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10 CITY OF OJAI

11 *****Exempt from Filing Fees**
12 **Gov. Code, § 6103**

13 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

15 SANTA BARBARA CHANNELKEEPER,
16 a California non-profit corporation,

17 Petitioner,

18 v.

19 STATE WATER RESOURCES CONTROL
20 BOARD, a California State Agency;
21 CITY OF SAN BUENAVENTURA, a
22 California municipal corporation, incorrectly
23 named as CITY OF BUENA VENTURA,

24 Respondents.

25 Case No. 19STCP01176

26 Judge: Honorable William F. Highberger

27 **CITY OF OJAI'S REQUEST FOR**
28 **JUDICIAL NOTICE IN SUPPORT OF**
REPLY BRIEF ON THE MOTION FOR
JUDGMENT ON THE PLEADINGS

Date: January 18, 2022

Time: 1:30 pm

Dept: 10

310 North Spring Street
Los Angeles, CA 90012

Action Filed: September 19, 2014

First Amended Complaint Filed:
September 7, 2018

29 CITY OF SAN BUENAVENTURA, a
30 California municipal corporation,

31 Cross-Complainant,

32 v.

33 DUNCAN ABBOTT;
34 AGR BREEDING, INC; et al.

35 {00262955.1}

36 CITY OF OJAI'S REQUEST FOR JUDICIAL NOTICE ISO REPLY BRIEF ON THE MTN FOR JUDGMENT
37 ON THE PLEADINGS

1 Respondent requests judicial notice of the documents and facts contained therein as
2 identified below in support of its reply brief. This request is made pursuant to Evidence Code
3 sections 452 and 453 and the relevant case law below.

4 The Code of Civil Procedure authorizes the court to consider, as grounds for a motion
5 for judgment on the pleadings, any matter which the court must or may judicially notice
6 under Evidence Code §§ 451 or 452. (Code Civ. Proc. § 438(d).) The court may take
7 notice of regulations and legislative enactments and official acts of any state, county or federal
8 legislative, executive or judicial department. (Evid. Code § 452(b)-(c); *see Fowler v. Howell*
9 (1996) 42 Cal.App.4th 1746, 1750 [court can take judicial notice of records and files of state
10 administrative agencies]; *Trinity Park, L.P. v. City of Sunnyvale* (2011) 193 Cal.App.4th 1014.
11 [court may take judicial notice of official resolutions, reports, and other official acts].) The
12 court may also take notice of the records of any court of this state. (Evid. Code § 452(d).)

13 Additionally, the court may take judicial notice of “[f]acts and propositions that are not
14 reasonably subject to dispute and are capable of immediate and accurate determination by resort
15 to sources of reasonably indisputable accuracy.” (Evid. Code § 452(h).) The court shall take
16 judicial notice of any matter specified in Evidence Code § 452 if a party requests it and gives
17 the adverse party sufficient notice to prepare to meet the request and furnishes the court
18 with sufficient information to enable it to take judicial notice of the matter. (Evid. Code § 453)

19 Pursuant to the legal authorities identified above, Respondent requests the Court take
20 judicial notice of the following records:

- 21 1. Assembly Bill No. 1390, (2015-2016 Reg. Sess.) which was an act to add Chapter 7
22 (commencing with Section 830) to Title 10 of Part 2 of the Code of Civil Procedure,
23 relating to groundwater. A true and correct copy of this chaptered bill, approved by
24 the Governor on October 9, 2015, is attached hereto as **Exhibit A**. Judicial notice is
25 requested as to the facts stated within this document, including the dates is approved
26 and all other matters not reasonably subject to dispute.
- 27 2. Senate Bill No. 226, (2014-2015 Reg. Sess.) which was an act to add Section 837.5
28 to the Code of Civil Procedure, and to amend Sections 10720.1, 10720.5, and 10722.2

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of, and to add Chapter 12 (commencing with Section 10737) to Part 2.74 of Division 6 of, the Water Code, relating to groundwater. A true and correct copy of this chaptered bill, approved by the Governor on October 9, 2015, is attached hereto as **Exhibit B**. Judicial notice is requested as to the facts stated within this document, including the dates is approved and all other matters not reasonably subject to dispute

3. Excerpts from Bulletin 132-17, *Management of the California State Water Project*, (January 2019) describing, and providing a map of, the source of water that feeds the State Water Project, attached hereto as **Exhibit C**. Judicial notice is requested as to the facts stated within this document, its visual depiction and all other matters not reasonably subject to dispute

Respectfully submitted,

Dated: January 10, 2021

Respectfully submitted,

Bartkiewicz, Kronick & Shanahan, PC

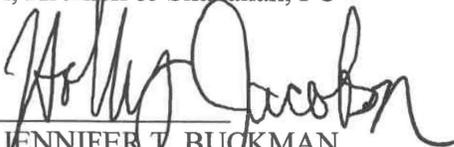
By: 
JENNIFER T. BUCKMAN
HOLLY J. JACOBSON
Attorneys for CITY OF OJAI,

Exhibit A

Assembly Bill No. 1390

CHAPTER 672

An act to add Chapter 7 (commencing with Section 830) to Title 10 of Part 2 of the Code of Civil Procedure, relating to groundwater.

[Approved by Governor October 9, 2015. Filed with
Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1390, Alejo. Groundwater: comprehensive adjudication.

The California Constitution requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable. Under the Sustainable Groundwater Management Act, which applies to all groundwater basins in the state, all basins designated as high- or medium-priority basins by the Department of Water Resources as basins that are subject to critical conditions of overdraft, as specified, are required to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020.

This bill would establish special procedures for a comprehensive adjudication, which is defined as an action filed in superior court to comprehensively determine rights to extract groundwater in a basin. The bill would authorize the court to determine all groundwater rights of a basin, whether based on appropriation, overlying right, or other basis of right, and use of storage space in the basin. The bill would provide that these special procedures governing comprehensive adjudications do not apply in certain cases that do not involve a comprehensive allocation of a basin's groundwater supply. The bill would authorize a judge of the superior court to determine if the action is a comprehensive adjudication, as specified.

This bill would require the plaintiff in a comprehensive adjudication to provide notice of the comprehensive adjudication within a specified amount of time after filing the complaint to certain persons including a city, county, or city and county that overlies the basin or a portion of the basin. The bill would require a draft notice and draft form answer, as specified, to be lodged by the plaintiff with the court when filing the complaint. Within 30 days of the assignment of a judge by the Chairperson of the Judicial Council, the bill would require the plaintiff to file a motion for approval of the draft notice and draft form answer. Following a court order approving the notice and form answer and authorizing service of landowners, as specified, the bill would require the plaintiff to identify the assessor parcel numbers and physical addresses of all real property in the basin and the names and addresses of all holders of fee title to real property in the basin, as specified; mail the notice, complaint, and form answer to all holders of fee title to real property in the basin, as specified; and publish the notice in one or more

newspapers of general circulation, as specified. The bill would require the plaintiff to file with the court a notice of the completion of the mailing. The bill would deem fulfillment of the service and publication provisions as effective service of process of the complaint and notice on all interested parties of the comprehensive adjudication for purposes of establishing in rem jurisdiction and the comprehensive effect of the comprehensive adjudication.

This bill would authorize a groundwater sustainability agency for the basin or a portion of the basin, a city, county, or city and county that overlies the basin or a portion of the basin, and certain persons to intervene in a comprehensive adjudication.

This bill would require the court to convene a case management conference and would authorize the court to consider certain matters, including dividing the case into phases to resolve legal and factual issues, in the initial case management conference or as soon as practicable. In addition, the bill would require each party to serve within 6 months of appearing in the comprehensive adjudication, specified initial disclosures made under penalty of perjury to all other named parties and a special master, if one has been appointed in the action. By expanding the scope of an existing crime, the bill would impose a state-mandated local program. The bill would authorize the court to appoint one or more special masters in a comprehensive adjudication, whose duties could include, among other things, investigating technical and legal issues, as directed by the court, and compiling a report of the findings, as specified. The bill would authorize the court to request the State Water Resources Control Board or the Department of Water Resources to recommend candidates for appointment as a special master or to review the qualifications of candidates.

This bill would authorize the court, upon a showing that the basin is in a condition of long-term overdraft, to issue a preliminary injunction that could include, among other things, a moratorium on new or increased appropriations of water. The bill would provide that a judgment in a comprehensive adjudication is binding on the parties to the action, their agents and employees, and all their successors in interest. The bill would also provide the court with continuing jurisdiction to modify or amend a final judgment in a comprehensive adjudication in specified instances.

This bill would require the Department of Water Resources and each county and groundwater sustainability agency that overlies the basin or a portion of the basin to post and maintain the notice and form answer on their Internet Web sites, as specified. By requiring counties to take certain actions related to the comprehensive adjudication, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would provide that it will only become effective if SB 226 is enacted and becomes effective.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 (commencing with Section 830) is added to Title 10 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 7. ACTIONS RELATING TO GROUNDWATER RIGHTS

Article 1. General Provisions

830. (a) This chapter establishes methods and procedures for a comprehensive adjudication.

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

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

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

(3) Encouraging the compromise and settlement of comprehensive adjudications.

(4) Conducting a comprehensive adjudication in a manner that is consistent with the achievement of groundwater sustainability within the timeframes of the Sustainable Groundwater Management Act.

(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 a comprehensive adjudication consistent with *Winters v. United States* (1908) 207 U.S. 564, the McCarran Amendment (codified at 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 a comprehensive adjudication conducted pursuant to this chapter to determine and establish the priority for unexercised water rights. The court may consider applying the principles established in *In re Waters of Long Valley Creek Stream System* (1979) 25 Cal.3d 339. Except as provided in this paragraph, this chapter shall not alter groundwater rights or the law concerning groundwater rights.

(c) The other provisions of this code apply to procedures in a comprehensive adjudication to the extent they do not conflict with the provisions of this chapter.

831. Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code applies to a comprehensive adjudication conducted pursuant to this chapter.

832. For purposes of this chapter, the following definitions apply:

(a) “Basin” has the same meaning as defined in Section 10721 of the Water Code.

(b) “Complaint” means a complaint filed in superior court to determine rights to extract groundwater and includes any cross-complaint that initiates a comprehensive adjudication in response to a plaintiff’s complaint or other cross-complaint.

(c) “Comprehensive adjudication” means an action filed in superior court to comprehensively determine rights to extract groundwater in a basin.

(d) “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.

(e) “Department” means the Department of Water Resources.

(f) “Expert witness” means a witness qualified pursuant to Section 720 of the Evidence Code.

(g) “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) “Groundwater extraction facility” means a device or method for extracting groundwater from within a basin.

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

(j) “Person” includes, but is not limited to, counties, local agencies, state agencies, federal agencies, tribes, business entities, and individuals.

(k) “Plaintiff” means the person filing the complaint initiating a comprehensive adjudication and includes a cross-complainant who initiates a comprehensive adjudication by cross-complaint.

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

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

(n) “Sustainable Groundwater Management Act” means the provisions of Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code.

Article 2. Scope of Action

833. (a) Except as provided in subdivision (b), this chapter applies to actions that would comprehensively determine rights to extract groundwater in a basin, whether based on appropriation, overlying right, or other basis of right.

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

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

(2) An action that concerns only claims to extract, or to prevent interference with extractions of, a specific source of groundwater recharge and does not involve a comprehensive 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 determination of rights to extract groundwater within the basin.

(4) An adjudicated area described in subdivisions (a) to (d), inclusive, of Section 10720.8 of the Water Code, unless a court with jurisdiction over a proposed expansion of the adjudicated area orders that the proceeding be conducted in accordance with this chapter.

(c) If the court finds that including an interconnected surface water body or subterranean stream flowing through known and definite channels is necessary for the fair and effective determination of the groundwater rights in 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 a comprehensive adjudication conducted pursuant to this chapter.

(d) If the court finds that claims of right to extract or divert only minor quantities of water, not to exceed five acre-feet of water per year, would not have a material effect on the groundwater rights of other parties, the court may exempt those claimants with respect to those claims for only minor quantities of water, but a person who is exempted may elect to continue as a party to the comprehensive adjudication.

834. (a) In a comprehensive adjudication conducted pursuant to this chapter, the court may determine all groundwater rights of a basin, whether based on appropriation, overlying right, or other basis of right, and use of storage space in the basin.

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

Article 3. Notice and Service of Complaint

835. (a) The plaintiff shall provide notice of the comprehensive adjudication to all of the following:

(1) A groundwater sustainability agency that overlies the basin or a portion of the basin.

(2) A city, county, or city and county that overlies the basin or a portion of the basin.

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

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

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

(6) The Attorney General, the State Water Resources Control Board, the department, and the Department of Fish and Wildlife.

(7) A federal department or agency that manages a federal reservation that overlies the basin or a portion of the basin.

(8) A person identified under Section 836.5 who is not a party to the comprehensive adjudication.

(9) A person who is on a list, maintained by a groundwater management agency, of interested parties that have requested notice under the Sustainable Groundwater Management Act.

(b) The plaintiff may provide notice under this section by first class mail or electronic mail.

(c) (1) Except as provided in paragraph (2), the plaintiff shall provide notice under this section as follows:

(A) To any person entitled to notice under paragraphs (1) to (7), inclusive, of subdivision (a) within 15 days of the filing of the complaint.

(B) To any person entitled to notice under paragraphs (8) and (9) of subdivision (a) within 30 days of receipt of the name and address of the person entitled to notice.

(2) The plaintiff may take additional time as is reasonably necessary before providing notice under this section if the plaintiff determines that additional time is necessary to identify a person entitled to notice under this section, confirm the accuracy of the names or addresses of a person, or to determine if the conditions requiring notice have been satisfied.

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

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

(1) (A) 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:

"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. You may file an answer by completing the attached form answer, filing it with the court indicated in this notice, and sending a copy of the form answer to the plaintiff or the plaintiff's attorney.

Failing to participate in this lawsuit could have a significant adverse effect on any right to pump or store groundwater that you may have. You may seek the advice of an attorney in relation to this lawsuit. Such attorney should be consulted promptly. A case management conference in this groundwater basin adjudication proceeding shall occur on the date specified in this notice. If you intend to participate in the groundwater adjudication proceeding to which this notice applies, you are advised to attend the initial case management conference in person or have an attorney represent you at the initial case management conference.

Participation requires the production of all information regarding your groundwater use. You must provide this information by the date identified in this notice.

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 the text described in subparagraph (A):

(i) The name of the basin that is the subject of the comprehensive adjudication and a link to the Internet Web site address where the department has posted a map of the basin.

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

(iii) The name, address, telephone number, and email address of the plaintiff, or plaintiff's attorney, from whom 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 comprehensive adjudication.

(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 a comprehensive adjudication is sufficient to put at issue all material allegations and applicable affirmative defenses to the complaint in the comprehensive adjudication. If a party intends to seek adjustment of the basin’s boundaries, it shall disclose that intention in the form answer described in subparagraph (A).

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

(c) Once the court approves the draft notice, service of that notice in accordance with this section shall substitute for the summons otherwise provided for in civil actions pursuant to Section 412.20.

(d) (1) Following a court order approving the notice and form answer and authorizing service of landowners pursuant to this section, the plaintiff shall do all of the following:

(A) Identify the assessor parcel numbers and physical addresses of all real property in the basin and the names and addresses of all holders of fee title to real property in the basin using the records of the assessor or assessors of the county or counties in which the basin to be adjudicated lies. The plaintiff shall provide the court and all parties with notice of its acquisition of, or sufficient access to, this information.

(B) Mail, by registered mail or certified mail, return receipt requested, the notice, complaint, and form answer to all holders of fee title to real property in the basin. If the physical address of the real property differs from the address of the holder of fee title, the notice, complaint, and form answer shall be mailed by registered or certified mail, return receipt requested, to the physical address of the real property and the address of the holder of fee title.

(C) If return receipt is not received for a parcel of real property, the plaintiff shall post a copy of the notice, complaint, and form answer in a conspicuous place on the real property.

(D) Within 20 days of the court order, publish the notice at least once per week for four consecutive weeks in one or more newspapers of general circulation in each county overlying the basin in whole or in part.

(2) Service pursuant to this subdivision is not required if the real property is owned by a person in a class of water users that are otherwise noticed in accordance with this chapter. If the owner is part of a class of water users proposed for certification, service is not required until the court acts on the proposal for certification.

(e) After completing the mailing pursuant to subdivision (d), the plaintiff shall file with the court a notice of the completion of the mailing.

(f) A property owner who has received notice of the comprehensive adjudication and transfers property during the pendency of the

comprehensive adjudication shall disclose, on the Real Estate Transfer Disclosure Statement, that the property is subject to a comprehensive adjudication and shall attach the court-approved notice to the Real Estate Transfer Disclosure Statement.

(g) Following a court order authorizing service of landowners pursuant to this section, the plaintiff shall serve any known person that pumps groundwater who would not otherwise be served pursuant to subdivision (d) of this section, except those who have been exempted by the court pursuant to subdivision (d) of Section 833 or those who are part of a class certified pursuant to paragraph (2) of subdivision (d) of this section. Service pursuant to this subdivision shall be by personal delivery or by mail in the manner prescribed by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5.

(h) Service on the United States shall be made in accordance with Section 666 of Title 43 of the United States Code.

(i) The court may authorize any other procedures it finds appropriate and necessary to provide notice to persons who may hold groundwater rights in the basin.

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

(k) Whenever proceedings are instituted under this chapter, it shall be the duty of all claimants interested in the proceedings and having notice of the proceedings pursuant to this chapter to appear in the proceedings and to submit proof of their claims at the time, and in the manner, required by this chapter.

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

(m) Within 15 days of the court order approving the notice and form answer, the plaintiff shall provide the notice and form answer to the department and each county and groundwater sustainability agency that overlies the basin or a portion of the basin. The department, and each county and groundwater sustainability agency that overlies the basin or a portion of the basin and has an Internet Web site shall do all of the following:

(1) Within 15 days of receiving the notice and form answer, post those documents on its Internet Web site.

(2) Provide a link to the notice and form answer on the home page of its Internet Web site.

(3) Maintain the posting and link described in paragraphs (1) and (2) for the entire time the comprehensive adjudication is pending. The plaintiff shall notify the department and each county and groundwater sustainability agency when the comprehensive adjudication is no longer pending.

836.5. (a) Within 15 days of the court order approving the notice and form answer under Section 836, the plaintiff shall request from the following entities the names and addresses of persons reporting extractions within the

basin under the Sustainable Groundwater Management Act, or Part 5 (commencing with Section 4999) or Part 5.2 (commencing with Section 5200) of Division 2 of the Water Code:

- (1) The State Water Resources Control Board.
 - (2) A local agency designated under Section 5009 of the Water Code as the local agency for a board-designated local area that includes the basin or a portion of the basin.
 - (3) A groundwater sustainability agency for the basin or a portion of the basin.
- (b) The entities described in paragraphs (1) to (3), inclusive, of subdivision (a) shall provide the plaintiff with the names, mailing addresses, and email addresses, if available, within 45 days of the plaintiff's request. The State Water Resources Control Board shall also provide the mailing address and email addresses, 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.
- (c) Upon request, the plaintiff shall reimburse the reasonable costs incurred under this section by an entity described in paragraphs (1) to (3), inclusive, of subdivision (a).
- (d) An entity shall not be held civilly liable for complying with this section.

Article 4. Intervention

837. (a) A groundwater sustainability agency for the basin or a portion of the basin may intervene in a comprehensive adjudication conducted pursuant to this chapter.

(b) A city, county, or city and county that overlies the basin or a portion of the basin may intervene in a comprehensive adjudication conducted pursuant to this chapter.

(c) The court shall allow any person to intervene in a comprehensive adjudication conducted pursuant to 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 an ex parte application pursuant to this subdivision shall give notice to the plaintiff consistent with the California Rules of Court.

(d) A person may apply to intervene in a comprehensive adjudication conducted pursuant to this chapter pursuant to Section 387.

Article 5. Judge

838. (a) (1) In a comprehensive adjudication conducted pursuant to this chapter, a judge of a superior court of a county that overlies the basin or any portion of the basin shall be disqualified. The Chairperson of the Judicial Council shall assign a judge to preside in all proceedings in the comprehensive adjudication.

(2) A judge of the superior court in which an action is filed may, on the court's own motion or the motion of a party, determine if the action is a comprehensive adjudication under Section 833. A motion for a determination pursuant to this paragraph shall receive calendar preference within the action and shall be resolved before other procedural or dispositive motions.

(b) A comprehensive adjudication is presumed to be a complex action under Rule 3.400 of the California Rules of Court.

(c) Sections 170.6 and 394 shall not apply in a comprehensive adjudication.

(d) Notwithstanding subdivision (b) of Section 10726.6 of the Water Code, an action against a groundwater sustainability agency that is located in a basin that is being adjudicated pursuant to this chapter shall be subject to transfer, coordination, and consolidation with the comprehensive adjudication, as appropriate, if the action concerns the adoption, substance, or implementation of a groundwater sustainability plan, or the groundwater sustainability agency's compliance with the timelines in the Sustainable Groundwater Management Act.

(e) The judge assigned by the Chairperson of the Judicial Council pursuant to subdivision (a) shall determine if transfer, coordination, or consolidation is appropriate.

Article 6. Electronic Service

839. Service of pleadings and papers in a comprehensive adjudication, other than the complaint initiating a comprehensive adjudication, shall occur electronically to the greatest extent possible. The court may provide, or authorize the use of, an electronic service system. If an electronic service system is not provided or authorized by the court, the court and the parties shall serve documents by email or other equivalent electronic means to the greatest extent possible. To enable electronic service of pleadings and papers, the attorneys of record or parties representing themselves shall include an email address for service in the captions of all pleadings they file in the comprehensive adjudication.

Article 7. Case Management

840. (a) In managing a comprehensive adjudication, the court shall convene a case management conference as provided by the California Rules of Court.

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

(1) Determining whether to seek adjustment of the basin boundaries pursuant to Section 841.

(2) Staying the action pursuant to Section 848.

(3) Appointing a special master pursuant to Section 845.

- (4) Scheduling a hearing on a preliminary injunction pursuant to Section 847.
- (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 relitigated in another phase.
- (7) Limiting discovery to correspond to the phases.
- (8) Scheduling early resolution of claims to prescriptive rights.
- (9) Forming a class or classes of overlying groundwater rights holders pursuant to the criteria specified in Section 382.

Article 8. Basin Boundaries

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

(b) If the department revises the boundaries of a basin pursuant to Section 10722.2, or subdivision (b) of Section 12924, of the Water Code after a comprehensive adjudication has been initiated, the court may revise the boundaries of the area subject to the comprehensive adjudication as the interests of justice and the objectives of this chapter require.

(c) Upon a showing that a revision of the basin boundaries would further a fair and effective determination of water rights, the court may direct any of the following to submit a request to the department pursuant to Section 10722.2 of the Water Code to revise the basin boundaries:

- (1) A party to the comprehensive adjudication.
- (2) The State Water Resources Control Board, if the court has made a reference pursuant to Part 3 (commencing with Section 2000) of Division 2 of the Water Code.

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

(d) A determination of the department on a submission made pursuant to subdivision (c) is subject to judicial review pursuant to Section 1085. Venue shall be in the court with jurisdiction over the comprehensive adjudication and the case shall be coordinated with the comprehensive adjudication.

Article 9. Initial Disclosures

842. (a) Except as otherwise stipulated by the parties or ordered by the court, within six months of appearing in a comprehensive adjudication, 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, the party's attorney.
- (2) The quantity of any 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 10 years preceding the filing of the complaint.

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

(4) A general description of the purpose to which the groundwater has been put.

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

(6) The area in which the groundwater has been used.

(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, or 1005.4 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 comprehensive adjudication.

(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 10 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) The Judicial Council may develop a form for initial disclosures made pursuant to subdivision (a) to facilitate the consistent, independent, impartial, and accessible administration of comprehensive adjudications. The Judicial Council may coordinate with the department in developing the form.

(c) 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.

(d) 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. A supplement filed pursuant to this paragraph shall report the

quantity of water extracted and be filed within 90 days after the end of the calendar year.

(3) As ordered by the court.

(e) 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.

(f) 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.

(g) 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 10. Expert Witnesses

843. (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 stipulated by the parties or ordered by the court, the disclosure made pursuant to subdivision (a) 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 comprehensive adjudication.

(c) If subdivision (b) does not apply to an expert witness because of a stipulation by the parties or an order of the court, 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) At least 30 days after the court's entry of an order establishing the scope of the relevant phase of the comprehensive adjudication.

(2) Except for a supplemental expert witness described in paragraph (3), at least 60 days before the date set for trial of the relevant phase of the comprehensive adjudication.

(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) to (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 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 comprehensive adjudication.

(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 comprehensive adjudication. 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) To the greatest extent possible, the parties shall serve expert witness disclosures electronically through an electronic service system, an electronic document repository, email, or another method of electronic transmission. If it is not possible for the party to serve his or her expert witness disclosures electronically, he or she shall serve the expert witness disclosures in an

electronic format saved on a portable storage media device such as a compact disc or flash drive.

Article 11. Written Testimony

844. (a) A court may require the parties in a comprehensive adjudication to submit written testimony of relevant 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 if the witness whose written testimony is being offered is made available for cross-examination by all parties.

Article 12. Special Master

845. (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 846.

(2) Conducting joint factfinding with the parties, their designees, or both.

(3) Investigating the need for, and developing a proposal for, a preliminary injunction pursuant to Article 13 (commencing with Section 847).

(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, and the court may set a new basis and new terms after giving the parties notice and an opportunity to be heard. The court shall allocate payment of the special master's compensation among the parties in an amount and a manner that the court deems equitable. The court may waive a party's obligations to pay the special master's compensation upon a showing of good cause.

(c) The court may request the State Water Resources Control Board or the department to recommend candidates for appointment as a special master or to review the qualifications of candidates.

(d) This section does not limit the authority of the court to make a reference pursuant to Chapter 1 (commencing with Section 2000) of Part 3 of Division 2 of the Water Code.

(e) This section does not limit the authority to appoint a watermaster pursuant to Chapter 3 (commencing with Section 4050) of Part 4 of Division 2 of the Water Code or any other law.

846. (a) The special master shall make a draft report available to the parties and provide at least 60 days for the parties to submit 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 he or she 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 develop a final report that shall be filed with the court, together with supporting evidence.

Article 13. Preliminary Injunction

847. (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, and a report of a special master indicating that a condition of long-term overdraft exists in the basin, shall be admissible as evidence of a condition of long-term overdraft. This subdivision does not limit the admissibility of other relevant evidence.

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

- (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 comprehensive adjudication.
- (4) Procedures for voluntary transfers.

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

- (1) The basin is in a condition of long-term overdraft.
- (2) The basin has been designated as a probationary basin or the planning deadlines in subdivision (a) of Section 10720.7 of the Water Code are not being complied with.
- (3) There is no interim plan in effect under Section 10735.8 of the Water Code.

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

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

(g) A bond or undertaking shall not be required for the issuance of a preliminary injunction pursuant to this section.

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

Article 14. Stay

848. (a) Upon the court's own motion or the motion of any party to a comprehensive adjudication, a court may stay a comprehensive adjudication 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:

(1) Adoption of a groundwater sustainability plan that provides for a physical solution or otherwise addresses issues in the comprehensive adjudication.

(2) The development of technical studies that may be useful to the parties in the comprehensive adjudication.

(3) Voluntary mediation or participation in a settlement conference on all, or a portion of, the subject matters or legal questions identified in the comprehensive adjudication.

(4) Compromise and settlement of the comprehensive adjudication or issues in the comprehensive adjudication.

(b) Before renewing a stay granted pursuant to subdivision (a), the parties shall report on the progress being made on the issues that were identified as the reasons for the stay.

(c) A stay pursuant to this section shall not stay, or otherwise delay, the parties' obligations to provide initial disclosures pursuant to Section 842 unless the court determines the initial disclosures will not benefit resolution of the comprehensive adjudication.

Article 15. Physical Solution

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

(b) Before adopting a physical solution, the court shall consider any existing groundwater sustainability plan or program.

Article 16. Judgment

850. (a) The court may enter a judgment if the court finds that the judgment meets all of the following criteria:

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

(2) It is consistent with the water right priorities of all non-stipulating parties and any persons who have claims that are exempted pursuant to Section 833 in the basin.

(3) It treats all objecting parties and any persons who have claims that are exempted pursuant to Section 833 equitably as compared to the stipulating parties.

(b) If a party or group of parties submits a proposed stipulated judgment that is supported by more than 50 percent of all parties who are groundwater extractors in the basin or use the basin for groundwater storage and is supported by groundwater extractors responsible for at least 75 percent of the groundwater extracted in the basin during the five calendar years before the filing of the complaint, the court may adopt the proposed stipulated judgment, as applied to the stipulating parties, if the proposed stipulated judgment meets the criteria described in subdivision (a). A party objecting to a proposed stipulated judgment shall demonstrate, by a preponderance of evidence, that the proposed stipulated judgment does not satisfy one or more criteria described in subdivision (a) or that it substantially violates the water rights of the objecting party. If the objecting party is unable to make this showing, the court may impose the proposed stipulated judgment on the objecting party. An objecting party may be subject to a preliminary injunction issued pursuant to Section 847 while his or her objections are being resolved.

Article 17. Judgment Binding on Successors

851. The judgment in a comprehensive adjudication conducted pursuant to 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, the agents and employees of the parties to the action and all their successors in interest, and all landowners or other persons claiming rights to extract groundwater from the basin whose claims have not been exempted and are covered by the notice provided in the comprehensive adjudication.

Article 18. Continuing Jurisdiction

852. The court shall have continuing jurisdiction to modify or amend a final judgment in a comprehensive adjudication in response to new information, changed circumstances, the interests of justice, or to ensure that the criteria of subdivision (a) of Section 850 are met. When feasible, the judge who heard the original action shall preside over actions or motions to modify or amend the judgment.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. This act shall only become effective if Senate Bill 226 of the 2014–15 Regular Session is enacted and becomes effective.

Exhibit B

Senate Bill No. 226

CHAPTER 676

An act to add Section 837.5 to the Code of Civil Procedure, and to amend Sections 10720.1, 10720.5, and 10722.2 of, and to add Chapter 12 (commencing with Section 10737) to Part 2.74 of Division 6 of, the Water Code, relating to groundwater.

[Approved by Governor October 9, 2015. Filed with
Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 226, Pavley. Sustainable Groundwater Management Act: groundwater adjudication.

The California Constitution requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable. Existing law specifies the jurisdiction of the courts. Under existing law, courts may adjudicate rights to produce groundwater and exercise other powers relating to the supervision of a groundwater basin. Existing law authorizes a court to order a reference to the State Water Resources Control Board, as referee, of any and all issues involved in a suit brought in any court of competent jurisdiction in this state for determination of rights to water.

This bill would authorize the state to intervene in a comprehensive adjudication conducted as specified in AB 1390 of the 2015–16 Regular Session.

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. The act authorizes a local agency to request that the department revise the boundaries of a basin.

This bill, in an adjudication action to determine rights to groundwater in a basin that is required to have a groundwater sustainability plan under the act, would require the court to 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 sustainable groundwater management within the timeframes established by the act. The bill would authorize an

entity that is directed by the court in an adjudication action to file the request that the department revise the boundaries of a basin.

The act authorizes the state board to designate certain high- and medium-priority basins as a probationary basin if prescribed criteria are met. The act authorizes the state board to develop an interim plan for a probationary basin if the state board, in consultation with the department, determines that a local agency has not remedied a deficiency that resulted in designating the basin as a probationary basin within a certain timeframe. The act also requires the department, at least every 5 years after initial submission, to review any available groundwater sustainability plan or alternative and the implementation of the corresponding groundwater sustainability program for consistency with the act, including achieving the sustainability goal. The act requires the department to issue an assessment for each basin for which a plan or alternative has been submitted that may include recommended corrective actions to address any deficiencies identified by the department.

The bill would prohibit the provisions relating to probationary basins and interim plans from applying to a judgment approved by the court if the judgment is submitted to the department for evaluation and assessment and the department determines that the judgment satisfies the objectives of the act for the basin. The bill would require the department to submit to the court assessments and any recommended corrective actions for these judgments and would require the court, after notice and, if necessary, an evidentiary hearing, to determine whether to amend the judgment to adopt the department's recommended corrective actions. This bill would prohibit a court from approving entry of judgment in an adjudication action for a basin required to have a groundwater sustainability plan under the act unless the court finds that the judgment will not substantially impair the ability of a groundwater sustainability agency, the board, or the department to comply with the act and to achieve sustainable groundwater management.

The people of the State of California do enact as follows:

SECTION 1. Section 837.5 is added to the Code of Civil Procedure, immediately following Section 837, to read:

837.5. (a) The state may intervene in a comprehensive adjudication conducted pursuant to this chapter.

(b) This section does not affect substantive law.

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:

10720.5. (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 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.

(c) Water rights may be determined in an adjudication action pursuant to Chapter 7 (commencing with Section 830) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 4. 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 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.

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

(d) Prior to adopting the regulations pursuant to subdivision (b), 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. 5. 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

10737. Except as provided in this chapter, an adjudication action to determine rights to groundwater in a basin shall be conducted in accordance with the Code of Civil Procedure, including pursuant to Chapter 7 (commencing with Section 830) of Title 10 of Part 2 of that code.

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 sustainable groundwater management within the timeframes established by this part.

10737.4. (a) Chapter 11 (commencing with Section 10735) shall not apply to a judgment approved by the court pursuant to Section 850 of the Code of Civil Procedure if both of the following apply:

(1) A local agency or a party directed by the court to file the submission submits the judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6.

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

(b) A party or group of parties proposing a stipulated judgment pursuant to subdivision (b) of Section 850 of the Code of Civil Procedure may submit the proposed stipulated judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6.

(c) Notwithstanding subdivision (c) of Section 10733.6, a judgment or proposed stipulated judgment pursuant to this section may be submitted to the department after January 1, 2017.

(d) A determination of the department on a submission pursuant to this section is subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure. Venue shall be in the court with jurisdiction over the adjudication action and the case shall be coordinated with the adjudication action.

10737.6. If the department determines that a judgment satisfies the objectives of this part in accordance with paragraph (2) of subdivision (a) of Section 10737.4, the department shall submit to the court the assessments and any recommended corrective actions that the department issues pursuant to Section 10733.8. The court, after notice and, if necessary, an evidentiary hearing, shall determine whether to amend the judgment pursuant to Section 852 of the Code of Civil Procedure to adopt the department's recommended corrective actions.

10737.8. In addition to making any findings required by subdivision (a) of Section 850 of the Code of Civil Procedure or any other law, the court shall not approve entry of judgment in an adjudication action for a basin required to have a groundwater sustainability plan under this part unless the court finds that the judgment will not substantially impair the ability of a groundwater sustainability agency, the board, or the department to comply with this part and to achieve sustainable groundwater management.

SEC. 6. This act shall only become operative if Assembly Bill 1390 of the 2015–16 Regular Session is enacted and becomes effective.

O

Exhibit C

MANAGEMENT OF THE CALIFORNIA STATE WATER PROJECT

BULLETIN 132-17 | JANUARY 2019



GAVIN NEWSOM
Governor, State of California

JOHN LAIRD
*Secretary for Natural Resources
California Natural Resources Agency*

KARLA NEMETH
Director, California Department of Water Resources

approximately 700 miles of aqueducts and pipelines. Figure 1-1 shows the names and locations of primary SWP storage and water delivery facilities.

Project Design

Water from rainfall and snowmelt runoff is stored in SWP conservation facilities and delivered via SWP transportation facilities to water agencies and districts in the Upper Feather River, North Bay, South Bay, San Joaquin, Central Coastal, and Southern California areas.

Three small reservoirs—Antelope Lake, Lake Davis, and Frenchman Lake—are the northernmost SWP facilities. Situated on Feather River tributaries in Plumas County, these lakes are used primarily for recreation. They also provide water to the City of Portola and local agencies that have water rights agreements with DWR.

Downstream from these lakes lies Lake Oroville, which conserves water from the Feather River watershed. Created by Oroville Dam, the tallest earthfill dam in the Western Hemisphere, Lake Oroville is the project's largest storage facility with a capacity of approximately 3.5 million acre-feet (af).

Releases from Lake Oroville flow down the Feather River into the Sacramento River, which drains the northern portion of California's great Central Valley. The Sacramento and San Joaquin rivers flow into the Sacramento-San Joaquin River Delta (Delta), comprising 738,000 acres of land interlaced with channels that receive runoff from 40 percent of the state's land area. The SWP, federal Central Valley Project, and local agencies all divert water from the Delta.

From the northern Delta, Barker Slough Pumping Plant diverts water for delivery to Napa and Solano counties through the North Bay Aqueduct, which was completed in 1988. Near Byron, in the southern Delta, the SWP

diverts water into Clifton Court Forebay for delivery south of the Delta. Banks Pumping Plant lifts water from Clifton Court Forebay into the California Aqueduct, which flows to Bethany Reservoir. From Bethany Reservoir, the South Bay Pumping Plant lifts water into the South Bay Aqueduct to supply Alameda and Santa Clara counties. The South Bay Aqueduct provided initial deliveries in 1962 and has been fully operational since 1965.

Most of the water delivered to Bethany Reservoir from Banks Pumping Plant flows into the California Aqueduct. This 443-mile-long main aqueduct conveys water to the agricultural lands of the San Joaquin Valley and to the urban regions of Southern California.

The California Aqueduct winds along the west side of the San Joaquin Valley. It transports water to O'Neill Forebay, Gianelli Pumping-Generating Plant, and San Luis Reservoir. San Luis Reservoir has a storage capacity of more than 2 million af and is jointly owned by DWR and the Bureau of Reclamation. DWR's share of gross storage in the reservoir is 1,062,183 af. Generally, water is pumped into San Luis Reservoir from late fall through early spring, where it is temporarily stored for release back to the California Aqueduct to meet summertime peaking demands of SWP and Central Valley Project water contractors.

SWP water not stored in San Luis Reservoir and water released from San Luis flows south through the San Luis Canal, a portion of the California Aqueduct jointly owned by DWR and the Bureau of Reclamation.

As the water flows through the San Joaquin Valley, numerous turnouts convey it to farmlands within the service areas of the SWP and Central Valley Project. Along its journey, this water is lifted more than 1,000 feet by four pumping plants—Dos Amigos, Buena Vista, Teerink, and



Figure 1-1 Names and Locations of Primary SWP Storage and Water Delivery Facilities, December 31, 2016

Chrisman—before reaching the foot of the Tehachapi Mountains.

In the southern San Joaquin Valley, near Kettleman City, Phase I of the Coastal Branch Aqueduct serves agricultural areas west of the California Aqueduct. In August 1997, completion of Phase II extended the Coastal Branch Aqueduct to serve municipal and industrial water users in San Luis Obispo and Santa Barbara counties.

The remaining water conveyed by the California Aqueduct is delivered to Southern California, home to roughly two-thirds of California's population. Before it can be delivered, the water must first cross the Tehachapi Mountains. Fourteen 80,000-horsepower pumps at Edmonston Pumping Plant, situated at the foot of the mountains, raise the water 1,926 feet—the highest single lift of any pumping plant in the world. The water enters 8.5 miles of tunnels and siphons as it flows into Antelope Valley, where the California Aqueduct divides into the East Branch and the West Branch.

The East Branch carries water through Alamo Powerplant, Pearblossom Pumping Plant, and Mojave Siphon Powerplant into Silverwood Lake in the San Bernardino Mountains. From Silverwood Lake, water flows through the San Bernardino Tunnel to Devil Canyon Powerplant. Water continues down the East Branch through the Santa Ana Pipeline to Lake Perris, the southernmost SWP reservoir.

The East Branch Extension is a nearly 33-mile pipeline linking parts of service areas for San Bernardino Valley Municipal Water District and San Geronio Pass Water Agency to the California Aqueduct. The East Branch Extension, Phase I, carries water from Devil Canyon Powerplant Afterbay to Cherry Valley, bringing water to Yucaipa, Calimesa, Beaumont, Banning, and other communities. Phase II, when completed, will expand deliveries in these service areas.

Water in the West Branch flows through Oso Pumping Plant, Quail Lake, Peace Valley Pipeline, and Warne Powerplant into Pyramid Lake in Los Angeles County. From there it flows through the Angeles Tunnel, Castaic Powerplant, Elderberry Forebay, and into Castaic Lake, terminus of the West Branch. Castaic Powerplant is operated by the Los Angeles Department of Water and Power.

The energy needed to operate the SWP, the largest single user of electrical power in California, comes from a combination of its own hydroelectric generating plants and power purchased from and exchanged with other utilities. The project's eight hydroelectric power plants, including four pumping-generating plants, produce enough electricity in a normal year to supply about two-thirds of the SWP's necessary operating power.

Tables 1-1 through 1-5 present statistical information about primary storage facilities, primary dams, pumping plants, power plants, and aqueducts.

Methods of Financing

Project facilities have been constructed with several general types of financing: general obligation bonds and tideland oil revenues (under the Burns-Porter Act, which was approved by the Legislature in 1959, and the bond issue approved by voters in 1960); revenue bonds; and capital resources revenues. Repayment of these funds, and the operation, maintenance, power, and replacement costs associated with water supply, are paid by the 29 SWP water contractors that have long-term contracts with DWR for the delivery of SWP water.

For more information on financing, see Chapter 14, Financial Analysis.