

**AGENDA
SPECIAL MEETING
WORKSHOP
CITY OF BANNING
BANNING, CALIFORNIA**

November 7, 2016
4:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

I. CALL TO ORDER

Roll Call - Councilmembers Franklin, Miller, Moyer, Peterson, Mayor Welch

II. PUBLIC COMMENTS – *On Items Not on the Agenda*

*A five-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff for future study, research, completion and/or future Council Action.) (See last page.
PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.*

III. WORKSHOP ITEM

| | | |
|----|--|---|
| 1. | Sustainable Groundwater Management Act..... | 1 |
| | (Presented by Art Vela, Public Works Director) | |

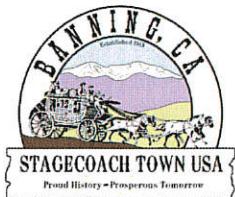
IV. ADJOURNMENT

*Our Mission as a City is to provide a safe, pleasant and prosperous
community in which to live, work and play. We will achieve this in
a cost effective, citizen friendly and open manner*

NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951) 922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Art Vela, Director of Public Works

MEETING DATE: November 7, 2016

SUBJECT: Discuss the Sustainable Groundwater Management Act

RECOMMENDATION:

Discuss the approach taken by staff to comply with the requirements of the Sustainable Groundwater Management Act (SGMA) and to provide concurrence with the approach taken or provide direction on an alternative approach.

JUSTIFICATION:

The purpose of the SGMA workshop is to provide details of SGMA and to update City Council on progress made to comply with the requirements of SGMA.

BACKGROUND:

In September, 2014, Governor Jerry Brown signed Senate Bill 1168 and 1319 and Assembly Bill 1739, known collectively as the Sustainable Groundwater Management Act (SGMA). The purposes of SGMA are to provide sustainable management of groundwater basins, enhance local management of groundwater, establish minimum standards for sustainable groundwater management, provide local groundwater agencies with the authority and tools necessary to sustainably manage groundwater and allow for state oversight and intervention if local agencies do not act.

The California Department of Water Resources (DWR) has designated groundwater basins and sub-basins as medium or high-priority, which are required to meet the requirements of SGMA. The City of Banning is within the San Gorgonio Sub-basin ("Basin") which has been classified as a medium-priority basin.

SGMA requires, by June 30, 2017, the formation of locally-controlled groundwater sustainability agencies (GSAs). Once formed, one of GSAs primary responsibilities is

to develop and implement a groundwater sustainability plan (GSP) for their basin or portion of their basin that they are managing. A GSP is to be implemented for the Basin by January 31, 2022.

Local agencies within the Basin responsible for complying with SGMA include: City of Banning, Cabazon Water District, San Gorgonio Pass Water Agency, Mission Springs Water District and Desert Water Agency. This group of agencies have met several times since SGMA was approved to agree to details on how to collectively comply with the requirements of SGMA, which can be accomplished in several ways.

At this point the group has discussed managing the Basin by three GSAs:

1. GSA consisting of the City of Banning, San Gorgonio Pass Water Agency, Cabazon Water District and Banning Heights Mutual Water District.
2. GSA consisting of Mission Springs Water District
3. GSA consisting of Desert Water Agency.

It should be noted that federally recognized tribes such as the Morongo Band of Mission Indians are not obligated to meet the requirements of SGMA and is the reason that they have not been included in item #1 above.

The purpose of the workshop is to provide City Council and the public with information regarding SGMA and to discuss progress made to comply with SGMA. Staff is seeking concurrence from City Council on the approach taken related to the development of a GSA made up of several water agencies.

FISCAL IMPACT:

None directly related to this workshop. SGMA related expenses will be related to attorney costs during the development of the GSA memorandum of understanding and costs related the preparation of technical studies to support the development of the GSP.

OPTIONS:

N/A

ATTACHMENTS:

1. Power Point Presentation

Reviewed by:



Art Vela,
Public Works Director

Approved by:



Michael Rock,
City Manager

ATTACHMENT 1

(Power Point Presentation)

The Sustainable Groundwater Management Act

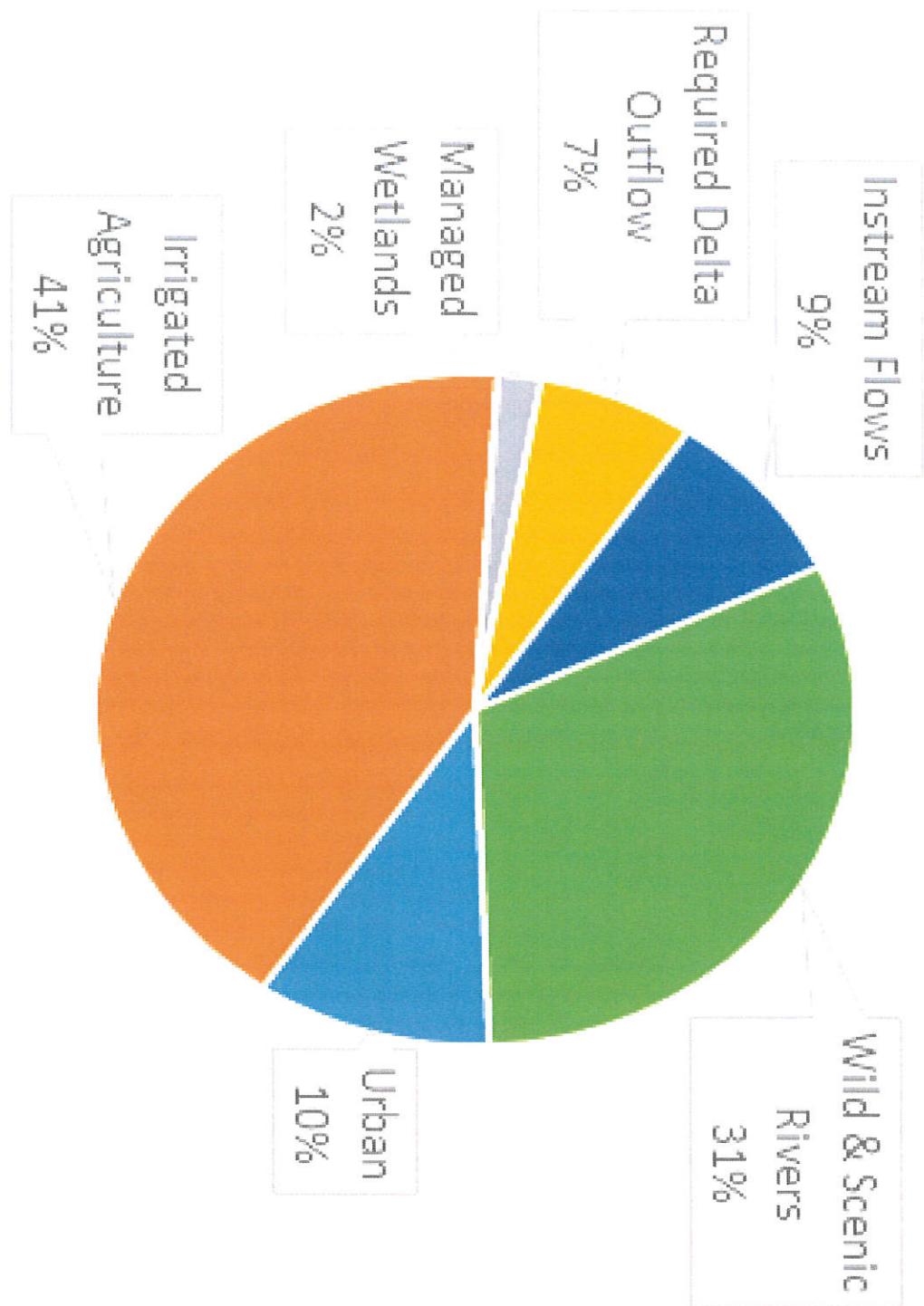
Presented by
Art Vela, P.E.
Wes Miliband, Esq.
November 7, 2016

AGENDA

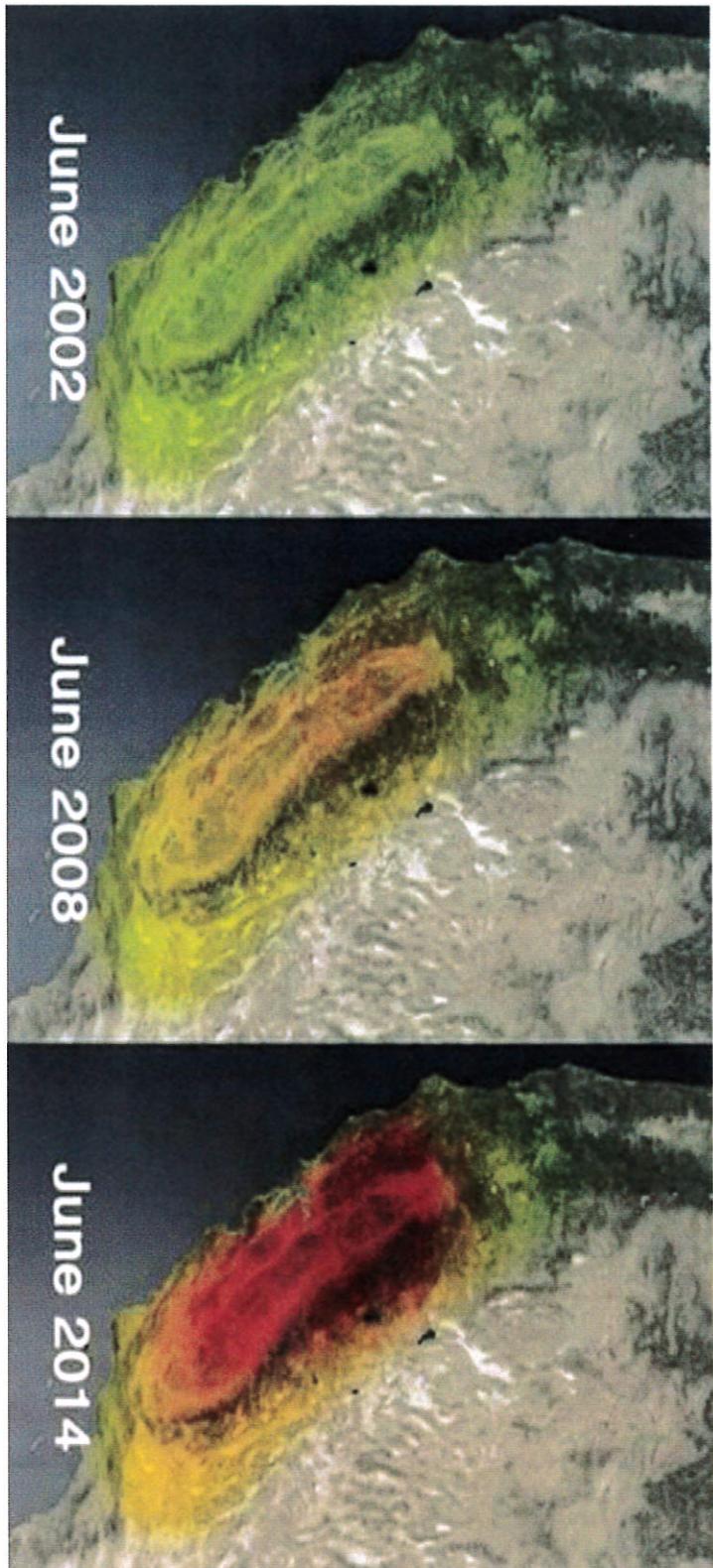
- Water Supplies and Drought
- SGMA Background
- Implications of New Groundwater Management Regulations
- Status of San Gorgonio Pass Sub-Basin
- Next Steps

California Water Use

6



DROUGHT



Source:
<http://www.jpl.nasa.gov/news/news.php?feature=4693>

WATER RIGHTS

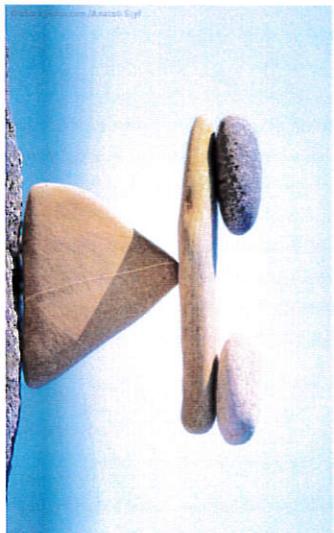
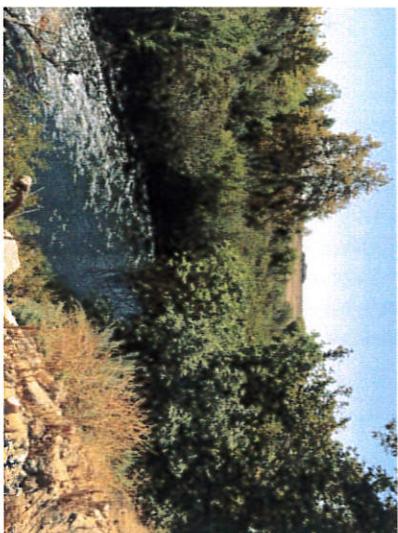
- California's "System":
 - "Hybrid" system of riparian/overlying and appropriative doctrines
 - *Contra* contractual rights
- Real Property Right of "Bundle of Sticks":
 - Water right *usually* part and parcel to land
- Usufructuary Right:
 - Right to possess and use, not own, water
- Reasonable and Beneficial Use
- Riparian/Overlying, Appropriative, Prescriptive rights

SGMA BACKGROUND AND MILESTONES: A SKETCH

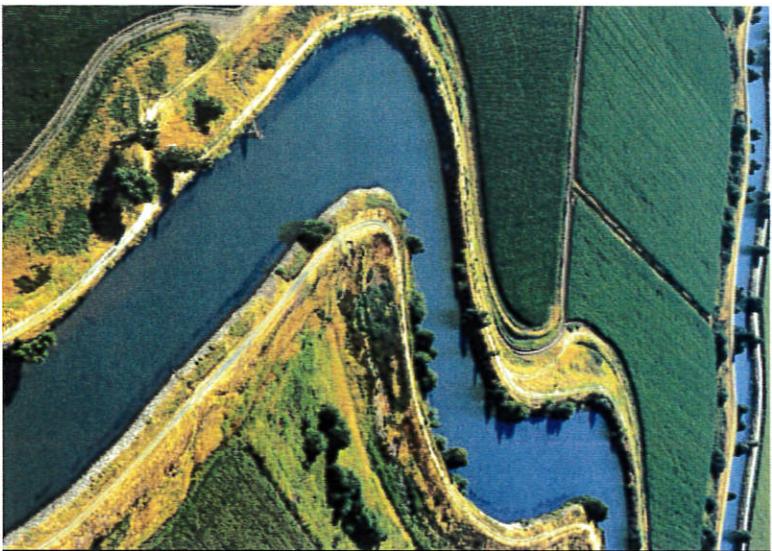
- Primary purpose: “Sustainability Goal”
- Timeline for implementing steps
- Local control through GSAs and GSPs

PURPOSE OF SUSTAINABLE GROUNDWATER MANAGEMENT ACT

- To establish and maintain “sustainable” groundwater management
 - Sustainability goal
 - Sustainable yield
- To allow local authority to manage local groundwater
 - State is a backstop



SUSTAINABLE GROUNDWATER MANAGEMENT ACT



- New law with local level regulation

| | |
|--|------------------|
| Establish Medium and High-Priority Groundwater Basins | ✓ |
| Develop Groundwater Sustainability Agencies | June 30, 2017 |
| Develop Groundwater Sustainability Plans for Medium and High-Priority Basins in Critical Overdraft | January 31, 2020 |

SUSTAINABLE GROUNDWATER MANAGEMENT

ACT

- Still in earliest stages of implementation
- Many more steps and milestones over next 27 years

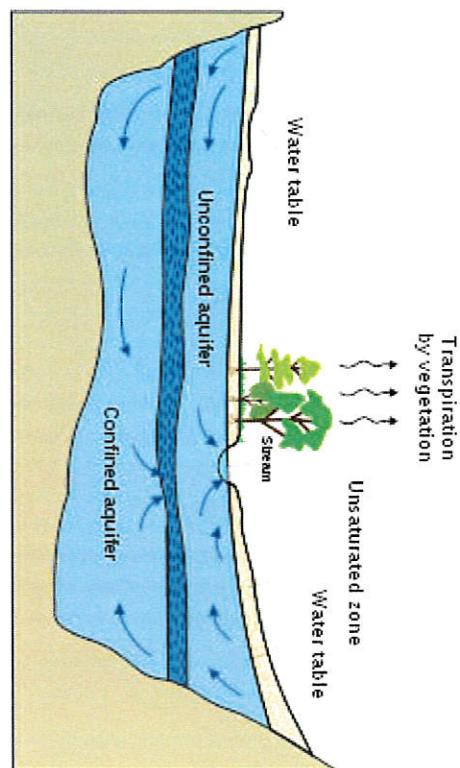
| When | Who | What |
|------------------------|--|---|
| January 31, 2015 | Department of Water Resources (DWR) | Categorize and prioritize basins as high, medium, low priority [§ 10722.4(a)] |
| January 1, 2016 | DWR | Adopt regulations for basin boundary adjustments and accept adjustment requests from local agencies [§ 10722.2(a)(b)] |
| April 1, 2016 | Local water agencies or water masters in adjudicated areas | Submit final judgment [order / decree and required report to DWR (report annually thereafter)] [§ 10720.8(f)] |
| June 1, 2016 | DWR | Adopt regulations for evaluating adequacy of Groundwater Sustainability Plans (GSPs) and Groundwater Sustainability Agency (GSA) coordination agreements [§ 10733.2] |
| December 31, 2016 | DWR | Publish report estimating water available for groundwater replenishment [§ 10729(c)] |
| January 1, 2017 | DWR | Publish groundwater sustainability best management practices [§ 10729(d)] |
| By June 30, 2017 | Local agencies | Establish GSAs [§ 10735.2(a)(1)] |
| After July 1, 2017 | State Water Resources Control Board (SWRCB) | Designate basins as probationary where GSAs have not been formed [§ 10735.2(1)] |
| After July 1, 2017 | Groundwater users in probationary basins | File annual groundwater extraction report with SWRCB by December 15 each year [§ 5202] |
| January 31, 2020 | GSAs in medium- and high-priority basins in critical overdraft | Adopt GSPs and begin managing basins under GSPs [§ 10720.7(a)(1)] or alternative [§ 10733.6] |
| After January 31, 2020 | SWRCB | Designate basins as probationary where GSPs have not been adopted in medium- and high-priority basins in critical overdraft [§ 10735.2(1)] |
| January 31, 2022 | GSAs in other medium- and high-priority basins | Adopt GSPs and begin managing basins under GSPs [§ 10720.7(a)(2)] |
| After January 31, 2022 | SWRCB | Designate basins as probationary where GSPs have not been adopted in other medium- and high-priority basins [§ 10735.2(1)] |
| After January 31, 2025 | SWRCB | Designate basins as probationary where GSPs are inadequate or not being implemented, and extractions result in significant depletions of interconnected surface waters [§ 10735.2(a)(5)(B)] |
| After January 31, 2040 | GSAs (in medium- and high-priority basins in critical overdraft) | Achieve groundwater sustainability goals (DWR may grant two five-year extensions upon a showing of good cause) [§ 10727.2(3)(a)] |
| After January 31, 2042 | GSAs (in other medium and high priority basins) | Achieve groundwater sustainability goals (DWR may grant two five-year extensions upon a showing of good cause) [§ 10727.2(3)(a)] |

We are here

SOURCE: ACWA 2014

GROUNDWATER BASIN AND SUBBASIN

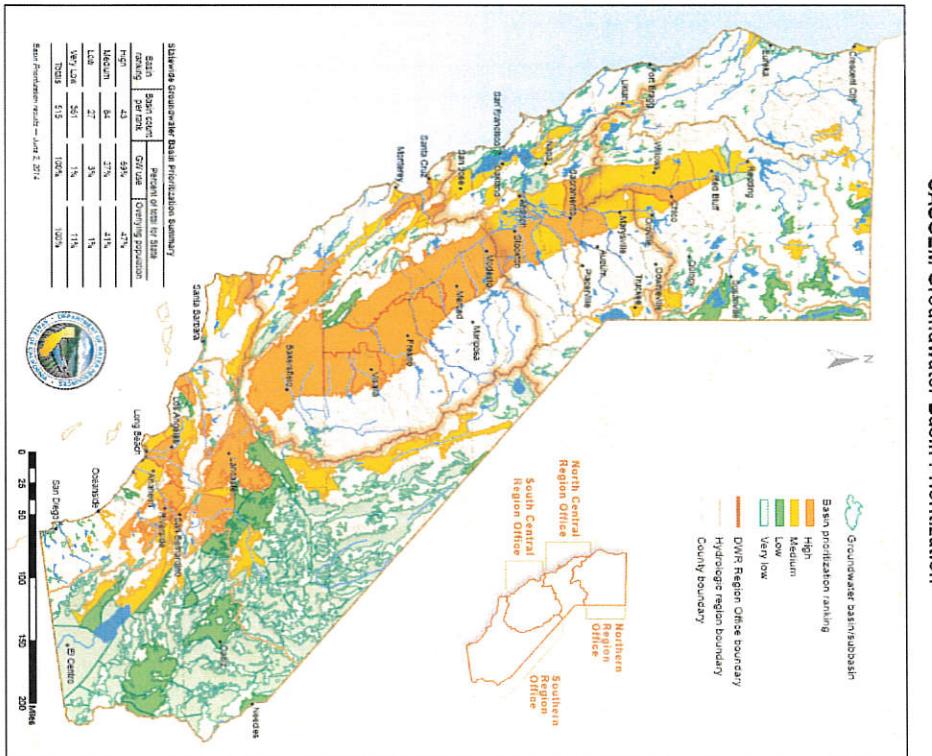
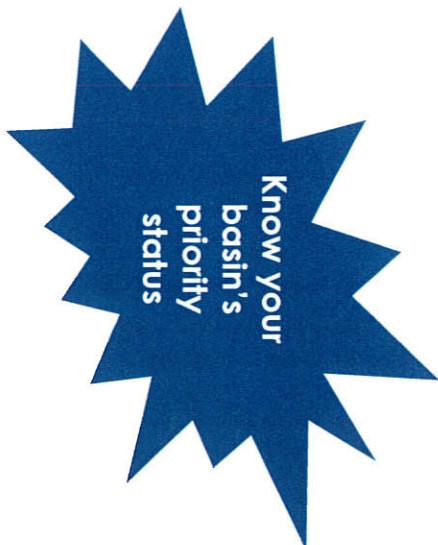
- **Groundwater Basin** – an alluvial aquifer or stacked series of alluvial aquifers with reasonably well-defined boundaries
- **Groundwater Subbasin** – subdivisions of a basin using geologic and hydrologic barriers or institutional boundaries



Source: Alley et al 1999

GROUNDWATER BASIN PRIORITIZATION

- First established January 31, 2015 (Bulletin 118) based on June 2014 CASGEM Program
- 127 high- and medium-priority basins covering 96% of groundwater use in California



GROUNDWATER SUSTAINABILITY AGENCY

- Local agency to implement the Act in one or more groundwater basins or subbasins, based on *current boundaries or revised boundaries*
- Public Process: Now through June 2017
 - Local agency notification to DWR
 - Public Notice Hearing and Notice of Intent to Form a GSA
 - GSA presumed to be exclusive GSA within basin(s) absent competing Notice of Intent
 - Unclaimed basins default to County unless County declares that they will not be GSA

GSAs

- Establishing GSAs and their powers and authorities
- Approx. 213 submittals to DWR
 - 100 “overlap,” 70 are “exclusive” and 43 are neither because 90 days have not passed
 - Only about 75 of 127 SGMA basins have at least 1 GSA

GROUNDWATER SUSTAINABILITY PLANS

- To be developed by each GSA
- GSAs must provide opportunities for public participation
- GSP deadline is either January 2020 or January 2022



January 31, 2020
Medium- and high-priority basins in critical overdraft

January 31, 2022
Other medium- and high-priority basins

*Draft list of 21 basins in critical overdraft:
https://cwc.ca.gov/Documents/2015/08_August/August2015_Agenda_Item_9_Attach_5_Draft_list_of_COD_basins.pdf*
30-day comment period now open:

<http://www.acwa.com/news/groundwater/dr-releases-draft-list-critically-overdrafted-groundwater-basins-schedules-public->

LEGAL AND POLICY CHALLENGES

- Contiguous boundaries are far from reality in all basins
 - Evident already from GSA notifications
- Non-contiguous boundaries make an already complex set of processes even more complex
 - “Export” claims
 - Which GSA is paid admin/operations fees

LEGAL AND POLICY CHALLENGES

- How to govern
 - Centralized GSA, Distributed Governance or Combination GSA
 - Large users subject to multiple GSAs or GSPs
 - Strength of “smaller” voices
- Preserving water rights while also achieving the sustainability goal
- GSA/GSP dispute resolution procedures (e.g., decisions, enforcement, assessments under Proposition 218)

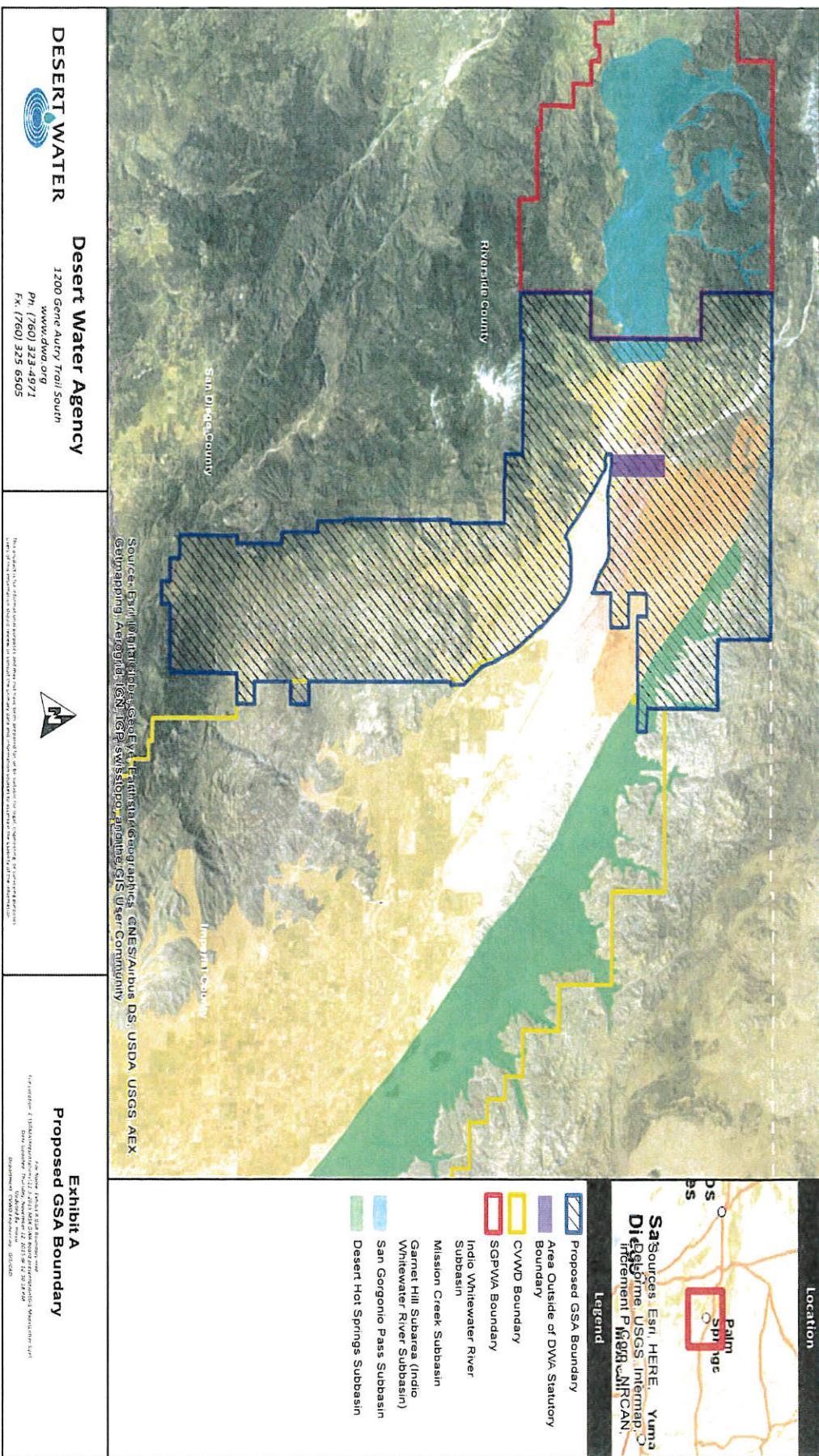
SPECIFIC IMPLICATIONS

- Public sector
 - Local public agencies whether counties, cities or water districts with land use planning, changes to general plans or zoning, and UWMPs (Urban Water Management Plans) and WSAs (Water Supply Assessments)

WHAT THE REGULATIONS DO NOT MEAN

- A water right remains a water right (Water Code §10726.8(b))
 - Where SGMA does not “succeed” with GSP implementation among the impacted stakeholders then groundwater adjudications are very likely
- Code of Civil Procedure §§ 830 *et seq.*
 - Antelope Valley became the poster child for reform with AB 1390 / SB 26

THE SAN GORGONIO PASS SUB-BASIN (BASIN NUMBER 7-21.04: MEDIUM PRIORITY)



GSA STATUS OF SAN GORGONIO PASS SUB-BASIN

- Desert Water Agency is the GSA for a small portion outside of the City's boundaries
- Mission Springs Water District has applied to be the GSA for their service area within the SGP Sub-basin.
- Local water retailers including the City, and wholesale agency San Gorgonio Pass Water Agency, are discussing GSA formation
 - MOU potentially identifying "who does what"
 - Multiple GSAs and/or GSPs?
 - Respective rights and obligations

NEXT STEPS

- Determine GSA formation by having a single GSA or multiple GSAs such as the City being a GSA within City boundaries that overlie the sub-basin
 - Deadline for GSA formation and submittal to DWR is June 30, 2017
- Determine GSA agreement amongst other local agencies by way of an MOU or JPA
 - Other agencies seem disinterested in JPA
 - SGMa defers to local agencies
 - Work toward GSP development, whether one or multiple GSAs
 - Deadline: January 1, 2022

Questions?