following:

(A) A groundwater sustainability agency that overlies any portion of the basin.

(B) A city, county, or city and county that overlies any portion of the basin.

(C) A district with authority to manage or replenish groundwater resources of the basin in whole or in part.

(D) The operator of a public water system or state small water system that uses groundwater from the basin to supply water service.

(E) A California Native American tribe that is on the contact list maintained by the Native American Heritage Commission.

(F) The Attorney General, the board, the department, and the Department of Fish and Wildlife.

(G) A federal department or agency that manages a federal reservation any portion of which is in the basin.

(H) A person identified under subdivision (a) or (b) of Section 10741.4 who is not a party to the action.

(I) An owner of real property in the basin, if a person who receives notice under Section 10741.2 notifies the plaintiff of the address of the owner of real property subject to the property tax bill.

(J) A person who makes a request in writing, including electronic mail.

(2) The plaintiff may provide notice under this subdivision by first class mail or email.

(3) (A) Except as provided in subparagraph (C), the plaintiff shall provide notice to any person entitled to notice under subparagraphs (A) through (G) of paragraph (1) within 15 days of the filing of the complaint.

(B) Except as provided in subparagraph (C), the plaintiff shall provide notice to any person entitled to notice under subparagraphs (H) through (J) of paragraph (1) within 30 days of receipt of the name and address of a person entitled to notice under this section.

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(C) If the plaintiff determines additional time is necessary to identify a person entitled to notice under this section, to confirm the accuracy of the name or address of that person, or determine whether the conditions requiring notice have been satisfied, the plaintiff may take such additional time as is reasonably necessary before providing notice under this subdivision.

(4) The plaintiff is not required to provide notice under this subdivision to a person who has already been served or intervened in the action.

10741.2. (a) When the plaintiff files the complaint, the plaintiff shall also lodge with the court the following:

(1) A draft notice titled “NOTICE OF COMMENCEMENT OF GROUNDWATER BASIN ADJUDICATION” in no less than 20-point font and the following text printed immediately below the draft notice title in no less than 14-point font:

(A) “THIS NOTICE IS IMPORTANT. ANY RIGHTS YOU CLAIM TO PUMP OR STORE GROUNDWATER FROM THE BASIN IDENTIFIED IN THIS NOTICE MAY BE AFFECTED BY A LAWSUIT INITIATED BY THE COMPLAINT SUMMARIZED BELOW.

A copy of the complaint may be obtained by contacting the plaintiff or the plaintiff’s attorney identified in this notice. If you claim rights to pump or store groundwater within the basin, either now or in the future, you may become a party to this lawsuit by filing an answer to the lawsuit on or before the deadline specified in this notice by completing the attached form answer and filing it with the court indicated in this notice and by sending a copy of the form answer to the plaintiff or the plaintiff’s attorney.

It is the duty of all persons who receive this notice and who claim rights to pump or store groundwater within the basin to appear in the lawsuit by the date specified below. All persons who claim rights to pump or store groundwater within the basin will be required to make proof of their claims within six months of their appearance in the lawsuit. Any claimant who fails to appear and submit proof of his or her claim shall be held to have forfeited all rights to pump or store groundwater. At the conclusion of the lawsuit, the superior court will enter a decree determining all water rights of the basin, whether based upon appropriation, overlying right, or other basis of right. You are encouraged to seek the advice of an attorney promptly.

A form answer is provided for your convenience. You may fill out the form answer and file it with the court. Should you choose to file the form answer, it will serve as an answer to all complaints and cross-complaints filed in this case.”

(B) The following information shall be provided immediately following text in paragraph (A):

(i) The name of the basin that is the subject of the adjudication action and a link to the internet website address where the department has posted a map of the basin.

(ii) A space to be completed with the case number assigned to the adjudication action, and the name and address of the court and department to which the action is assigned.

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(iii) The name, address, telephone number, and email address of the plaintiff, or plaintiff's attorney, from which the complaint may be obtained and to whom a copy of the form answer should be sent.

(iv) A summary of the causes of action alleged in the complaint and the relief sought. The summary shall not exceed 25 lines.

(v) A date by which persons receiving the notice must appear in the action.

(2) (A) A draft form answer titled "ANSWER TO ADJUDICATION COMPLAINT" in no less than 20-point font and the following text printed immediately below the draft form answer title in no less than 14-point font:

"The undersigned denies all material allegations in the complaint or cross-complaint in this action that seeks to adjudicate rights in the groundwater basin and asserts all applicable affirmative defenses to that complaint."

(B) Notwithstanding any other law, the filing of an answer in the form described in subparagraph (A) in an adjudication action is sufficient to put at issue all material allegations and applicable affirmative defenses to the complaint in the adjudication action.

(b) Within 30 days of the assignment of a judge by the Judicial Council, the plaintiff shall file a motion for approval of plaintiff's draft notice and draft form answer filed pursuant to subdivision (a).

(c) Once the court approves the notice, the notice shall substitute for the summons otherwise provided for in civil actions pursuant to Section 412.20 of the Code of Civil Procedure.

(d) Following a court's approval of the notice and form answer pursuant to this section, the plaintiff shall identify, as expeditiously as possible and using the records of the tax collector or tax collectors of the county or counties in which the basin to be adjudicated lies, the assessor parcel numbers, names and addresses of all holders of fee title to real property within the basin. The plaintiff shall provide the court and all parties with notice of its acquisition of, or sufficient access to, this information. Upon receipt of the court order authorizing service of landowners pursuant to this section and the plaintiff's notice and form answer, as approved by an order of the court, the tax collector or tax collectors shall include the court-approved notice and form answer with the next annual property tax bill sent to each landowner identified by the plaintiff in accordance with this subdivision. The plaintiff, and other parties if ordered by the court, shall reimburse the tax collector or tax collectors for the costs of including the court-approved notice and form answer. The tax collector or tax collectors may appear at any court proceeding concerning the costs associated with including the court-approved notice and form answer with the property tax bills. The court may authorize alternative means of service in accordance with this subdivision, as it deems appropriate.

(e) After the tax collector or tax collectors include the court-approved notice and form answer with the property tax bills pursuant to subdivision (d), the plaintiff shall file with the court a notice of the completion of the mailing.

(f) The plaintiff shall serve by first class mail the court-approved notice and form answer to any entity that is known, or with reasonable diligence can be determined, to hold title to real property in the basin but is exempt from property tax.

(g) The court may authorize such other procedures it finds appropriate and necessary to provide notice to persons who may hold groundwater rights.

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(h) The tax collector shall notify the plaintiff and the court of any problems in carrying out its obligations under this section. Neither a county nor an officer or employee of a county shall be liable in any manner whatsoever for an injury caused by an act or omission in the interpretation or application of this section, including without limitation an injury arising from any defect in service arising out of a tax collector's actions or omissions in providing the notice described in this subdivision.

(i) The court may require notice to be made available in languages other than English.

(j) Within 15 days of the court's approval of the notice and form answer, the plaintiff shall provide the notice and form answer to the department and to all counties and groundwater sustainability agencies that overlie any portion of the basin. The department, counties, and any groundwater sustainability agency that has an internet website shall post the notice and form answer within 15 days of receipt, shall provide a link to the documents from their home page, and shall maintain the posting and link for the entire time that the adjudication action is pending. The plaintiff shall notify the department, counties, and groundwater sustainability agencies when the adjudication action is no longer pending.

10741.4. (a) Within 15 days of the court's approval of the notice under Section 10741.2, the plaintiff shall contact the board, any local agency designated under Section 5009 as a board-designated local area that includes the basin or a portion of the basin, and any groundwater sustainability agency for the basin or a portion of the basin to request the names and addresses of persons reporting extractions within the basin under this part or Part 5 (commencing with Section 4999) or Part 5.2 (commencing with section 5200) of Part 2 of Division 2. The board, local agency, or groundwater sustainability agency shall provide the plaintiff with names and both mailing addresses and email addresses, if available, within 45 days of the request. The board shall also provide the mailing address and email address, if available, of any person known to the board who holds a permit or license authorizing underground storage in the basin or who claims a right to divert water for underground storage in the basin.

(b) If extractions in the basin or a portion of the basin are not subject to reporting requirements under this part, Part 5 (commencing with Section 4999) or Part 5.2 (commencing with section 5200) of Part 2 of Division 2, the plaintiff shall request an investor-owned or municipal utility providing electrical power in the area not subject to reporting to provide the names and addresses of all customers in the area who are supplied power to operate groundwater extraction facilities in the basin, as reflected in the utility records. The utility shall provide the plaintiffs with names and both mailing addresses and email addresses, if available, within 45 days of the request.

(c) Upon request, the plaintiff shall reimburse the board, a local agency, a groundwater sustainability agency or a utility for reasonable costs incurred under this section. The board, local agency, groundwater sustainability agency, and investor-owned or mutual utility shall incur no civil liability by reason of its compliance with this section.

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10741.5. (a) The plaintiff shall serve the complaint on any person known to extract groundwater within the basin. Service may be by personal service or by other method as provided by Article 3 (commencing with section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure.

(b) The plaintiff shall serve the complaint on any person known to own real property that overlies the basin and that has not been sent the court-approved notice and form answer. Service shall be by first class mail.

(c) Service on the United States shall be in accordance with 43 U.S.C. section 666.

(d) Section 389 of the Code of Civil Procedure shall not apply to a failure to join the United States or an Indian tribe to a comprehensive adjudication.

10741.6. (a) Whenever proceedings are instituted to for the determination of rights to water under this chapter, it is the duty of all claimants interested therein and having notice thereof, as provided in this chapter, to appear in the proceedings and submit proof of their claims at the time and in the manner required by this chapter.

(b) The fulfillment of the notice and service provisions of this chapter shall be deemed effective service of process of the complaint and notice on all interested parties of the adjudication action for purposes of establishing in rem jurisdiction and the comprehensive effect of the adjudication action.

Article 6. Intervention

10741.8. (a) The groundwater sustainability agency for the basin or a portion of the basin may intervene in an adjudication action under this chapter.

(b) Any city or county, or city and county, that overlies any portion of the basin may intervene in an adjudication action under this chapter.

(c) The court shall allow any person to intervene in an action under this chapter upon an ex parte application that demonstrates that the person holds fee simple ownership in a parcel in the basin or extracts or stores water in the basin. A person filing the ex parte application shall give notice to the plaintiff consistent with the California Rules of Court.

Article 7. Initial Disclosure

10742. (a) Except as otherwise ordered by the court, within six months of appearing in the action, a party shall serve on the other parties and the special master, if one is appointed, an initial disclosure that includes all of the following information:

(1) The name, address, telephone number, and email address of the party and, if applicable, of the party's attorney.

(2) The quantity of groundwater extracted from the basin by the party and the method of measurement used by the party or the party's predecessor in interest for each of the previous five years preceding the filing of the complaint.

(3) A general description of the purpose to which the water has been put.

(4) The area in which the water has been used.

(5) The location of each well or other source through which groundwater has been extracted.

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(6) The type of water right or rights claimed by the party for the extraction of groundwater.

(7) Any claims for increased or future use of groundwater.

(8) The quantity of any beneficial use of any alternative water use that the party claims as its use of groundwater under any applicable law, including, but not limited to, Section 1005.1, 1005.2, 1005.4, 1010 or 1011 of the Water Code.

(9) Identification of all surface water rights and contracts that the party claims provides the basis for its water right claims in the adjudication action.

(10) The quantity of any replenishment of water to the basin that augmented the basin's native water supply, resulting from the intentional storage of imported or non-native water in the basin, managed recharge of surface water, or return flows resulting from the use of imported water or non-native water on lands overlying the basin by the party, or the party's representative or agent, during each of the five calendar years immediately preceding the filing of the complaint.

(11) The names, addresses, telephone numbers, and email addresses of all persons possessing information that supports the party's disclosures.

(12) Any other facts that tend to prove the party's claimed water right.

(b) A party shall make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its initial disclosures because it has not fully investigated the case, because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures.

(c) A party that has made its initial disclosures, as described in subdivision (a), or that has responded to another party's discovery request, shall supplement or correct a disclosure or response in all of the following situations:

(1) In a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect and the additional or corrective information has not otherwise been made known to the other parties during the disclosure or discovery process.

(2) If the party extracts groundwater from the basin after the complaint is filed. The supplement filed under this paragraph shall report the quantity of water involved, and be filed within 90 days of the end of the calendar year.

(3) As ordered by the court.

(d) To the greatest extent possible, a party shall serve his or her initial disclosures electronically. If it is not possible for the party to serve his or her disclosures electronically, he or she shall serve the disclosures in an electronic format saved on a portable storage media device such as a compact disc or flash drive.

(e) A party's obligations under this section may be enforced by a court on its own motion or the motion of a party to compel disclosure.

(f) A party's disclosures under this section shall be verified under penalty of perjury as being true and correct to the best of the party's knowledge.

Article 8. Case Management

10743. (a) In managing an adjudication action, the court shall convene a case management conference as provided by the Rules of Court.

(b) In an initial case management conference, or as soon as practicable, the court should consider the following in addition to other matters:

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- (1) Determining whether to seek adjustment of the basin boundaries pursuant to Section 10738.4.**
- (2) Staying the action pursuant to Article 9 (commencing with Section 10744).**
- (3) Appointing a special master pursuant to Article 10 (commencing with Section 10745).**
- (4) Scheduling a hearing on a preliminary injunction pursuant to Article 11 (commencing with Section 10746).**
- (5) Dividing the case into phases to resolve legal and factual issues.**
- (6) Issuing orders to ensure that issues resolved in one phase are not re-litigated in another.**
- (7) Limiting discovery to correspond to the phases.**
- (8) Scheduling early resolution of claims to prescriptive rights.**
- (9) Formation of a class or classes of overlying groundwater rights holders pursuant to the criteria specified in Section 382 of the Code of Civil Procedure.**

Article 9. Stay

10744. (a) Upon the motion of any party to an adjudication action, a court may do any of the following:

- (1) Stay an adjudication action for a period of up to one year, subject to renewal in the court's discretion upon a showing of good cause, in order to facilitate any of the following:
 - (A) Adoption of a groundwater sustainability plan that provides for a physical solution or otherwise may address issues in the adjudication action.**
 - (B) The development of technical studies that may be useful to the parties in the adjudication action.**
 - (C) Voluntary mediation or participation in a settlement conference on all, or a portion of, the subject matters or legal questions identified in the adjudication action.**
 - (D) Compromise and settlement of the adjudication action or issues therein.****
- (b) A stay pursuant to this section shall not stay, or otherwise delay, the parties' obligations to provide initial disclosures pursuant to Article 7 (commencing with Section 10742) unless the court determines the initial disclosures will not benefit resolution of the adjudication action.**

Article 10. Special Master

10745. (a) The court may appoint one or more special masters, whose duties may include the following:

- (1) Investigating technical and legal issues, as directed by the court. The special master shall compile a report of findings in accordance with Section 10745.2.**
- (2) Conducting joint fact-finding with the parties, their designees, or both;**
- (3) Investigating the need for, and developing a proposal for, a preliminary injunction pursuant to Article 11 (commencing with Section 10746);**
- (4) Performing other tasks the court may deem appropriate.**
- (b) The court shall fix the special master's compensation on the basis and terms stated in the appointing order, but the court may set a new basis and new terms after giving**
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notice and an opportunity to be heard. The court shall allocate payment among the parties in an amount and a manner that the court deems equitable. The court may waive a party's obligation upon showing of good cause.

(c) The court may request the board or the department to recommend candidates for appointment as special master or to review the qualifications of candidates.

(d) This section does not limit the authority of the court to make a reference under Chapter 1 (commencing with Section 2000) of Part 2 of Division 2.

(e) This section does not limit the authority to appoint a watermaster under Chapter 3 (commencing with Section 4050) of Part 2 of Division 2 or other law.

10745.2. (a) The special master shall make available a draft report and provide at least 60 days for the parties to submit the written objections to the draft report.

(b) An objection to the draft report shall identify the specific grounds and evidence on which the objection is based.

(c) The special master may notice and hold hearings, as the special master deems appropriate, to gather information or address issues raised in the objections to the draft report.

(d) The special master shall consider the objections to the draft report and prepare a final report that shall be filed with the court.

Article 11. Preliminary Injunction

10746. (a) Upon a showing that the basin is in a condition of long-term overdraft, the court may, upon notice and hearing, issue a preliminary injunction.

(b) Bulletins and other reports of the department or a report of a special master indicating that a longterm overdraft exists, shall be admissible and shall constitute prima facie evidence of a longterm overdraft.

(c) A preliminary injunction may include any of the following:

(1) A moratorium on new or increased appropriations of water.

(2) A limitation on or reduction in the diversion or extraction of water.

(3) An allocation among the parties establishing amounts of extraction allowed during the pendency of the action

(4) Procedures for voluntary transfers.

(d) The court shall issue a preliminary injunction upon a determination of all of the following:

(1) The basin is in a condition of long-term overdraft.

(2) The basin is probationary or is not in compliance with the planning deadlines in subdivision (a) of Section 10720.7.

(3) There is no interim plan in effect under Section 10735.8.

(e) The court may provide a schedule for further reductions in extractions over a period of years if the court finds that doing so appears reasonably necessary to meet the sustainability goal within the timelines provided in subdivision (b) of Section 10727.2.

(f) The terms of a preliminary injunction shall not determine the rights in the final judgment of the action.

(g) No bond or undertaking shall be required for the issuance of a preliminary injunction under this section.

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(h) The court may appoint a watermaster to oversee enforcement of the preliminary injunction.

Article 12. Expert Witnesses

10747. (a) In addition to all other disclosures required by this chapter, a party shall disclose to the other parties the identity of any expert witness it may use at trial to present evidence.

(b) Unless otherwise ordered by the court, this disclosure shall be accompanied by a written report, prepared and signed by the expert witness, if the witness is retained or specially employed by the party offering the expert witness to testify as an expert in the action, or if the expert witness's duties as the party's employee regularly involves giving expert testimony. The report shall include all of the following:

(1) A complete statement of all opinions the witness will express and the basis and reasons for those opinions.

(2) The facts or data considered by the witness in forming his or her opinions.

(3) Any exhibits the witness will use to summarize or support his or her opinions.

(4) The witness's qualifications, including a list of all publications authored by the witness in the previous 10 years.

(5) A list of all other cases in which the witness testified as an expert at trial or by deposition in the last five years.

(6) A statement of the compensation to be paid for the witness's work and testimony in the adjudication action.

(c) If subdivision (b) does not apply to an expert, the witness's disclosure shall include both of the following:

(1) The subject matter on which the witness is expected to present evidence.

(2) A summary of the witness's opinions, and the facts or data considered by the witness in forming his or her opinions.

(d) Unless otherwise stipulated by the parties, a party shall make the disclosures of any expert witness it intends to present at trial, except for an expert witness presented solely for purposes of impeachment or rebuttal, at the times and in the sequence ordered by the court. If there is no stipulation or court order, the disclosures of an expert witness shall be made as follows:

(1) No sooner than 30 days after the court's entry of an order establishing the scope of the relevant phase of the adjudication action.

(2) Except for a supplemental expert witness described in paragraph (3), no later than 60 days before the date set for trial of the relevant phase of the adjudication action.

(3) For a supplemental expert witness who will express an opinion on a subject to be covered by another expert witness designated by an adverse party that was not among the subjects covered by an expert witness initially disclosed by the party offering the supplemental expert witness, no more than 20 days after the initial expert witness disclosure date.

(e) The court may modify the disclosure requirements of subdivisions (b) through (d), inclusive, for expert witnesses presented solely for purposes of impeachment or rebuttal. In modifying the disclosure requirements, the court shall adopt disclosure requirements that expedite the court's consideration of the issues presented and shall ensure that

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expert testimony presented solely for purposes of impeachment or rebuttal is strictly limited to the scope of the testimony that it intends to impeach or rebut.

(f) (1) A party whose expert witness has made a disclosure pursuant to this section shall promptly supplement or correct the expert witness's disclosure in either of the following instances:

(A) In a timely manner if the party learns that in some material respect the disclosure is incomplete or incorrect, if the additional or corrective information has not otherwise been made known to the other parties during the disclosure or discovery process.

(B) As ordered by the court.

(2) A party's duty to supplement or correct its expert witness's disclosure includes the information included in the report and the information given during the expert witness's deposition. Unless otherwise stipulated by the parties or ordered by the court, any supplementation or correction shall occur at least 14 days before trial of the applicable phase of the adjudication action.

(3) The court may authorize a supplemental deposition of an expert witness based on a supplemental disclosure made pursuant to this subdivision. The court shall appropriately condition the authorization of a supplemental deposition of an expert witness to ensure the expeditious completion of the applicable phase of the adjudication action. The court may require the party whose expert makes the supplemental disclosure to pay some or all of the costs associated with the supplemental deposition.

(g) If a party or its expert witness fails to comply with this section, the court may, upon notice and hearing, exclude the expert witness's testimony from trial, authorize additional depositions of the expert witness at the party's expense, or take other appropriate action.

Article 13. Written Testimony

10747.5. (a) A court in an adjudication action may require the parties to submit written testimony of witnesses in the forms of affidavits or declarations under penalty of perjury in lieu of presenting live testimony. The required written testimony may include, but is not limited to, expert witness opinions and testimony that authenticates documentary evidence. The court may order that the written testimony constitutes the entirety of the witness's direct testimony, require the written testimony to include any exhibits offered in support of the written testimony, and, in the case of written testimony of an expert witness, require a statement of the witness's qualifications.

(b) If the court requires the submission of written testimony pursuant to subdivision (a), a complete copy of the direct testimony shall be served at least 21 days before trial. A complete copy of any rebuttal testimony shall be served no later than the first day of trial.

(c) If the contents of the written testimony would have been admissible if the witness testified orally, the written testimony shall be received by the court as a documentary exhibit, provided that the witness whose written testimony is being offered is made available for cross-examination by all parties.

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Article 14. Physical Solution

10748. (a) The court shall have the authority and the duty to impose a physical solution on the parties in an adjudication action where necessary consistent with Article 2 of Section X of the Constitution.

(b) Prior to adopting a physical solution presented by a party, or considered on its own motion, the court shall determine whether a physical solution is required to prevent waste and unreasonable use by Article 2 of Section X of the Constitution after considering any existing groundwater sustainability plan or program.

Article 15. Stipulated Judgment

10749. (a) If a party, or a group of parties, submits a proposed stipulated judgment, the court may adopt the proposed stipulated judgment if the court finds that the it meets the following criteria:

(1) It is consistent with Section 2 of Article X of the California Constitution.

(2) It treats objecting parties and any persons who have claims that are exempted under Section 10738.4 equitably as compared to the stipulating parties.

(3) It will not substantially impair the ability of a groundwater sustainability agency, the board, or the department to comply with this part and to achieve the sustainability goal.

(b) If a party, or a group of parties, submits a proposed stipulated judgment that is supported by (1) more than 50 percent of all named parties in the adjudication action, or (2) groundwater extractors responsible for at least 75 percent of the groundwater production during the five calendar years before the filing of the complaint, the court may adopt the stipulated judgment, as applied to the stipulating parties, if the proposed stipulation meets the criteria in subdivision (a). A party objecting to a proposed stipulated judgment shall demonstrate, by a preponderance of the evidence, that the proposed stipulated judgment does not satisfy one or more criteria described in subdivision (a) or that it substantially violates their water rights. If the objecting party is unable to make this showing, the court may impose the proposed stipulated judgment on the objecting parties. The objecting parties may be subject to a preliminary injunction under Article 11 (commencing with Section 10747) while their objections remain unresolved.

(c) Chapter 11 (commencing with Section 10735) shall not apply to a stipulated judgment approved by the court pursuant to this section if all of the following apply:

(1) The proposed stipulated judgment meets the criteria of subdivision (a).

(2) All groundwater sustainability agencies within the basin support the proposed stipulated judgment.

(3) A groundwater agency has submitted the proposed stipulated judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6 or to Section 10733.4. Notwithstanding subdivision (c) of Section 10733.6, a proposed stipulated judgment may be submitted to the department after January 1, 2017.

(4) The department determines that the proposed stipulated judgment satisfies the objectives of this part for the basin.

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Article 16. Judgment Binding on Successors

10749.3. The judgment in an adjudication action under this chapter shall be binding on the parties to the action and all their successors in interest, including but not limited to heirs, executors, administrators, assigns, lessees, licensees, and upon the agents and employees of all these persons, and upon all landowners or other persons claiming rights to extract groundwater from within the basin.

Article 17. Continuing Jurisdiction

10749.6. (a) The court shall have continuing jurisdiction to modify or amend a final judgment in an adjudication action in response to new information, changed circumstances, the interests of justice, or to ensure that the criteria of subdivision (a) of Section 10749 are met. When feasible, the judge who heard the original action should preside over subsequent actions or motions to modify or amend the judgment.

(b) If the court has approved a stipulated judgment pursuant to subdivision (c) of Section 10749, the department shall submit to the court the assessments and any recommended corrective actions that the department issues under Section 10733.8. The court, after notice and hearing, shall determine whether to amend the judgment to adopt the department's recommended corrective actions.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.