

# 2014 CALIFORNIA GROUNDWATER LEGISLATION



Joint Meeting  
County of Monterey & Water Resources Agency  
October 21, 2014



# INTRODUCTION

- On September 16, 2014, Governor Brown signed into law three bills collectively called the Sustainable Groundwater Management Act
  - SB 1168
  - AB 1739
  - SB 1319
- Effective January 1, 2015, the bills establish a new paradigm for management of the state's groundwater



# INTRODUCTION

- Legislation is complex
  - DWR is to adopt regulations for implementation
  - Expect cleanup legislation
  - Possible litigation
- Only a summary of the most significant aspects as they affect Monterey County
- Legislation generally requires the adoption of a plan that will provide for sustainable management of a basin no later than 25 – 27 years, and over a 50-year time frame



# BACKGROUND

- DWR recognizes 431 groundwater basins in the state
  - 24 of those basins are further divided into 108 sub-basins
- “Basin” means those groundwater basins and sub-basins identified in DWR’s Bulletin 118 as updated in 2003

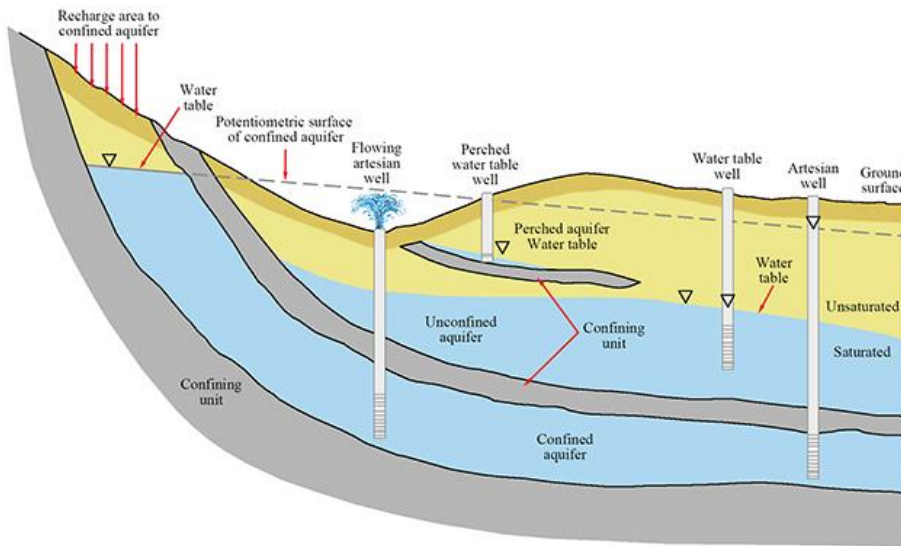


# BACKGROUND

- “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
  - Surface water is generally everything else except water that flows in known and definite underground channels (which is subject to SWRCB jurisdiction)



# BACKGROUND

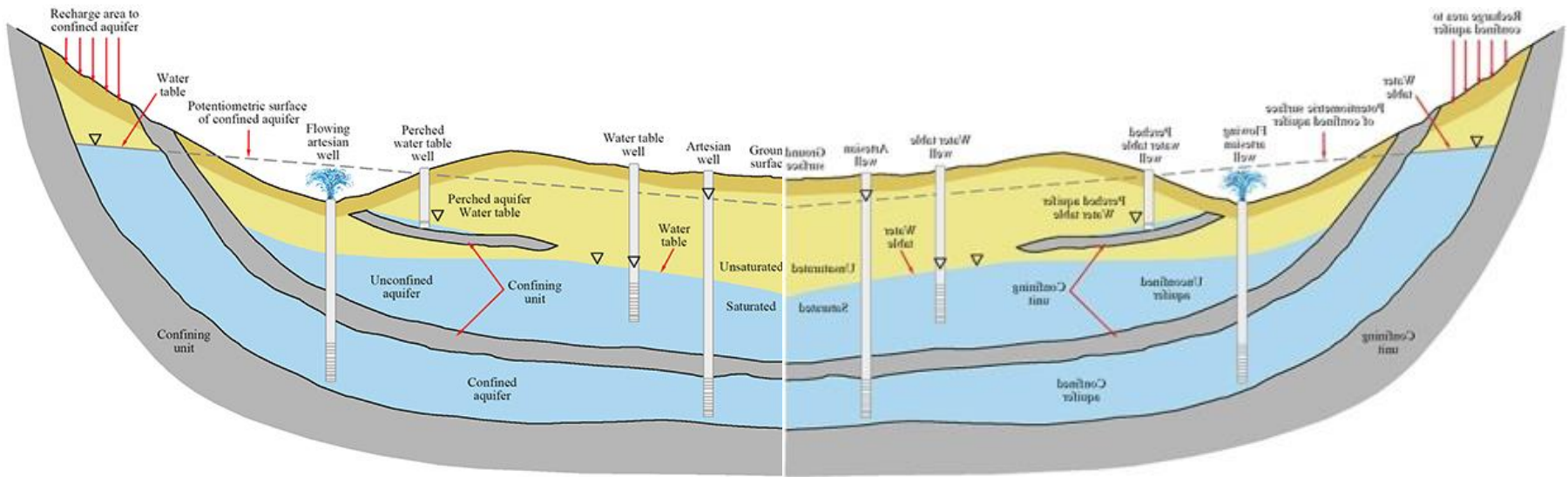


Typical Groundwater Basin Cross-section

(does not include cross-section of a river or underground channel)



# BACKGROUND



Typical Groundwater Basin Cross-section

(does not include cross-section of a river or underground channel)



# BACKGROUND

- Monterey County is within the Central Coast Hydrologic Zone
  - All or portions of 5 counties
    - Monterey
    - Santa Cruz
    - San Benito
    - San Luis Obispo
    - Santa Barbara



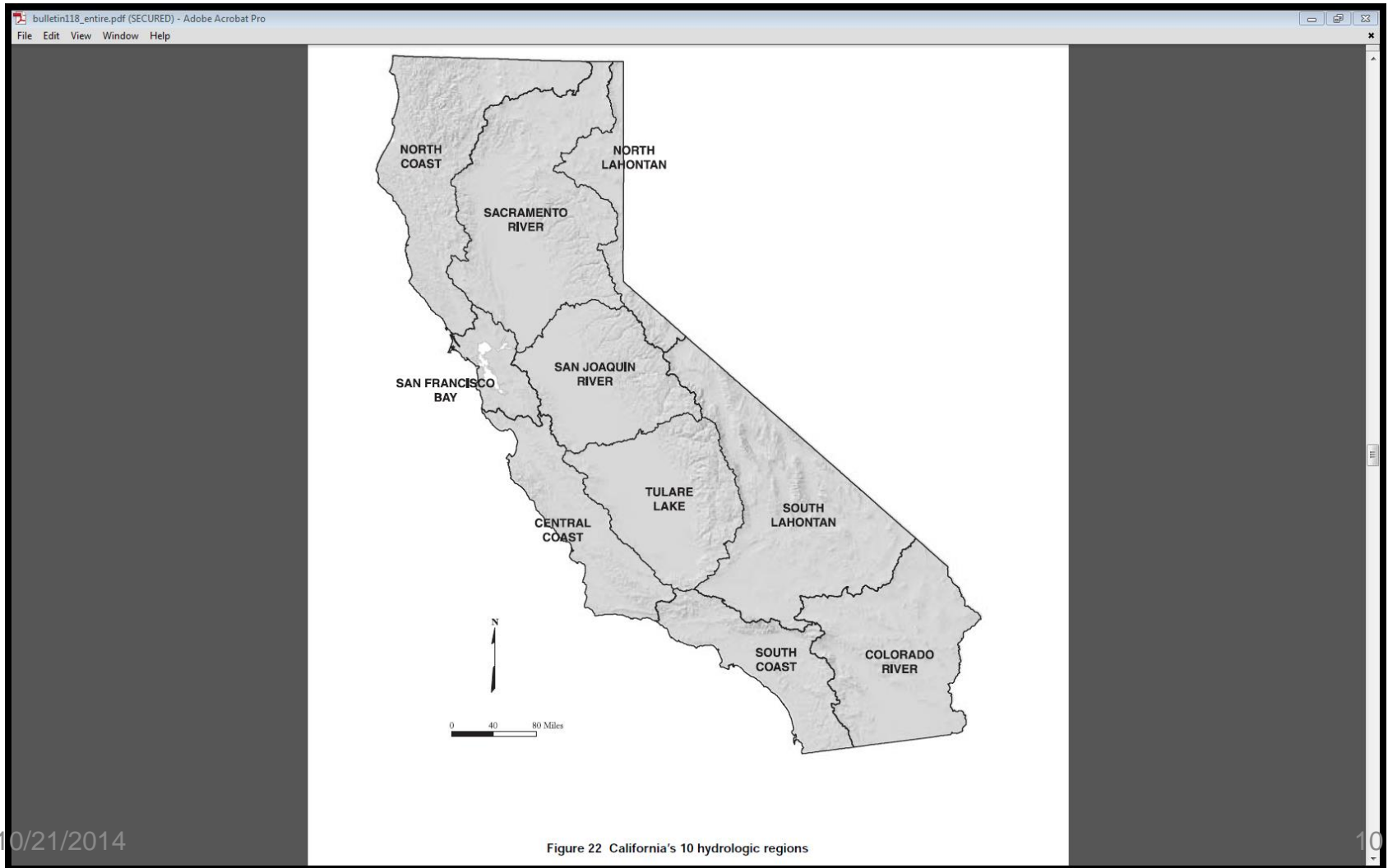


# BACKGROUND

- All or parts of 6 groundwater basins are within Monterey County
  - Salinas Valley (extends into San Luis Obispo County)
  - Carmel
  - Pajaro (includes portion of Santa Cruz and small portion of San Benito Counties)
  - Cholame
  - Lockwood
  - Peachtree



# BACKGROUND





# BACKGROUND

## Alluvial Groundwater Basins and Subbasins within the Central Coast Hydrologic Region





# BACKGROUND

- 3-2 Pajaro Valley
  
- 3-4 Salinas Valley
  - 3-4.01 180/400 Foot Aquifer
  - 3-4.02 East Side Aquifer
  - 3-4.04 Forebay Aquifer
  - 3-4.05 Upper Valley Aquifer
  - 3-4.06 Paso Robles Area
  - 3-4.08 Seaside Area
  - 3-4.09 Langley Area
  - 3-4.10 Corral de Tierra Area
  
- 3-5 Cholame Valley
- 3-6 Lockwood Valley
- 3-7 Carmel Valley
  
- 3-32 Peach Tree Valley



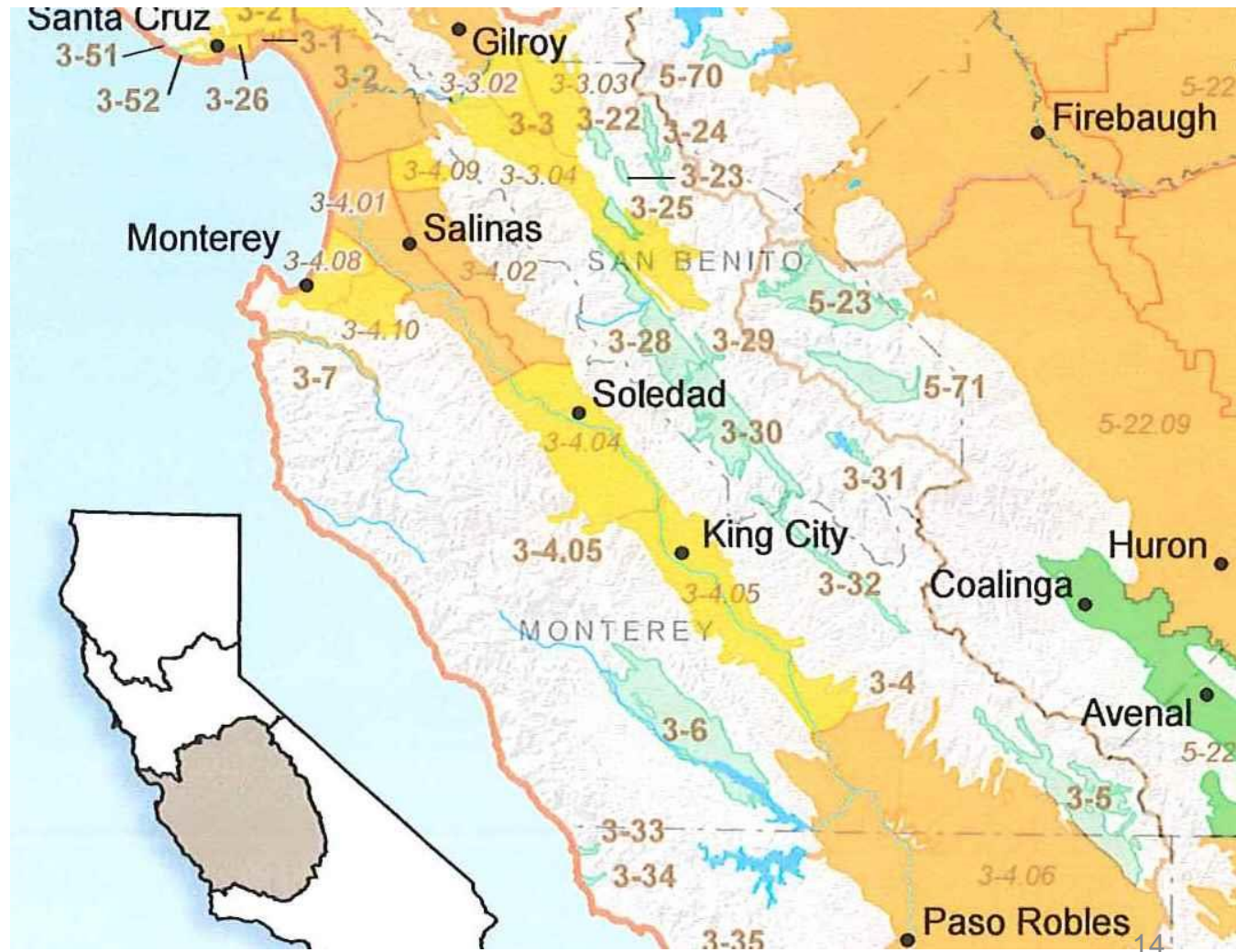


# BACKGROUND

- DWR categorizes all basins on the basis of priority with respect to the need for groundwater monitoring:
  - High
  - Medium
  - Low
  - Very low



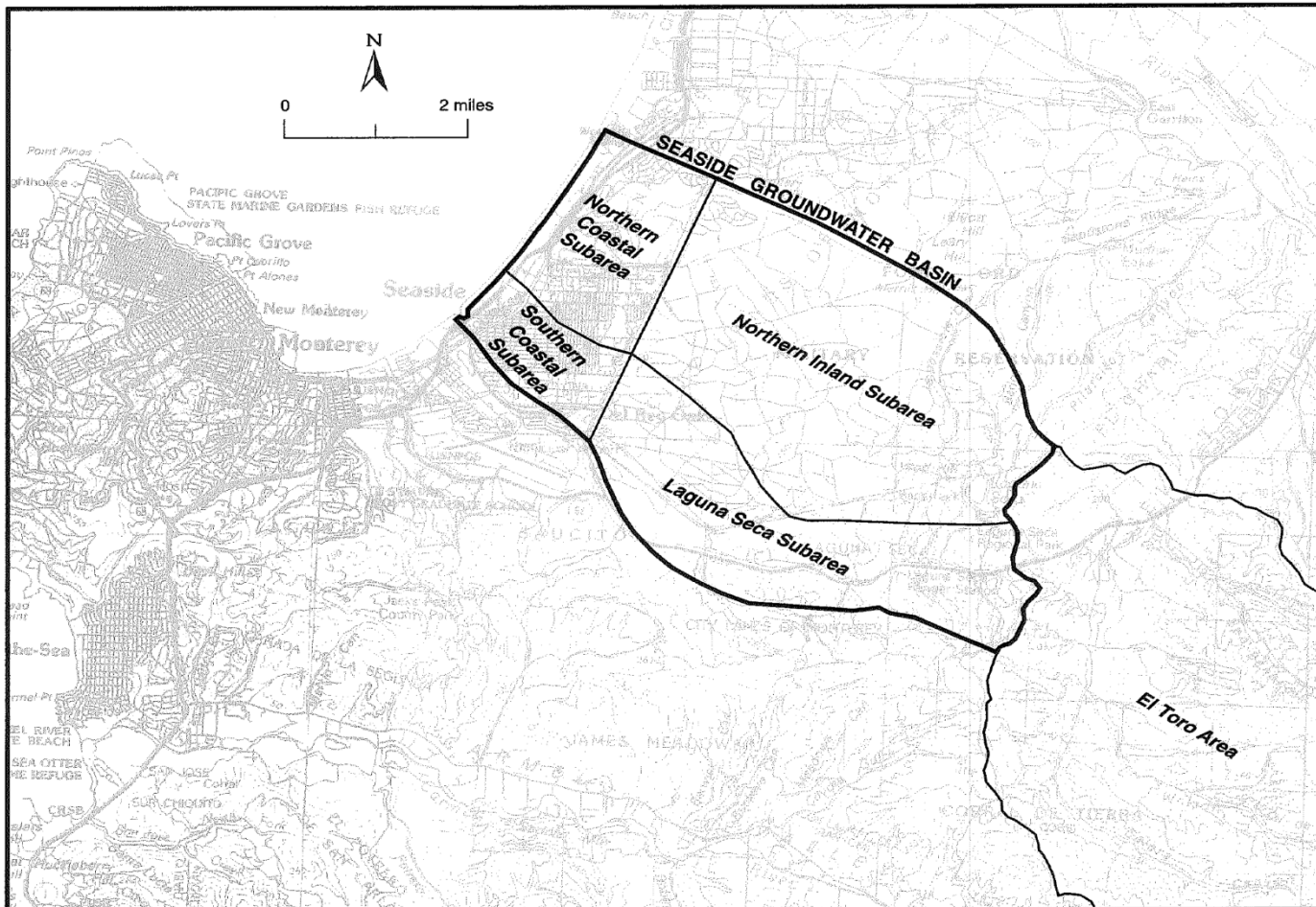
# BACKGROUND



- Groundwater basin/subbasin
- Basin prioritization ranking
  - High
  - Medium
  - Low
  - Very low



# BACKGROUND



Base: USGS Monterey 1:100000 topographic map, 1983 metric edition, contour interval = 50 meters  
Original projection: UTM Zone 10, 1927 North American Datum (NAD), meters, Current projection: State Plane, California Zone 4, 1983 NAD, feet  
Subarea boundaries from SGD (1990, 1991) and J.W. Oliver, MPWMD (written commun., 2002)



# BACKGROUND

- DWR has identified 11 basins that are in a “critical condition of overdraft”
  - Pajaro Basin in Monterey/Santa Cruz/San Benito Counties
    - Also classified as high priority





# BACKGROUND

- Water Rights
  - Legislation requires groundwater management to be consistent with California Constitution, Article X, section 2:
    - Water resources of state should be put to beneficial use to the fullest extent possible
    - Waste, unreasonable use, and unreasonable method of use of water is to be prevented
    - Conservation of water resources is to be exercised with a view to its reasonable and beneficial use in the interest of the people and the public welfare



# BACKGROUND

- Water Rights (cont.)
  - California Constitution, Article X, section 2:
    - The right to water, and to the use or flow of any stream or water course is limited to that which is reasonably required for its beneficial use
  - Legislation does not determine or alter surface water or groundwater rights under common law or any provision of statutory law.



# BACKGROUND

- Water Rights (cont.)
  - Overlying groundwater and riparian (surface) rights holders have the right to use water
    - Water belongs to the people of the state
  - Local agencies may regulate groundwater extraction under the general police power
  - Local agencies may need to consider the public trust doctrine relative to groundwater extractions as they may affect surface water



# GROUNDWATER SUSTAINABILITY POLICY

- Section 113 is added to the Water Code:
  - It is the policy of the state that groundwater resources be managed sustainably for long-term reliability and multiple economic, social, and environmental benefits for current and future beneficial uses. Sustainable groundwater management is best achieved locally through the development, implementation, and updating of plans and programs based on the best available science.



# GROUNDWATER SUSTAINABILITY DEFINITIONS

- Groundwater sustainability agency:
  - One or more local agencies implementing the legislation
- Local agency:
  - Local public agency that has water supply, water management, or land use responsibility within a basin
- Sustainable groundwater management:
  - The management and use of groundwater in a manner that can be maintained over a 50-year period without causing undesirable results



# GROUNDWATER SUSTAINABILITY DEFINITIONS

- Undesirable result:
  - One or more effects caused by groundwater conditions throughout the basin:
    - Chronic lowering of groundwater levels signifying an unreasonable depletion of supply
      - Overdraft during drought not determinative
    - Significant and unreasonable reduction of groundwater storage
    - Significant and unreasonable seawater intrusion
    - Significant and unreasonable degraded water quality
    - Significant and unreasonable land subsidence that substantially interferes with surface use
    - Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses



# GROUNDWATER SUSTAINABILITY DEADLINES

- By January 31, 2020, high and medium priority basins that are subject to critical conditions of overdraft must be managed by a sustainability plan or coordinated sustainability plans
  - Pajaro Basin



# GROUNDWATER SUSTAINABILITY DEADLINES

- By January 31, 2022, high and medium priority basins that are not subject to critical conditions of overdraft must be managed by a sustainability plan or coordinated sustainability plans
  - Salinas Valley
  - Carmel





# GROUNDWATER SUSTAINABILITY DEADLINES

- Cholame, Peachtree, & Lockwood basins are not required to have sustainability plans (low or very low priority), but may
- Adjudicated basins or sub-basins are not subject to legislation but must report data
  - Seaside basin
- DWR has until January 31, 2015 to finalize priorities for basins



# GROUNDWATER SUSTAINABILITY AGENCIES

- Any local agency, or combination of local agencies, overlying a basin may elect to be a Groundwater Sustainability Agency for that basin
  - A combination of agencies may form a JPA, or use an MOU or other agreement
  - A regulated water corporation may participate if the local agency approves
    - Cal Water, CalAm



# GROUNDWATER SUSTAINABILITY AGENCIES

- Monterey Peninsula Water Management District is designated the GSA for the Carmel basin
- Pajaro Valley Water Management Agency is designated the GSA for the Pajaro basin
- These agencies may opt out
  - If so, any other local agency within boundaries may elect to be the GSA



# GROUNDWATER SUSTAINABILITY AGENCIES

- An interested local agency must hold a noticed public hearing before electing to be a GSA
- If local agency elects to be GSA a notice of intent to be a GSA must be submitted to DWR



# GROUNDWATER SUSTAINABILITY AGENCIES

- Notice to DWR must include:
  - Description of basin or portion to be managed
  - Other GSAs in the basin
  - List of parties whose interests must be considered:
    - Overlying groundwater rights holders
      - Agriculture
      - Domestic well owners
      - Public water systems
      - Local land use planning agencies
      - Environmental users
    - Surface water users
      - If hydrologic connection
    - Federal government
    - CA native american tribes
    - Disadvantaged communities
    - Groundwater monitoring agencies



# GROUNDWATER SUSTAINABILITY AGENCIES

- 90 days following posting the notice of intent, the local agency is presumed to be the exclusive GSA within the basin or portion
  - Unless another notice was posted
  - Local agencies are required to cooperate
- GSA may withdraw
- If there is unincorporated area not within boundaries of a GSA, county is presumed to be GSA
  - County may opt out



# GROUNDWATER SUSTAINABILITY AGENCIES

- Salinas Valley Basin eligible local agencies
  - County
  - WRA
  - Cities of Salinas, Soledad, Gonzales, Greenfield, & King
  - Marina Coast, San Ardo, & San Lucas Water Districts
  - Community Services Districts (to the extent water supply authority exercised)
  - Cal Water (with permission)
  - Uncertainty regarding Seaside, Del Rey Oaks, Sand City, Monterey & MPWMD



# MONTEREY COUNTY BASINS

- 3-2 Pajaro Valley
- 3-4 Salinas Valley
  - 3-4.01 180/400 Foot Aquifer
  - 3-4.02 East Side Aquifer
  - 3-4.04 Forebay Aquifer
  - 3-4.05 Upper Valley Aquifer
  - 3-4.06 Paso Robles Area
  - 3-4.08 Seaside Area
  - 3-4.09 Langley Area
  - 3-4.10 Corral de Tierra Area
- 3-5 Cholame Valley
- 3-6 Lockwood Valley
- 3-7 Carmel Valley
- 3-32 Peach Tree Valley







# GSA POWERS & AUTHORITIES

- New powers and authorities in addition to any existing:
  - Adopt rules, regulations & ordinances
  - Conduct investigations
  - Inspect property
  - Require registration of extraction facilities (wells)
  - Require metering
  - Acquire & hold property of all kinds
  - Appropriate, import & store water
  - Provide for a voluntary fallowing program
  - Transport, reclaim, purify, desalinate & treat polluted water or wastewater for subsequent use



# GSA POWERS & AUTHORITIES

- New powers and authorities in addition to any existing (cont.):
  - Impose spacing requirements on well construction
  - Regulate, limit, or suspend groundwater extractions, construction of new wells, expansion or reactivation of wells
    - Must be consistent with applicable element of city or county general plan unless insufficient sustainable yield
    - No authority to issue well permits unless County agrees
  - Authorize transfers of extraction allocations



# GROUNDWATER SUSTAINABILITY PLANS

- May be a single plan implemented by a single agency
- May be a single plan implemented by multiple agencies
- May be multiple plans implemented by multiple agencies and coordinated by agreement



# GROUNDWATER SUSTAINABILITY PLANS

- Must include:
  - Description of the physical setting and characteristics of aquifers underlying basin
  - Measurable objectives and interim (5 year) milestones to achieve the sustainability goal within 20 years of plan implementation
  - A 50-year planning and implementation horizon



# GROUNDWATER SUSTAINABILITY PLANS

- Must include (cont.):
  - Components relating to the following:
    - Monitoring and management of groundwater levels
    - Monitoring and management of groundwater quality, quality degradation, and changes in surface flow and quality as they affect groundwater
    - Mitigation of overdraft
    - Recharge areas
    - How surface supply may be used



# GROUNDWATER SUSTAINABILITY PLANS

- Must include (cont.):
  - A summary and description of the monitoring system
    - Groundwater levels
    - Groundwater quality
    - Streamflow
    - Precipitation
  - A description of the consideration given any applicable general plans



# GROUNDWATER SUSTAINABILITY PLANS

- Must include (cont.):
  - Components addressing the following:
    - Seawater intrusion
    - Wellhead protection (for public water systems) and recharge areas
    - Migration of contaminated groundwater
    - Well abandonment and destruction
    - Groundwater replenishment
    - Contaminated groundwater cleanup, diversions to storage, conservation and recycling



# GROUNDWATER SUSTAINABILITY PLANS

- Must include (cont.):
  - Components addressing the following:
    - Well construction policies
    - Efficient water management policies
    - Efforts to develop relationships with state and federal agencies
    - Processes to review land use plans and efforts to coordinate activities
    - Impacts on groundwater dependent ecosystems





# GROUNDWATER SUSTAINABILITY PLANS

- GSAs within the same basin must cooperate and coordinate to utilize the same data and methodologies
- GSAs must provide a written statement describing how interested parties may participate in the development and implementation of a plan



# GROUNDWATER SUSTAINABILITY PLANS

- GSAs must report annually to DWR
- GSAs must periodically evaluate a plan and assess changing conditions
- CEQA does not apply to the preparation of a plan
  - Will apply to implementation of a project



# FINANCES

- GSAs may impose fees to fund the sustainability program
  - Permit fees
  - Fees on groundwater extraction or other regulated activity
- Fees based on groundwater extraction must comply with Proposition 218
- GSAs may also impose a property based fee
  - Based on maximum extraction capacity
- GSAs may impose taxes, fee and charges as otherwise provided by law



# ENFORCEMENT

- GSAs may:
  - levy fines
  - Order cessation of extraction
  - File suit



# STATE INTERVENTION

- Plan must be submitted to DWR for review after adoption
  - DWR has 2 years and must issue an assessment of the plan
  - Must assess impact on adjacent basin plan
- DWR must review plans every 5 years
  - Multiple plans must be reviewed together
  - By June, 2016 DWR must adopt regulations for evaluating plans



# STATE INTERVENTION

- SWRCB may declare a basin “probationary” if, after June 30, 2017:
  - No single GSA identified for whole basin, or
  - No collection of local agencies has agreed to form a GSA or agreed to develop plans that would collectively serve the whole basin, or
  - No local agency has submitted an “alternative plan”
    - Existing groundwater management plan
    - Adjudication
    - 10 year operation within sustainable yield (no overdraft)



# STATE INTERVENTION

- SWRCB may declare a basin “probationary” if, after January 31, 2022:
  - No GSA has adopted a plan for the entire basin, or
  - No collection of local agencies have adopted plans that serve the whole basin, or
  - DWR has not approved an “alternative plan” and
  - DWR determines plan is inadequate, implementation is inadequate, and basin is in long-term overdraft, or
  - After January 31, 2025, DWR determines plan is inadequate, implementation is inadequate, and extractions result in significant depletions of interconnected surface water



# STATE INTERVENTION

- If a basin is declared probationary
  - Local agencies are given the opportunity to correct deficiencies
  - SWRCB may require reporting
  - SWRCB may adopt an interim plan that:
    - Identifies actions necessary to correct long-term overdraft conditions or significant depletions of interconnected surface waters
    - Establishes a time schedule
    - Describes monitoring system





# STATE INTERVENTION

- If a basin is declared probationary (cont.)
  - Interim plan may also include:
    - Restrictions on extractions
    - A physical solution
    - Principles and guidelines for the administration of rights to connected surface waters
  - Interim plan must be consistent with water right priorities under CA constitution
  - Interim plan may rely upon an adjudication
  - GSA may petition to rescind interim plan



# OPTIONS

- Boards may determine:
  - WRA to hold hearing and submit notice after January 1, 2015, to be GSA for Salinas Valley Groundwater Basin
  - County to hold hearing and submit notice
  - Negotiate with other entities for cooperative GSA
    - Return to Board for further direction



# QUESTIONS