

Delta-Mendota Subbasin Coordination Committee

Monday, October 10, 2022, 9:30 AM **DRAFT**

SLDMWA Boardroom, 842 6th Street, Los Banos, CA

Coordination Committee Members and Alternates Present

Chase Hurley – Pacheco Water District/Central Delta-Mendota Region
Jarrett Martin – Central California Irrigation District/SJREC (delayed arrival)
John Wiersma – San Luis Canal Company/SJREC
Ric Ortega – Grassland Water District
Jim Stilwell – Farmers Water District
Joe Hopkins – Aliso Water District/Provost & Pritchard
Augie Ramirez – Fresno County
Vince Lucchesi – Patterson Irrigation District

San Luis & Delta-Mendota Water Authority Staff Present

John Brodie
Scott Petersen*

Others Present

Anthea Hansen – Del Puerto Water District*
Ellen Wehr – Grassland Water District*
Chris Rogers – CCID*
Steve Stadler – San Luis Water District
Lauren Layne – Baker Manock & Jensen*
Andrew Francis – LSCE*
Anona Dutton – EKI Environment & Water, Inc. (first portion of meeting)*
Meredith Durant – EKI Environment & Water, Inc.*
Leslie Dumas – Woodard & Curran
Katlyn Palys – Provost & Pritchard
Yvonne Petroni – Wolfsen, Inc. (second portion of meeting)*
Thomas Harder – on behalf of Friant Water Authority*
Ben Lewis – on behalf of Friant Water Authority*
Ara Azherdian – unidentified affiliation*

* Denotes telephonic/Zoom participation.

1. Call to Order/Roll Call

Vice Chair John Wiersma/SJREC called the meeting to order at 9:32 AM.

2. Committees to Consider Corrections or Additions to the Agenda of Items, as authorized by Government Code Section 54950, et seq

John Brodie/SLDMWA noted that the budget to actual report provided to the in-person attendees (Item 4b of the meeting agenda) is through August 2022, which is an update to the report through July 2022 included in the electronically transmitted meeting packet.

3. **Opportunity for Public Comment**

No public comment was shared.

4. **Committee to Review and Take Action on Consent Calendar**

- a) Minutes of the August 8, 2022 Regular Meeting
- b) Budget to Actual Report (through August 2022)
- c) Grant Reimbursement Summary Report

The Committee considered approval of the prior meeting minutes as presented in the meeting packet. The Committee also discussed the Budget to Actual Report through August 2022, and raised a question regarding the conclusion date of March 31, 2022 for one line item. Scott Petersen/SLDMWA offered to investigate this item, and provide the results to the Committee members. Augie Ramirez/Fresno County provided the motion to approve the Consent Calendar and Chase Hurley/Pacheco-Central Delta-Mendota seconded. The Committee voted by roll call; the motion was passed unanimously by those present.

5. **Committee to Consider Approval of Special Projects Agreement for the SGMA Round 1 Grant Administration Expenses, Brodie**

John Brodie referenced the Special Projects Agreement summary memo included in the meeting packet that provides the background and issue for decision. Ric Ortega/Grassland WD provided the motion for approval of the Special Projects Agreement, with Woodard & Curran providing grant administration services, and Vince Lucchesi/PID-Northern Delta-Mendota seconded. The Committee voted by roll call; the motion was passed unanimously by those present.

6. **Committee to Consider Authorization of a Special Dues for SGMA Round 1 Grant Administration Expense, Brodie/Tarka**

John Brodie referenced the Special Dues Assessment summary memo included in the meeting packet that provides the background and issue for decision. Ric Ortega provided the motion to authorize the Special Dues Assessment and Augie Ramirez seconded. The Committee voted by roll call; the motion was passed unanimously by those present.

7. **Committee to Consider Authorization of an Application for SGMA Round 2 Grant Funding and Naming a Contractor/Consultant to Perform Grant Application and Submittal Tasks, Brodie**

John Brodie reminded members that DWR opened the SGMA Round 2 grant application on October 3, 2022. Grant applications are due to DWR by November 30, 2022. The SGMA Round 2 funding totals \$230 million, and includes specified priorities for funding awards. The Committee conceptually discussed the potential needs for additional funding to implement projects and management actions, as well as to fill data gaps identified in the Subbasin GSPs. Committee members were requested to submit potential projects and data gap needs to John Brodie by October 14, 2022. Given the schedule set by DWR, it is likely that the Committee will need to schedule a Special Meeting in the near future to select a lead applicant and determine the list of activities to include in the grant application. Joe Hopkins/Aliso WD provided the motion to proceed with preparation of a Round 2 grant application, and Augie Ramirez seconded. The Committee voted by roll call; the motion was passed by a majority of those present. Vince Lucchesi and Chase Hurley abstained because the Northern & Central Delta-Mendota Management Committees had not provided direction on this topic at their prior meeting.

8. **Committee to Authorize a Cost-Share Percentage and Special Projects Agreement for SGMA Round 2 Grant Application Preparation and Submittal Tasks, Brodie**

The Committee discussed splitting the costs of grant application preparation equally among the GSP groups. If a grant is awarded to the Subbasin, the cost share will be based upon participating entities and funded projects. Ric Ortega provided the motion to proceed with the proposed cost-share allocation based upon total project value for each GSA for the preparation of the grant application, and Jim Stilwell/Farmers WD seconded. The Committee voted by roll call; the motion was passed by a majority of those present. Vince Lucchesi and Chase Hurley abstained because the Northern & Central Delta-Mendota Management Committees had not provided direction on this topic at their prior meeting.

9. **Committee to Consider Authorization of a One-Time Additional Dues Assessment for Legal and Technical Services Associated with GSP Revisions, Brodie**

Anthea Hansen announced that the SGMA Round 1 Grant Agreement between DWR and Del Puerto Water District was executed on October 7, 2022; after the Coordination Committee meeting materials had been issued. John Brodie reviewed the key points in the summary memo included in the meeting packet. The Committee discussed the method that the Northern & Central Management committees had agreed upon regarding the additional dues, and also noted that the allocation would be consistent with the existing Coordination Agreement. Joe Hopkins provided the motion to proceed with authorization of a one-time assessment of additional dues, and Augie Ramirez seconded. The Committee voted by roll call; the motion was passed unanimously by those present.

10. **Committee to Discuss Process and Timeline for 2025 GSP Updates, Martin/Hopkins/Au. Ramirez/Brodie**

- a) Common Chapter (including SMC and Tables)
- b) Coordination Agreement

John Brodie reported that as directed by the Committee in its previous meeting, he met with Joe Hopkins and Augie Ramirez to develop a draft timeline for preparation of the 2025 GSP Updates. He referred the Committee members to the draft timeline included in the meeting packet. A list of required contents in the GSP Updates is also included in the meeting packet. DWR has not yet provided a response on the Amended GSPs submitted in July 2022. There are some critical path items, and decisions regarding which tasks the GSAs can perform, and which tasks will require consultants to perform. Leslie Dumas reminded the Committee that based upon the timeline, the end date for the water budgets is likely to be September 2023, with WY2024 presented as a projection. Leslie Dumas reminded the Committee needs to decide whether the USGS/USBR model or a spreadsheet-based approach will be used for the Subbasin water budget analyses. John Brodie emphasized that due to the member County approval processes, the draft 2025 GSP Updates must be issued by October 2024.

In addition to technical issues, the Committee also considered some policy issues and identified the need to revise and update the Coordination Agreement. Example language regarding dispute resolution will be circulated. Similarly, estimated budgets and projected finances need to be identified and considered. In addition to the Subbasin Technical Working Group, a Subbasin Finance Committee may be appropriate. The Committee also discussed the potential need to update the Data Management System (DMS), and to continue stakeholder outreach and engagement activities as part of the GSP Update process.

11. **Committee to Discuss Potential Additional Funding Opportunities, Brodie**

John Brodie referred the Committee members to the list of potential funding opportunities included in the meeting packet, and offered to respond to member requests for additional information on the funding opportunities.

12. **Committee to Discuss Merced County Well Ordinance and Executive Order N-7-22 and the Role of GSAs in Well Permitting, McBride/Ad. Ramirez/Brodie**

Although a Merced County representative was not in attendance, John Brodie summarized the revised Merced County process for incorporating GSA input regarding installation of new groundwater supply wells, in accordance with the Executive Order. He noted that Merced County requested assistance in updating contact information for the Subbasin GSAs to be used for this purpose of soliciting input on new groundwater supply wells.

13. **Committee to Discuss Revised GSP/Common Chapter Implementation Changes, Brodie**

John Brodie noted the tables included in the meeting packet prepared to identify and track the list of GSP implementation tasks for the Northern & Central regions.

14. **Committee to Discuss WY2022 Annual Report, Dumas/Brodie**

Leslie Dumas/Woodard & Curran stated that a kickoff meeting had been held the preceding week with Provost & Pritchard for the WY 2022 Annual Report.

15. **Committee to Discuss Future Meeting Dates, Martin**

The Committee discussed the meeting schedule over the next six months. Future Coordination Committee meetings are currently scheduled as follows:

- a. Special Meeting October 21, 2022 at 8:30 AM
- b. Monday December 12, 2022 at 9:30 AM
- c. Monday February 13, 2023 at 9:30 AM

16. **Next Steps**

The following next steps were identified:

- GSP groups should submit their list of GSP implementation projects and tasks to John Brodie by October 14, 2022 for potential inclusion in the SGMA Round 2 grant application.
- A Special Coordination Committee Meeting will be planned for October 21, 2022 at 8:30 AM to finalize the list of projects and tasks to include in the SGMA Round 2 grant application.
- John Brodie will circulate the project list from the SGMA Round 1 grant process to facilitate development of an updated list of GSP implementation projects and tasks.
- John Brodie will circulate a Doodle poll to schedule a presentation from USGS/USBR to the Subbasin Technical Working Group regarding the updated CVHM2-SJB groundwater model.
- SLDMWA will address the question raised during the meeting regarding budget-to-actual.

17. **Reports Pursuant to Government Code 54954.2(a)(3)**

No topics were discussed under this item.

18. **Conference with Legal Counsel – Existing Litigation**

The Committee met in closed session to confer with legal counsel pursuant to Paragraph 1 of Subdivision (d) of Government Code Section 54956.9.

California Sportfishing Protection Alliance v. All Persons Interested in the Matter of the Validity of the Northern and Central Delta-Mendota Regions Groundwater Sustainability Plan, et al., Stanislaus County Superior Court, Case No. CV-20-001748, Merced County Superior Court, Case No. 21CV-01691.

19. **Report out of Closed Session**

No reportable items were identified from Closed Session.

20. **ADJOURNMENT**

Jarrett Martin adjourned the meeting at 11:55 AM.

DRAFT

Delta-Mendota Subbasin Coordination Committee Special Meeting

Friday, October 21, 2022, 8:30 AM DRAFT

SLDMWA Boardroom, 842 6th Street, Los Banos, CA

and

**Provost & Pritchard Consulting Group, 455 West Fir Avenue, Clovis, CA
Pine Flat Board Room**

Coordination Committee Members and Alternates Present

Chase Hurley – Pacheco Water District/Central Delta-Mendota Region
Jarrett Martin – Central California Irrigation District/SJREC
Ric Ortega – Grassland Water District
Jim Stilwell – Farmers Water District
Joe Hopkins – Aliso Water District/Provost & Pritchard
Augie Ramirez – Fresno County
Vince Lucchesi – Patterson Irrigation District/Northern Delta-Mendota Region

San Luis & Delta-Mendota Water Authority Staff Present

John Brodie
Ray Tarka

Others Present

Ellen Wehr – Grassland Water District*
Chris Rogers – CCID*
Kyle Hill – CCID*
Steve Stadler – San Luis Water District (later portion of meeting)*
Maria Encinas – City of Patterson*
Rick Iger – Provost & Pritchard*
Katlyn Palys – Provost & Pritchard
Ethan Andrews – Provost & Pritchard
Andrew Francis – LSCE*
Meredith Durant – EKI Environment & Water, Inc.*
Leslie Dumas – Woodard & Curran*
Kiti Campbell – Westlands Water District*
Yvonne Petroni – Wolfsen, Inc. (later portion of meeting)*
Ben Lewis – on behalf of Friant Water Authority*

* Denotes telephonic/Zoom participation.

1. Call to Order/Roll Call

Jarrett Martin/SJREC called the meeting to order at 8:30 AM.

2. Opportunity for Public Comment

No public comment was shared.

3. **Committee to Consider Approval of a List of Projects for the SGMA Round 2 Grant Application, Brodie**

The Committee reviewed the DWR scoring criteria and discussed the list of proposed projects submitted by the Subbasin GSP groups and member GSAs and compiled in the meeting packet. The Committee discussed revisions to the list, and also discussed including a grant administration component in the Grant Application. Vince/Lucchesi/PID-Northern Delta-Mendota provided the motion for approval of the revised list of projects and Joe Hopkins/Aliso WD seconded. The Committee voted by roll call; the motion was passed unanimously by those present.

4. **Committee to Consider Approval of a Lead Applicant for the SGMA Round 2 Grant Application, Brodie**

Jarrett Martin offered that the San Joaquin Exchange Contractors can serve as the lead applicant for the SGMA Round 2 Grant. Vince Lucchesi offered to serve as the internal lead regarding the interconnected surface water monitoring component. Vince Lucchesi provided the motion to approve the San Joaquin Exchange Contractors as the lead applicant and Ric Ortega/Grassland WD seconded. The Committee voted by roll call; the motion was passed unanimously by those present.

5. **Coordination Committee Subcommittees**

The Committee briefly discussed subcommittees, and in the interests of time, agreed to add this topic to a future Coordination Committee meeting agenda.

6. **Future Meeting Dates, Martin**

Future Coordination Committee meetings are currently scheduled as follows:

- a. TBD/Early November: Special Joint Coordination Committee and TWG
- b. Monday, December 12, 2022 at 9:30 AM: Regular Meeting

7. **ADJOURNMENT**

Jarrett Martin adjourned the meeting at 9:54 AM.

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY
MARCH 1, 2022 - FEBRUARY 28, 2023
SGMA ACTIVITIES - COORDINATED COST-SHARE AGREEMENT
ACTIVITY AGREEMENTS BUDGET TO ACTUAL
COORDINATED (FUND 63)

Report Period 3/1/22 - 10/31/22

SGMA 12/12/22

EXPENDITURES	Annual Budget	Paid/ Expense	Amount Remaining	% of Amt Remaining	Expenses Through
<u>Legal:</u>					
Baker Manock & Jensen	\$ 10,000	\$ 33,268	\$ (23,268)	-233%	10/5/22
<u>Other Professional Services:</u>					
GSP Implementation Contracts					
Coordinated Annual Reports Activities (Common Chapter, Water Level Contouring)					
	\$ 50,579	\$ 10,578	\$ 40,002	79%	5/23/22
DMS Hosting, Augmentation and Support	\$ 10,306	\$ 3,458	\$ 6,848	66%	5/23/22
GSP Approval-DWR Response to Comments	\$ 10,000	\$ 52,569	\$ (42,569)	-426%	8/3/22
Staff Augmentation Support (EKI)	\$ 51,241	\$ 25,879	\$ 25,362	49%	9/14/22
Proposition 68 (Grant Administration)					
Component 1 (Grant Administration)					
	\$ 39,150	\$ 25,041	\$ 14,109	36%	8/3/22
Component 2 (Technical Assistance)					
	\$ 10,000	\$ -	\$ 10,000	100%	
Component 10 (Well Census and Inventory)					
	\$ 10,000	\$ -	\$ 10,000	100%	
Component 11 (Subsidence Characterization)					
	\$ 10,000	\$ -	\$ 10,000	100%	
SGMA Implementation Grant Round 1 SPA (A9)	\$ -	\$ 2,460	\$ (2,460)	0%	6/10/22
SGMA Implementation Grant Round 2 SPA (A10)	\$ -	\$ -	\$ -	0%	
<u>Other:</u>					
Executive Director	\$ 2,383	\$ -	\$ 2,383	100%	
General Counsel	\$ 4,210	\$ 217	\$ 3,993	95%	3/31/22
Water Policy Director	\$ 4,128	\$ 3,491	\$ 637	15%	10/31/22
Water Resources Program Manager	\$ 44,277	\$ 31,884	\$ 12,393	28%	10/31/22
Accounting	\$ 4,207	\$ 2,604	\$ 1,603	38%	10/31/22
License & Continuing Education	\$ 500	\$ -	\$ 500	100%	
Los Banos Administrative Office (LBAO)	\$ 500	\$ -	\$ 500	100%	
Conferences & Training	\$ 2,500	\$ -	\$ 2,500	100%	
Travel/Mileage	\$ 7,500	\$ -	\$ 7,500	100%	
Group Meetings	\$ 1,000	\$ 225	\$ 775	77%	
Telephone	\$ 2,500	\$ 61	\$ 2,439	98%	
Software	\$ 2,500	\$ -	\$ 2,500	100%	
Equipment and Tools	\$ 5,350	\$ -	\$ 5,350	100%	
Total Expenditures	\$ 282,831	\$ 191,734	\$ 91,097	32%	

	A	B	C
1	IRWM Proposition 1 Round 1		
2	Amount Paid		
3	Administration	\$ 9,000.00	
4	City of Huron	\$ 584,974.57	
5	NVRRWP-Turlock	\$ 45,000.00	
6	WSID Pumping Plant	\$ -	
7	Orestimba Creek	\$ 404,632.00	
8	Broadview Aquifer	\$ 145,317.82	
9	Total	\$ 1,188,924.39	
10			
11	Amount Remaining		
12	Administration	\$ 1,000.00	
13	City of Huron	\$ 65,025.43	
14	NVRRP-Turlock	\$ -	
15	WSID Pumping Plant	\$ 809,264.00	
16	Orestimba Creek	\$ 404,632.00	
17	Broadview Aquifer	\$ 663,945.18	
18	Total	\$ 1,943,866.61	
19			
20	Prop 1/Prop 68 SGMA Plan Development		
21	Amount Paid		
22	Administration	\$ 65,757.08	
23	Technical Assistance	\$ 841,686.85	
24	Generic DMS	\$ 178,500.00	
25	N-C Region GSP	\$ 534,291.00	
26	Grassland GSP	\$ 199,118.00	
27	Farmers GSP	\$ 166,802.00	
28	Aliso GSP	\$ 197,655.00	
29	Fresno GSP	\$ 249,171.00	
30	SJREC GSP	\$ 342,894.00	
31	Well Census	\$ 100,000.00	
32	Subsidence Study	\$ 91,681.50	
33	Total	\$ 2,967,556.43	
34			
35	Amount Remaining		
36	Administration	\$ 10,841.92	
37	Technical Assistance	\$ 158,313.15	
38	Generic DMS	\$ -	
39	N-C Regions GSP	\$ -	
40	Grassland GSP	\$ -	
41	Farmers GSP	\$ -	
42	Aliso GSP	\$ -	
43	Fresno GSP	\$ -	
44	SJREC GSP	\$ -	
45	Well Census	\$ -	
46	Subsidence Study	\$ 8,318.50	
47	Total	\$ 177,473.57	

CV SALTS NITRATE CONTROL PROGRAM

PRELIMINARY MANAGEMENT ZONE PROPOSALS AND DRINKING WATER EARLY ACTION PLANS



ADOPTION OF THE NITRATE CONTROL PROGRAM – BASIN PLAN AMENDMENT

- Adopted by the Central Valley Water Board (2018)
- Approved by the State Water Board (2019)
- Approved by the Office of Administrative Law (2020)
- Effective on January 17, 2020
- Start of Implementation Efforts
 - Nitrate Control Program - Priority 1 Basins
 - May 2020
 - Salinity Control Program – All Dischargers of Salinity
 - January 2022

INCLUSION OF NITRATE CONTROL PROGRAM INTO ILRP ORDER

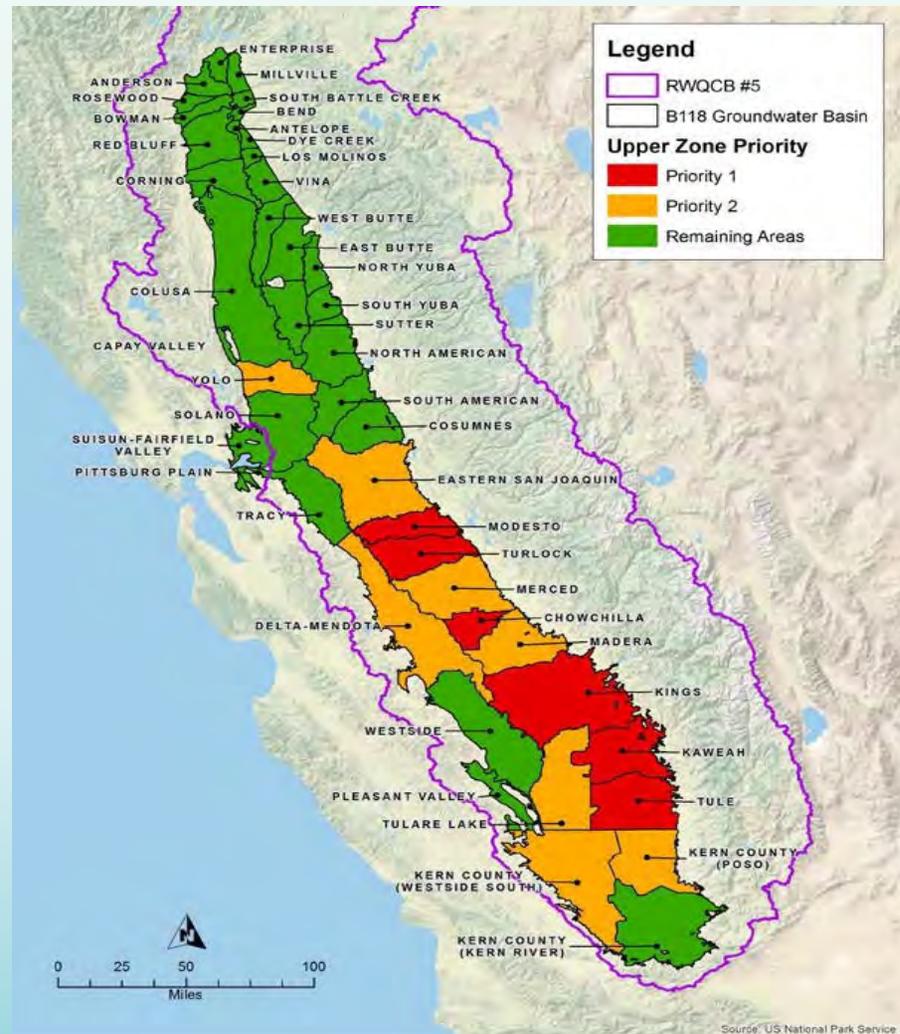
- WDR General Order for Growers within Westside San Joaquin River Watershed
 - Amended on April 22, 2021
 - Incorporated requirements to comply with Nitrate Control Program and Salt Control Program
 - Required to comply once the Westside San Joaquin Watershed Coalition receives **Notice to Comply**
 - **Notice to Comply** specific to each control program (i.e., one for Nitrate and one for Salinity)

OPTIONS FOR COMPLIANCE

- Individual Permitting Approach (Path A) (as a Coalition)
 - 425 days after receiving Notice to Comply must submit Notice of Intent
 - Must conduct Initial Assessment of member discharges
 - Must categorize discharge based on level of degradation
 - Depending on level of degradation, may need to implement an alternative compliance project
 - Must include Early Action Plan for impacted public or domestic water supply wells
- Management Zone Permitting Approach (Path B) (as a Coalition)
 - 1-year after receiving Notice to Comply must submit (along with other participating dischargers) Preliminary Management Zone Proposal and an Early Action Plan

IMPLEMENTATION OF THE MANAGEMENT ZONES OPTION – PRIORITY 1 BASINS

- They used existing organizations, set up interim arrangements with existing groups, or formed new organizations:
 - Valley Water Collaborative (Modesto/Turlock)
 - Chowchilla
 - Kings Water Alliance
 - Kaweah Water Foundation
 - Tule Basin



PARTICIPATING INDUSTRIES

- Irrigated agriculture
- Dairy
- Poultry
- Food processing/wineries
- City wastewater treatment
- City landfills/composting facilities
- Small wastewater systems



PRELIMINARY MANAGEMENT ZONE PROPOSAL

Preliminary Management Zone Proposal (PMZP) with Early Action Plan (EAP)
Due 12 months after NTC



Key Elements

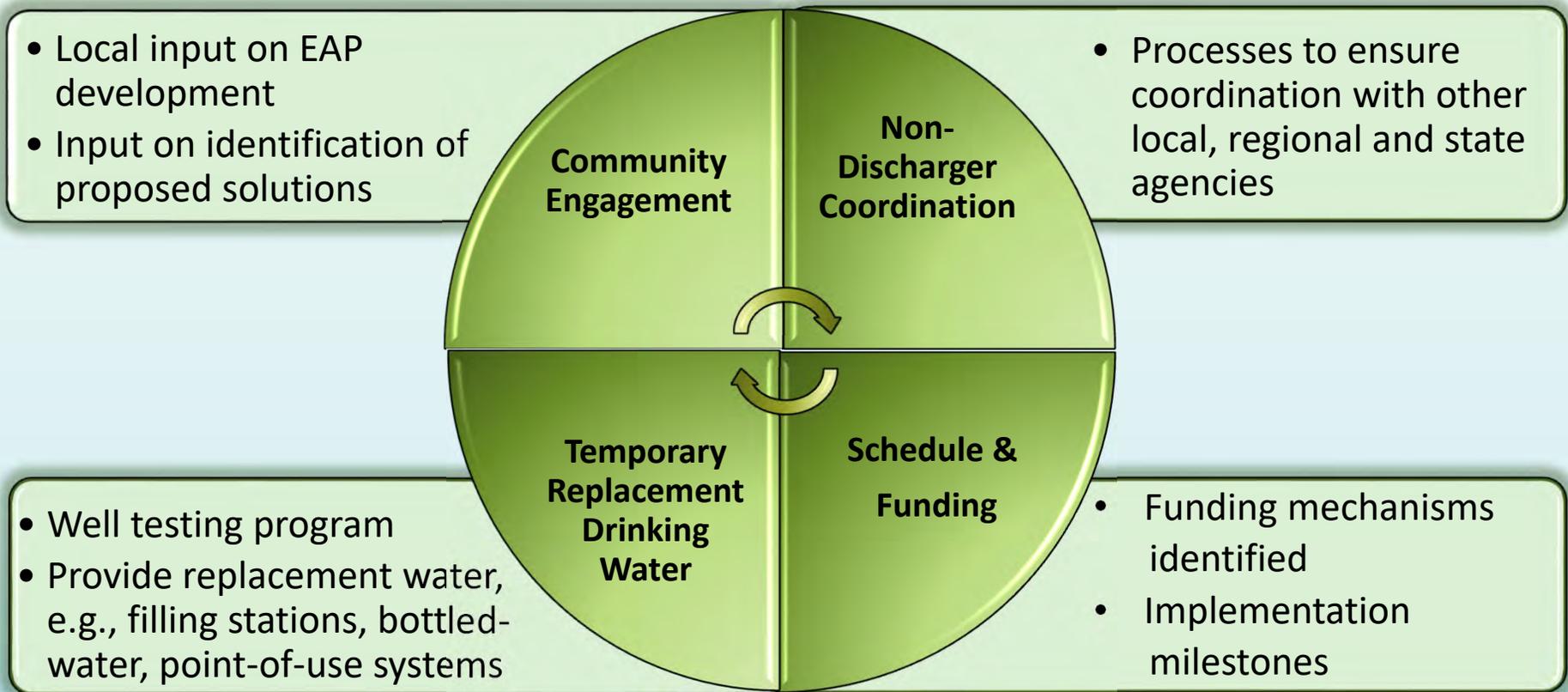
- Proposed Management Zone Boundary
- Identification of participating permitted dischargers
- Initial assessment of nitrate conditions in groundwater
- Potentially impacted public water supplies/domestic wells where nitrate exceeds water quality objectives
- Existing nitrate management practices of participating permitted dischargers
- **Early Action Plan** to assure safe drinking water in the short-term while long-term solutions developed and implemented

MANAGEMENT ZONE DEVELOPMENT SCHEDULE

Preliminary Management Zone Proposal (PMZP) with Early Action Plan (EAP) is due to the Central Valley Water Board 12 months after Notice to Comply



EARLY ACTION PLAN: KEY ELEMENTS



MANAGEMENT ZONES CONDUCT EXTENSIVE OUTREACH

- Conduct virtual outreach to stakeholders and community groups as plans are being developed.

The image shows a virtual meeting interface. On the left, a presentation slide titled "¿Qué es el Nitrato?" (What is Nitrate?) is displayed. The slide contains the following text:

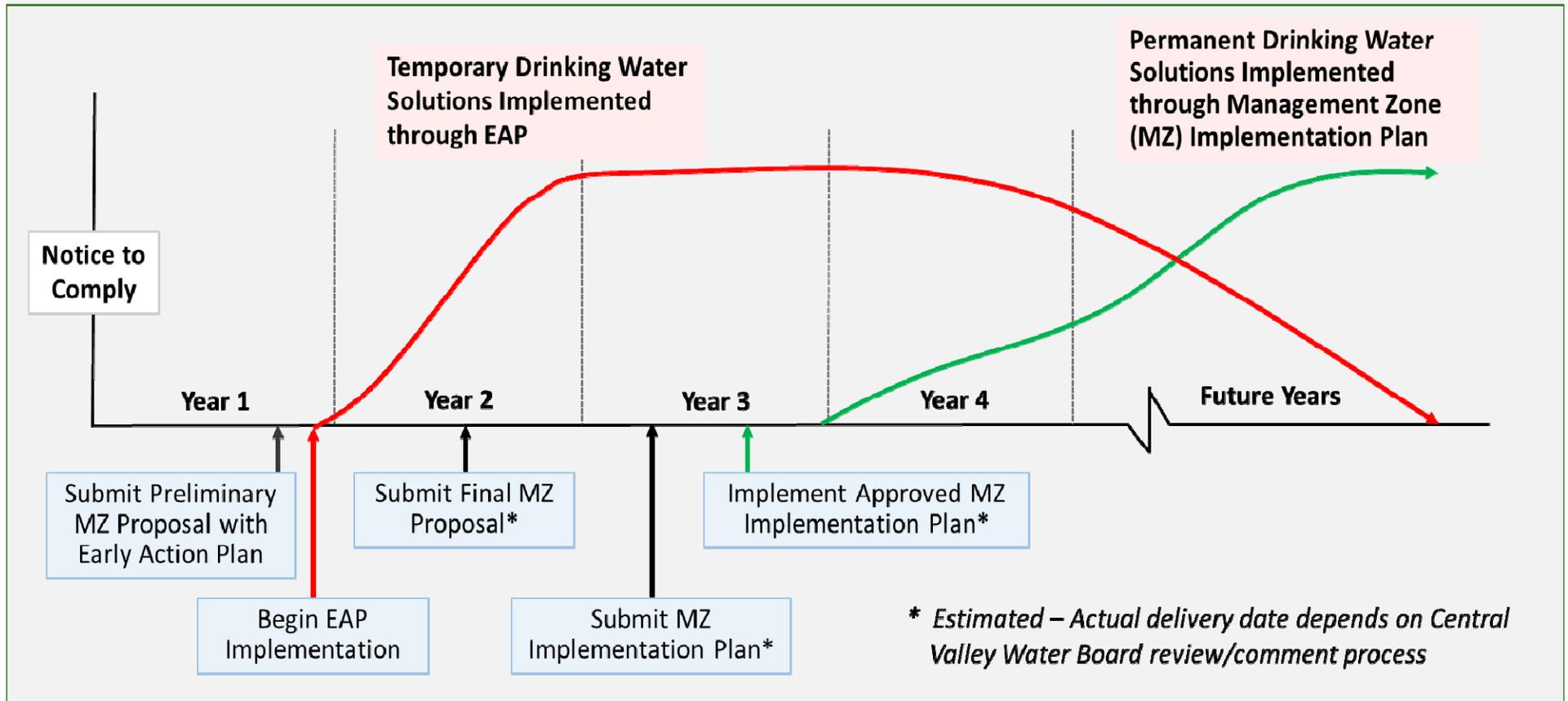
- El nitrato es una sustancia química compuesta de Nitrógeno y Oxígeno
- El nitrato puede producirse de forma natural en la atmósfera a través de relámpagos o directamente por seres humanos y animales como productos de desecho

The slide includes a 3D ball-and-stick model of a nitrate ion (NO₃⁻) and four images: a yellowed leaf, a green leaf, a lightning bolt, and a residential building. At the bottom of the slide, it says "Fuente: Macionis, 'Fis. Quim. y Ciencias', 174" and the number "12".

On the right, a Facebook post from the "Kaweah Water Foundation" is shown. The post is titled "Usuarios de Pozos Domésticos: Entendiendo el Agua Potable..." and includes the text "Asista a este taller y aprenda más sobre... See More". The post has 8 likes, 36 comments, and 256 views (the number 256 is circled in red). Below the post, there are comments, including one from "Kaweah Water Foundation" saying "Thank you all" and another from "Tel Espinoza" saying "Muchas gracias por este taller informativo desde Riverdale CA. Gracias Reyna por traducirnos".

At the bottom of the meeting window, two video thumbnails of participants are visible.

PURPOSE OF EARLY ACTION PLAN (EAP) WITHIN CONTEXT OF OVERALL NITRATE CONTROL PROGRAM



ESTIMATED BUDGET

- FY 22-23 \$25,000 to \$50,000
- FY 23-24 \$250,000
- FY 24-25 \$500,000

HOW TO ORGANIZE MANAGEMENT ZONE

- The current management zones are organized separately from Irrigated Lands. All to date are non-profits comprised of members from participating industries

Options to comply:

- Formation of a non-profit
- Join an existing non-profit
- Create a management zone with the San Joaquin Valley Drainage Authority
- Combine with GSA entities for potential cost savings by eliminating duplication of efforts

DRAFT SLDMWA SGMA Coordination Committee Budget	
Fiscal Year 2024	
Legal	
Outside Counsel*	\$ 30,960
Other Professional Services	
GSP Implementation Contracts	
Coordinated Annual Report Activities (Common Chapter, Water Level Contouring)	\$ 146,093
DMS Hosting, Augmentation and Support	\$ 11,367
Staff Augmentation Support (EKI)	\$ 65,000
DWR SGM Implementation Round 1 Grant Administration**	\$ 75,560
DWR SGM Implementation Round 2 Grant Administration*** (Placeholder)	\$ 75,560
<i>Contracts Subtotal</i>	\$ 373,580
Other	
In-house Salary and Benefits	
Executive Director	\$ 2,364
General Counsel	\$ 4,082
Water Policy Director	\$ 7,100
Water Resources Program Manager	\$ 62,400
Accounting	\$ 2,916
Los Banos Administrative Office (LBAO)	\$ -
License & Continuing Education	\$ 500
Conferences & Training	\$ 1,000
Travel/Mileage	\$ 2,500
Group Meetings	\$ 1,000
Telephone	\$ 500
Equipment and Tools	\$ 5,650
Software	\$ 780
<i>Total Direct Expenditures</i>	\$ 495,332
TOTAL EXPENDITURES	\$ 495,332
Notes:	
1 - Unrestricted. Requires Management Committee Action/Approval for use. Regular Reporting on Status of Funds.	
2 - Unrestricted. Pertinent use includes grant applications, engineering support, and litigation reserve.	
* - Cost not to exceed without Committee authorization	
/*/**** - Cost to be allocated by beneficiary.	

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY
MARCH 1, 2022 - FEBRUARY 28, 2023
SGMA ACTIVITIES - COORDINATED COST-SHARE AGREEMENT

FY23 Projections & FY24 Budget Draft
 Report Period 3/1/22 - 9/30/22

	Central DM Multi Agency GSA			SGMA Coord	Legal, Other Prof., Other	SGMA Rd 1 (Grant Admin)	SGMA Rd 2 (Grant Admin)
	Total Acres	Acres	%				
DIVISION 1						1	2
1. Banta-Carbona ID			0.000%	\$ 746,962	\$ 595,842	\$ 75,560	\$ 75,560
2. City of Tracy			0.000%	\$ -	\$ -	\$ -	\$ -
3. Del Puerto Water District (DPWD 52,570 ac + Oak Flat 4,503 ac)	57,073	0	1.667%	\$ 12,744	\$ 9,931	\$ 2,813	\$ -
3A. Del Puerto (92% of DPWD GSA Cost)			0.000%	\$ 11,724	\$ 9,136	\$ 2,588	\$ -
3B. Oak Flat (8% of DPWD GSA Cost)			0.000%	\$ 1,019	\$ 794	\$ 225	\$ -
4. Patterson Irrigation District (PID 13,067 ac + Twin Oaks 2,629 ac)	15,696	0	1.667%	\$ 10,037	\$ 9,931	\$ 106	\$ -
5. Byron Bethany Irrigation District			0.000%	\$ -	\$ -	\$ -	\$ -
6. West Stanislaus ID (WSID 21,299 ac + Grayson/Westley 246 ac)	21,545	0	1.667%	\$ 12,304	\$ 9,931	\$ 2,373	\$ -
Total Division 1	94,314	0	5.000%	\$ 35,084	\$ 29,792	\$ 5,292	\$ -
DIVISION 2							
1. Panoche Water District	38,317	38,317	0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
2. San Luis Water District	55,316	55,316	0.694%	\$ 14,124	\$ 4,138	\$ 9,986	\$ -
3. Westlands Water District (1)			0.000%	\$ -	\$ -	\$ -	\$ -
4. Charleston Drainage District			0.000%	\$ -	\$ -	\$ -	\$ -
5. Panoche Drainage District			0.000%	\$ -	\$ -	\$ -	\$ -
6. Pleasant Valley			0.000%	\$ -	\$ -	\$ -	\$ -
Total Division 2	93,633	93,633	1.389%	\$ 18,306	\$ 8,276	\$ 10,030	\$ -
DIVISION 3							
1. Central California Irrigation District			0.000%	\$ -	\$ -	\$ -	\$ -
2. Firebaugh Canal Water District			0.000%	\$ -	\$ -	\$ -	\$ -
3. Grassland Water District			16.667%	\$ 114,659	\$ 99,307	\$ 15,352	\$ -
4. HMRD #2131			0.000%	\$ -	\$ -	\$ -	\$ -
5. Columbia Canal Company (Friend Member)			0.000%	\$ -	\$ -	\$ -	\$ -
6. Camp 13 Drainers			0.000%	\$ -	\$ -	\$ -	\$ -
Total Division 3	0	0	16.667%	\$ 114,659	\$ 99,307	\$ 15,352	\$ -
DIVISION 4							
1. San Benito County Water District			0.000%	\$ -	\$ -	\$ -	\$ -
2. Santa Clara Valley Water District (2)			0.000%	\$ -	\$ -	\$ -	\$ -
Total Division 4	0	0	0.000%	\$ -	\$ -	\$ -	\$ -
DIVISION 5							
1. Broadview Water District			0.000%	\$ -	\$ -	\$ -	\$ -
2. Eagle Field Water District	1,325	1,325	0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
3. Fresno Slough WD	1,459	1,459	0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
4. James Irrigation District			0.000%	\$ -	\$ -	\$ -	\$ -
5. Laguna Water District			0.000%	\$ -	\$ -	\$ -	\$ -
6. Mercy Springs Water District	3,840	3,840	0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
7. Oro Loma Water District	1,258		0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
8. Pacheco Water District	4,999	4,999	0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
9. Reclamation District 1606			0.000%	\$ -	\$ -	\$ -	\$ -
10. Tranquillity ID	10,750	10,750	0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
11. Turner Island Water District		0	0.000%	\$ -	\$ -	\$ -	\$ -
Total Division 5	23,631	22,373	3.472%	\$ 25,092	\$ 24,827	\$ 265	\$ -
OTHER							
1. San Joaquin River Exchange Contractors**			16.667%	\$ 114,610	\$ 99,307	\$ 15,303	\$ -
2. Northwestern Delta Mendota Subbasin GSA (Stan. Cty 56,766 ac + Merced Cnty 3,035 ac)	59,801	0	1.667%	\$ 10,037	\$ 9,931	\$ 106	\$ -
2a. Merced County (5% of Northwestern DM GSA Cost)				\$ 502	\$ 497	\$ 5	\$ -
2b. Stanislaus County (95% of Northwestern DM GSA Cost)				\$ 9,535	\$ 9,434	\$ 101	\$ -
3. City of Patterson GSA	6,140	0	1.667%	\$ 10,037	\$ 9,931	\$ 106	\$ -
4. Fresno County (Fresno County Management Area A/E)	29,728	29,728	17.361%	\$ 107,323	\$ 103,445	\$ 3,879	\$ -
5. Merced County (Central DM Portion)	14,176	14,176	0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
6. Santa Nella County Water District	1,488	1,488	0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
7. Aliso Water District			16.667%	\$ 112,590	\$ 99,307	\$ 13,283	\$ -
8. Farmers Water District			16.667%	\$ 111,118	\$ 99,307	\$ 11,811	\$ -
9. Widren GSA	877		0.694%	\$ 4,182	\$ 4,138	\$ 44	\$ -
Total Other	112,210	45,392	22.083%	\$ 478,260	\$ 433,640	\$ 44,620	\$ -
TOTAL	323,788	161,398	48.61%	\$ 671,402	\$ 595,842	\$ 75,560	\$ -

**Note: San Joaquin River Exchange Contractors to allocate to GSP Region participants.

1,2 - Refer to Budget Assumptions 3-12

Draft Timeline: 2025 Plan Update for Coordination Committee

December 12, 2022:	Finalize recommended changes to draft 2025 Update timeline. Initiate task/subtask discussions/assignments for individual GSAs and consultants. Request input on changes to the Coordination Agreement.
January 9, 2022:	Staff submits draft of example “simplified language” (from Common Chapter) for possible adjustments to 2025 Plan update. Review updated draft budgets for funds 64 and 65. Review of items needed for Annual Report. Review statutory requirements for the 2025 Plan updates and DWR’s latest Plan update recommendations.
February 13, 2023:	Continue GSP draft simplified language review and make recommendations. Begin discussions on how to address public comments received on GSP and revisions in the 2025 Plan Updates. Review of any released DWR GSP Determinations on other Subbasins for possible relevance to D-M Subbasin. Draft a workplan for 2025 GSP updates including assignments to specific GSAs and consultants. Begin review of Annual Report Data for the 2025 Plan Updates. Refine 2025 GSP update workplan.
March 13, 2023	Conduct expedited review of DWR comments and recommended actions on revised GSPs and Common Chapter.
April 10, 2023:	Finalize review of DWR comments and recommended actions and incorporate into 2025 GSP update workplan. Finalize workplan including specific assignments for individual GSAs, GSP groups, and consultant tasks. Draft RFP for selecting Plan Update consultant. Schedule meeting with DWR to discuss Plan Update process and procedures.
May 1, 2023:	Issue RFP for Northern & Central Delta-Mendota Subbasin GSP 2025 Update. Staff/GSA/group analysis of “Basin” and “Setting” Chapters and DWR recommended actions. Further review of staff “simplified” text approach. Solicit feedback from DWR on simplified approach.
May 31, 2023:	Deadline for 2025 Update RFP Responses from Consultants. Continue discussions on Coordination Agreement revisions.
June 1-15 2023:	Subcommittee meets to select consultant(s) to interview for 2025 NCDMS Plan Update. Interview consultant(s) for 2025 NCDM GSP Update.
June 15-30 2023:	Select consultant to perform specific tasks for 2025 NCDM GSP Update. Execute Fiscal Year task order. Consultant performs analysis of (any) DWR Plan Update guidance documents, recommended

actions, and task/subtask lists and assignments including responses to comments. If needed, schedule meeting with DWR staff to discuss Plan Update items.

- July 10, 2023: Deadline for consultant data adjustments for 2025 CC Update “Plan Area” and “Settings” Chapters. Begin outline of responses to “general comments.” Begin review and discussions of Subbasin Water Budget and Sustainable Yield with Coordination Committee/TWG. Review of staff “simplified language” proposed changes. Review GSA/GSP group, staff, and consultant task list and timelines.
- August 14, 2023: Continue Water Budget and Sustainable Yield discussions with CC/TWG. Address DWR recommended actions. Finalize WQ section if able and begin discussions on CC Interconnected Surface Water SMC and Table. Meet with DWR to discuss Update progress and proposed changes.
- September 11, 2023: Finish water budget and sustainable yield with CC/TWG and incorporate into NCDM GSP. Incorporate WQ SMC and Table (if not already done) and/or Interconnected Surface Water SMC and table (see above). If able, begin discussions on Chronic Lowering of Groundwater. Address DWR recommended actions.
- October 9, 2023: Finalize Interconnected Surface Water SMC and Table (if not already done) and/or Chronic Lowering of Groundwater SMC and Table. Review tasks lists for GSAs, GSP groups, staff, and consultants for schedule. Review and identify any new priorities for next fiscal year’s budget. Address DWR recommended actions. Meet with DWR to discuss Update progress and proposed changes. Review GSA/GSP group, staff, and consultant task list and timelines.
- November 13, 2023: Finalize Chronic Lowering of groundwater SMC and table. Begin discussions of Reduction in Groundwater Storage SMC and Table. Continue review of budget. Address DWR recommended actions. Review items needed for Annual Report.
- December 11, 2023: Continue discussions of Reduction in Storage SMC and Table. Approve next fiscal year’s budget. Continue to review simplified language efforts. Address DWR recommended actions (if needed). Meet with DWR to discuss Update progress and changes.
- January 8, 2024: Finalize Reduction in Storage SMC and Table. Begin discussions of SMC and Table for Subsidence. Address DWR recommended actions (if needed). Review staff edits for simplified language. Review GSA/GSP group, staff, and consultant task list and timelines.

February 12, 2024:	Continue discussions of SMC and Table for Subsidence. Address DWR recommended actions (if needed). Meet with DWR to discuss Update progress and changes.
March 11, 2024:	Finalize SMC and Table for Subsidence. Begin planning public meetings on 2025 update. Finalize action on DWR recommended actions (if needed). Create draft presentation on Update changes. Meet with DWR to discuss Update progress and changes.
April 8, 2024:	Buffer month for tying up loose ends. Possibly begin public meeting roadshow. Review simplified language changes and refine draft presentation. Review GSA/GSP group, staff, and consultant task list and timelines.
May 13, 2024:	Begin holding public meetings on 2025 GSP update in Cooperation with the Coordination Committee. Note attendance and comments. Final review of GSA/GSP group task assignments and completion.
June 10, 2024:	Continue public meetings. Finalize draft Coordination Agreement revisions. Continue GSP simplified language revisions. Meet with DWR to discuss Update progress and changes.
July 8, 2024:	Continue Public Meetings. Continue individual GSP revisions. Coordination agreement out for GSA/GSP approval.
August 12, 2024:	Deadline for final review of CC, GSPs, and response to comments. Continue public meetings.
September 9, 2024:	Final approval of GSP 2025 Update.
Sept./Oct. 2024:	Begin public notices, public hearings, and formal approval at GSA level for final 2025 Common Chapter and individual GSP updates.
January 23, 2025:	Submit 2025 GSP Updates including Common Chapter, other appendices, and Coordination Agreement.

Table 1: Northern & Central Delta-Mendota GSP Implementation Commitments - in Text of Groundwater Sustainability Plan

Task	Activity	Related	GSP Deadline	GSP Reference ^(a)	Status as Reported in WY2021 Annual Report	Comments	Activities Performed to Date in WY 2022 ^(d)
1	Update/refine monitoring network as new wells are constructed and well construction information is obtained						
1a	Well Census and Inventory project	--	2025	--	Completed in February 2022	Reconciliation of Well Census and Inventory information with update to SGMA monitoring network remains to be done.	Additional changes to NCDM representative monitoring network (RMN) will be necessary as additional wells were removed from the RMN during 2022 sampling events.
1b	Video log 14 wells that are missing well construction information	--	2025	NCDM GSP Section 7.2.5.1.6	N/A	Identified as an optional task in Well Census and Inventory project scope but not performed.	--
1c	Determine if video-logged wells are appropriate to add to the [SGMA] monitoring network	1a	2025	CC Section 4.2.8; NCDM GSP Sections 5.3.8 and 7.2.5.1.6	N/A	--	--
2	Establish ICSW SMC as a rate or volume of surface water depletions						
2a	Install five additional ICSW monitoring wells adjacent to the San Joaquin River	--	2025	CC Section 4.2.8; NCDM GSP Section 5.3.8	N/A	\$929,400 awarded to Subbasin in SGM Round 1 Implementation Grant for data gap filling efforts, including installation of at least one (1) and up to four (4) ICSW monitoring wells in the NCDM region.	SGM Round 1 Funding Agreement executed with DWR on 10/7/22. Funding for additional ISW wells will be included in SGM Round 2 Grant Application due 11/30/22.
2b	Collect and analyze data from ICSW monitoring wells	2a	2030	CC Section 4.2.8; NCDM GSP Section 5.3.8	N/A	Limited data collection and analysis to date.	--
3	GDE mapping						
3a	Analyze locations of potential GDEs using recent groundwater elevation/depth contour mapping	--	2025	CC Section 4.2.8; NCDM GSP Section 5.3.8	N/A	Limited/no data collection and analysis to date.	--
4	Re-evaluate land subsidence SMC considering new data and studies						
4a	Collect and analyze subsidence data from 2020-2025 and identify where there are spatial data gaps	--	2025	CC Section 4.2.8	Ongoing, data collected WY2020 and 2021	Completed <i>Conceptual Master Plan for Subsidence Monitoring and Management for the Delta-Mendota Subbasin</i> in June 2022.	--
4b	Work with USBR to revise CVHM2 model to simulate interactions between groundwater extractions and land subsidence	--	2025	CC Section 5.4.4	N/A	Intermittent coordination meetings have occurred between SLDMWA, GSAs, and USBR.	Meeting with USBR re groundwater model on 12/12/2022.
4c	Determine portion of subsidence caused by groundwater extraction within and outside the Subbasin at each RMS	4a, 4b	2025	NCDM GSP Section 6.3.5.3	N/A	\$929,400 awarded to Subbasin in SGM Round 1 Implementation Grant for portion of data gap filling efforts, including subsidence monitoring.	SGM Round 1 Funding Agreement executed with DWR on 10/7/22.
4d	Review and revise HCM to incorporate new subsidence data, including AEM survey and results from the subsidence study	4a, 4c	2025	CC Section 5.4.4; NCDM GSP Section 6.3.5.3	N/A	Limited/no analysis to date.	--
4e	Assess allowable land subsidence on a Subbasin and localized basis	4a, 4c, 4d	2025	CC Section 5.4.4; NCDM GSP Section 6.3.5.3	N/A	Limited/no analysis to date.	Several NCDM GSAs planning local subsidence monitoring events at end of 2022.
4f	Conduct an updated subsidence DMC Conveyance Capacity Analysis	--	2025	NCDM GSP Section 5.3.8	N/A	SLDMWA led effort. SLDMWA noted that work has been done to create a model in HEC-RAS and an EIR for Subsidence Correction Project is expected to be complete mid-2023.	--
5	Refine/update water budget and sustainable yield estimates						
5a	Establish additional CIMIS and/or other weather stations to define spatial variability of precipitation and evapotranspiration	--	2025	NCDM GSP Section 5.3.8	N/A	Limited/no analysis to date.	--
5b	Reconciliation of water budget nomenclature in individual GSPs with terminology used in the Common Chapter	--	2025	CC Section 4.3.1	N/A	Limited/no analysis to date.	--
5c	Improve estimated allocation of groundwater extraction between two aquifers (based on well construction information and inventory projects completed by GSAs in 2022)	1a, 1b	2025	CC Section 4.3.1	N/A	Limited/no analysis to date. Reconciliation of Well Census and Inventory information with update to pumping estimates remains to be done. Some GSAs have initiated efforts to register wells and require metering/water use reporting, but incomplete records to date.	--
5d	Improve storage estimates of each aquifer using data collected from 2020-2025	--	2025	CC Section 4.3.1	N/A	Limited/no analysis to date.	--

Task	Activity	Related	GSP Deadline	GSP Reference ^(a)	Status as Reported in WY2021 Annual Report	Comments	Activities Performed to Date in WY 2022 ^(d)
6	Update Sustainable Management Criteria						--
6a	Develop short-term (acute) thresholds for Chronic Lowering of Groundwater Levels	--	2025	CC Section 5.4.1; NCDM GSP Section 6.3.1.2	N/A	Limited/no analysis to date.	--

Abbreviations:

AEM	= Airborne Electromagnetic	N/A	= Not Applicable
CC	= Common Chapter	NCDM	= Northern & Central Delta-Mendota
CIMIS	= California Irrigation Management Information System	PID	= Patterson Irrigation District
CVHM2	= Central Valley Hydrologic Model, Version 2	RMS	= Representative Monitoring Site
DMC	= Delta-Mendota Canal	SGM	= Sustainable Groundwater Management
EIR	= Environmental Impact Report	SGMA	= Sustainable Groundwater Management Act
GDE	= Groundwater Dependent Ecosystem	SMDMWA	= San Luis and Delta-Mendota Water Authority
GSA	= Groundwater Sustainability Agency	SMC	= Sustainable Management Criteria
GSP	= Groundwater Sustainability Plan	USBR	= United States Bureau of Reclamation
HCM	= Hydraulic Conceptual Model	WSID	= West Stanislaus Irrigation District
ICSW	= Interconnected Surface Water	WY	= Water Year

Notes:

- (a) Commitments identified in this table were made in either the 2022 Amended NCDM GSP or Common Chapter for the Delta-Mendota Subbasin GSPs.
- (b) Based upon information reported by GSAs.
- (c) A yellow highlighted row indicates that the activity was not included in the 2020 GSP submittal and was added during the 2022 GSP revision process.
- (d) Based upon information communicated by GSAs.

Table 2: Northern & Central Delta-Mendota GSP Implementation Commitments - Projects

Tier ^(a)	Project ^(b)	Project Proponent	Estimated Cost	Status as Reported in WY2021 Annual Report ^(c)	Comments ^(d)	Activities Performed to Date in WY 2022 ^(e)
1	Los Banos Creek Recharge and Recovery Project	San Luis Water District	\$9,116,374	Preliminary design completed in 2018; additional steps pending funding for CEQA, design, and construction.	\$1,000,000 awarded in SGM Round 1 Implementation Grant.	SGM Round 1 Funding Agreement executed with DWR on 10/7/22.
1	Orestimba Creek Recharge and Recovery Project	Del Puerto Water District	\$7,923,450	CEQA/NEPA complete; design anticipated complete in early Spring 2022; Construction anticipated complete by end of 2023.	--	Design complete in October 2022.
1	North Valley Regional Recycled Water Program (NVRWP) – Modesto and Early Turlock Years	Del Puerto Water District	\$96,000,000	Completed Turlock and Modesto components in March 2020; Ceres component in progress, funding requested through SGM Round 1 Implementation Grant; anticipated completion in 2023.	Portions of project are completed. \$250,150 awarded in SGM Round 1 Implementation Grant.	SGM Round 1 Funding Agreement executed with DWR on 10/7/22.
1	City of Patterson Percolation Ponds for Stormwater Capture and Recharge	City of Patterson	\$7,800,000	Project still in conceptual and EIR phase (linked to planned development); preliminary design to occur in 2022.	--	--
1	Kaljjan Drainwater Reuse Project	San Luis Water District	\$16,500,000	Preliminary design and CEQA/permitting in progress; design planned for 2023-2025, construction planned to start in 2025.	--	--
1	West Stanislaus Irrigation District Lateral 4-North Recapture and Recirculation Reservoir	West Stanislaus Irrigation District	\$1,120,000	FS completed in Sept 2021; design anticipated to take 8 months with CEQA in parallel.	\$250,150 awarded in SGM Round 1 Implementation Grant.	SGM Round 1 Funding Agreement executed with DWR on 10/7/22. Construction planned to start in late 2024.
1	Revision to Tranquillity Irrigation District Lower Aquifer Pumping	Tranquillity Irrigation District	\$0	Well Water Operations Plan established in 2017 and implemented on an annual basis.	--	--
2	Del Puerto Canyon Reservoir Project	Del Puerto Water District	\$491,300,000	30% preliminary design anticipated to be complete in 2022; CEQA completed in October 2020; NEPA to be completed fall 2024; 100% design and permitting anticipated complete in 2024; construction anticipated complete in 2028.	--	--
2	Little Salado Creek Groundwater Recharge and Flood Control Basin	Stanislaus County	\$7,710,000	Scheduled for development in subsequent phases of the overall CLIBP project.	--	--
2	Patterson Irrigation District Groundwater Bank and/or Flood MAR-type Project	Patterson Irrigation District	TBD	Consultant retained for FS; acquired small potential property.	--	--
2	West Stanislaus Irrigation District Lateral 4-South Recapture and Recirculation Reservoir	West Stanislaus Irrigation District	\$1,500,000	Preliminary design complete in September 2021.	Partially funded under IRWM grant.	--
2	Ortogonal Creek Groundwater Recharge and Recovery Project	San Luis Water District	TBD	N/A	Partially funded under IRWM grant.	Funding request will be included in SGM Round 2 Grant Application due 11/30/22.

Abbreviations and Notes provided on page 2

Abbreviations:

CEQA	= California Environmental Quality Act
CLIBP	= Crows Landing Industrial Business Park
EIR	= Environmental Impact Report
FS	= Feasibility Study
IRWM	= Integrated Regional Water Management
MAR	= Managed Aquifer Recharge
N/A	= Not Applicable
NCDM	= Northern & Central Delta-Mendota
NEPA	= National Environmental Policy Act
SGM	= Sustainable Groundwater Management
TBD	= To Be Determined
USBR	= United States Bureau of Reclamation
WY	= Water Year

Notes:

- (a) Projects and Management Actions divided into Tiers (pg 7-1 of Revised GSP):

Tier 1 – Near-term projects and management actions that the Groundwater Sustainability Agencies (GSAs) are committed to implementing at this time. These projects and management actions are either currently in the process of being implemented or could be implemented in the near future (constructed and operational) within the next five years (by 2025).

Tier 2 – Projects and management actions that have been identified and require further development before implementation can occur. It is anticipated that these projects and management actions could be developed over the next five years and implemented beginning in 2026 or later, pending re-evaluation prior to the 5-year GSP Update in 2025.

Tier 3 – Longer-term projects and management actions that may be implemented in the future as needed. Many of these projects are outside of the GSAs' control but could have implications on surface water availability and/or are additional projects/management actions that could be implemented under an adaptive management approach. For purposes of this analysis, did not include the Tier 3 projects listed in the GSP (because implementation of the identified projects is driven by others).

- (b) Project information obtained from Section 7 of the 2022 amended NCDM GSP.
 (c) Consolidated WY 2021 Annual Report dated March 2022, incorporating updated information obtained from GSAs in 3Q2022 GSP Implementation Tracking Tools.
 (d) Per SGMA Budget Spending Plan circulated by John Brodie on 12 August 2022, NCDM was awarded a total of \$1,500,300 from SGMA Round 1 grant to Subbasin.
 (e) Based upon information communicated by GSAs.

Table 3: Northern & Central Delta-Mendota GSP Implementation Commitments - Management Actions

Tier ^(a)	Management Action ^(b)	Status as Reported in WY2021 Annual Report ^(c)	Comments	Activities Performed to Date in WY 2022 ^(d)
1	Lower Aquifer Pumping Rules for Minimizing Subsidence	GSA's have coordinated on developing Lower Aquifer pumping rules	Limited/no analysis or discussion to date. Some GSAs (e.g., CDM, PID and WSID) have adopted ordinances requiring the registration of wells and/or reporting of pumping. Wells in other GSAs are equipped with meters. This pumping data, coupled with the <i>Well Census and Inventory</i> Report, could be used to at least better understand the location and distribution of pumping.	GSA efforts to require metering and reporting of pumping are continuing. CDM GSA has developed a draft Administrative Policy for metering/reporting.
1	Maximize Use of Other Water Supplies	N/A	No formal policies implemented.	SNCWD expects to sign contract for surface water supply by 12/31/22.
1	Increasing GSA Access to and Input on Well Permits	GSAs have coordinated on increasing GSA participation in well permitting process	Governor's EO N-7-22 provides some clarity and authority. Merced County and Stanislaus County have updated their well permitting process and requirements.	GSA effort continues on this topic.
1	Drought Contingency Planning in Urban Areas	Conducted as part of UWMPs	Addressed in adopted 2020 UWMPs (applies to City of Patterson).	--
1	Fill Data Gaps	N/A	See "Implementation Activities" tab for specific data-gap filling efforts. SGM Round 1 Implementation Grant awarded \$929,400 to Subbasin for Data Gaps and Monitoring.	SGM Round 1 Funding Agreement executed with DWR on 10/7/22. Additional ISW wells being requested as part of SGM Round 2 Funding Agreement due 11/30/22.
2	Develop Program to Incentivize Use of Surface Water and Reduce Groundwater Demand	N/A	Limited/no analysis or discussion to date.	--
3	Groundwater Extraction Fee with Land Use Modifications	N/A	Limited/no analysis or discussion to date.	--
3	City of Patterson Reduced Groundwater Use Portfolio	N/A	Limited/no analysis or discussion to date.	--
3	Rotational Fallowing of Crop Lands	N/A	Limited/no analysis or discussion to date.	--

Abbreviations:

- CDM = Central Delta-Mendota
- EO = Executive Order
- GSA = Groundwater Sustainability Agency
- GSP = Groundwater Sustainability Plan
- NCDM = Northern & Central Delta-Mendota
- N/A = Not applicable
- PID = Patterson Irrigation District
- SGM = Sustainable Groundwater Management
- UWMP = Urban Water Management Plan
- WSID = West Stanislaus Irrigation District
- WY = Water Year

Notes Provided on Page 2

Notes:

- (a) Projects and Management Actions divided into Tiers (pg 7-1 of 2022 Amended NCDM GSP):
 - Tier 1 – Near-term projects and management actions that the Groundwater Sustainability Agencies (GSAs) are committed to implementing at this time. These projects and management actions are either currently in the process of being implemented or could be implemented in the near future (constructed and operational) within the next five years (by 2025).
 - Tier 2 – Projects and management actions that have been identified and require further development before implementation can occur. It is anticipated that these projects and management actions could be developed over the next five years and implemented beginning in 2026 or later, pending re-evaluation prior to the 5-year GSP Update in 2025.
 - Tier 3 – Longer-term projects and management actions that may be implemented in the future as needed. Many of these projects are outside of the GSAs’ control but could have implications on surface water availability and/or are additional projects/management actions that could be implemented under an adaptive management approach.
- (b) Management Action information obtained from Section 7 of the 2022 Amended NCDM GSP.
- (c) Consolidated WY 2021 Annual Report dated March 2022, incorporating information provided by GSAs in 3Q2022 GSP Implementation Tracking Tools.
- (d) Based upon information communicated by GSAs.

Table 4: Northern & Central Delta Mendota GSP Implementation - Status of Well Ordinances

Organization	Ordinance Identification	Ordinance Date	Text (3Q2022 Update in Red Font)
Fresno County	Ordinance No. 00-13	September 2000	Section 14.03.090 - Conditions of permit approval. "C. If requested by the county, the permittee shall share with the county groundwater monitoring information and data, and, where practicable, the parties shall coordinate their groundwater management efforts to effectively monitor groundwater resources throughout the county"
Merced County	Ordinance No. 1930 An Ordinance to Prevent the Mining and Export of Groundwater from the Unincorporated Portions of Merced County	March 2015	Section 9.27.065 - Groundwater Monitoring & Reporting "A. Monitoring. All new permits for wells or groundwater exports under the scope of this ordinance shall be measured by a properly installed and maintained water measuring device satisfactory to the Department of Public Health, Division of Environmental Health. As an alternative to water measuring devices, other reasonable methods to determine groundwater extraction may be used if approved by the Department of Public Health, Division of Environmental Health. B. Reporting. All persons, including Public Works Agencies, that extract groundwater within the County shall cause to be prepared and submitted to the Department of Public Health, Division of Environmental Health, annual reports of groundwater information that are necessary to monitor the existing condition of groundwater resources within the County....The required information to be reported shall include without limitation water level and pumping data...."
Stanislaus County	Ordinance CS 1155, Section 9	2014	Section 9.37.065 Groundwater monitoring. "A. All persons, including public water agencies that extract groundwater within the county shall cause to be prepared and submitted to the county department of environmental resources periodic reports of groundwater information that are reasonably necessary to monitor the existing condition of groundwater resources within the county, to determine trends, or to develop effective sustainable groundwater management plans and policies. A de minimis extractor shall not be required to submit such information. B. The department shall develop and recommend regulations to be adopted by the board that establish the frequency and timing of required reports, and the required information to be monitored, including, without limitation, water level and pumping data, or other data necessary for any other method to determine groundwater production."
Patterson Irrigation District	Resolution 05-2020: Patterson Irrigation District Groundwater Sustainability Agency Rule Regarding Irrigation Well Meters	15 April 2020	"The owner of any Groundwater Extraction Facility within the PID GSA must register that Groundwater Extraction Facility with the PID GSA... ...The owner of every Groundwater Extraction Facility within the PID GSA must measure use of that Groundwater Extraction Facility by a water-measuring device (Meter) satisfactory to the PID GSA... ...Meters must be installed on all Groundwater Extraction Facilities by January 1st, 2021."
West Stanislaus Irrigation District	West Stanislaus Irrigation District Groundwater Sustainability Agency Policy Regarding Irrigation Well Meters	2020	"The owner of any Groundwater Extraction Facility within the WSID GSA must register that Groundwater Extraction Facility with the WSID GSA... ...The owner of every Groundwater Extraction Facility within the WSID GSA must measure use of that Groundwater Extraction Facility by a water-measuring device (Meter) satisfactory to the WSID GSA. Meters must be installed on all Groundwater Extraction Facilities by January 1st, 2021. The meter shall measure all flow rate in gallons per minute, or cubic feet per second and totalize total extractions in gallons, cubic feet, or in acre-feet."
Del Puerto Water District	Draft Groundwater Well Metering Policy	15 June 2022	Covers well registration, metering, access, costs, semi-annual reporting, maintenance, and exclusions. Packets to be sent to customers explaining the new well registration and metering policy requirements in the near future.
City of Patterson	Ordinance No. 348, Section 1	1981	13.20.010 Private wells—Construction prohibited. No person, firm or corporation may drill, dig or install a water well in the city for any purpose whatsoever, save and except the Patterson City Water Company.

Organization	Ordinance Identification	Ordinance Date	Text (3Q2022 Update in Red Font)
Central Delta-Mendota GSA	Central GSA Resolution Nos. 2021-01 and 2021-02	25 January 2021	Adopted two Resolutions on 25 January 2021: require registration of all wells by 4/1/2021, impose fee for late registration. Developed draft Well Metering and Reporting Policy in 2022 to require installation of meters on production wells within the GSA and reporting of pumped groundwater volumes.
Widren Water District	N/A	N/A	N/A. The two operational supply wells in WWD are equipped with meters.

Abbreviations:

- GSA = Groundwater Sustainability Agency
- GSP = Groundwater Sustainability Plan
- N/A = Not Applicable
- NCDM = Northern & Central Delta-Mendota
- No. = Number
- PID = Patterson Irrigation District
- SGMA = Sustainable Groundwater Management Act
- WSID = West Stanislaus Irrigation District

Notes:

- (a) Online search for ordinances adopted by NCDM GSAs and member agencies performed in August 2022.
- (b) Note that County Ordinances are also discussed in Section 2.3.2 of the 2022 amended NCDM GSP. Discussion speaks more to permitting process for well construction/destruction and less to measuring of pumped groundwater.

Funding Opportunities – Updated 12/8/2022

Fertilizer Research and Education Program (FREP)

Pre-proposals are being accepted. FREP funds and facilitates research and education to advance the environmentally safe and agronomically sound use and handling of fertilizing materials. Dept. of Food and Ag. Up to \$225,000. Deadline 12/19/22.

CVPIA Habitat Restoration Program

Funding for projects that protect and restore native habitat impacted by the Central Valley Project. Up to \$4.7 million available from the USBR and USFWS. Grants from \$25,000 to \$1,000,000. Deadline 12/30/22.

Food Production Investment Program

Funding to accelerate the adoption of advanced energy efficiency and renewable energy technologies at California food processing plants and benefit priority populations. \$7 million available from the CA Energy Commission. 35% match required. Deadline 1/25/23

Urban Community Drought Relief Program

Includes set-aside funding for DACs, SDACs, and Underrepresented communities. A wide variety of eligible activities. Minimum \$3 Million Award. Grants through DWR. Deadline 1/31/23.

CA State Duck Stamp Project

\$1.135 Million available for projects that protect, preserve, restore, enhance, and develop migratory waterfowl breeding and wintering habitat. Projects must be approved by the fish and game commission. Deadline 2/3/23

County-Wide and Regional Funding Program

Funding for regional programs that address drought-related and contamination issues for small water systems and domestic wells serving DACs. No deadline. Funding is from the State Water Board.

Restoration Grant Program

Multiple funding programs including wetland restoration, wildlife corridors, and addressing climate impacts. Project categories include: planning, implementation, acquisition, monitoring, and scientific studies. Applications accepted on rolling basis. Funding from CA Dept. of Fish and Wildlife.

Riparian Habitat Conservation Program

The Wildlife Conservation Board is accepting concept proposals for projects that provide meaningful and sustainable improvements to riparian habitats. \$3 Million available on a rolling basis.

Fertilizer Research and Education Program

Total of \$225,000 available for projects on: improving input management, understanding plant-soil processes, and evaluating loss pathways. They are focused on nutrients in general with nitrogen/nitrates as a particular focus. It is a rolling deadline with funding awarded as projects are approved. CA Dept. of Food and Agriculture.

MEMORANDUM

TO: Public Agency Clients

FROM: Lauren D. Layne
Kenneth J. Price
Jessica S. Johnson
Parker W. Johnson
BAKER MANOCK & JENSEN, PC

DATE: December 7, 2022

RE: Public Agency Updates for 2023

PUBLIC AGENCY NOTIFICATION

The purpose of this memorandum is to inform our public agency clients of new laws and changes in the existing laws which may affect them in 2023.

DISCUSSION

A. Brown Act Changes in AB 2449, AB 2647 and SB 1100.

1. Teleconferencing to Meetings Allowed in Limited Circumstances (AB 2449)

Existing law under the Ralph M. Brown Act (“Brown Act”) requires board members who wish to participate remotely in their local agency’s public meeting to list the location from which they are participating on the agenda, post the agenda at that location, and make that location accessible to the public. On September 13, 2022, AB 2449 was signed into law, which amended the Brown Act to allow a legislative body of a local agency to use teleconferencing, without complying with the Brown Act notice and accessibility requirements, so long as there is “just cause” and certain other requirements are met. If those requirements are not met, then the

traditional teleconferencing rules will apply. AB 2449 slightly modifies, but does not extend the Brown Act's COVID-19-era emergency teleconference procedures under AB 361 (see Section B below).

Starting January 1, 2023, legislative bodies of local agencies may use teleconferencing without complying with the traditional Brown Act teleconferencing rules or the modified AB 361 rules under the following circumstances:

1. At least a quorum of the members of the legislative body must participate in person from a singular location identified in the agenda, which location will be open to the public and within the boundaries of the local agency.¹
2. A two-way phone or video service and a live broadcasting of the meeting is provided to allow the public to remotely hear and observe the meeting and address the legislative body.²
3. The agenda must identify and include an opportunity for all persons to attend via a call-in option, internet-based service option, and at the in-person location of the meeting.³

In addition to the above requirements, a member may participate remotely only if one of the following are met:

1. The member notifies the legislative body at the earliest possible opportunity, including at the start of the regular meeting, of his/her need to participate remotely for "just cause,"⁴ including a general description of the circumstances relating to his/her need to appear remotely at the given meeting;⁵ or
2. The member requests the legislative body to allow him/her to participate in the meeting remotely due to "emergency circumstances"⁶ and the legislative body takes action to approve the request.⁷ The legislative body must request a general description (generally not exceeding 20 words) of the circumstances relating to

¹ Gov. Code, § 54953.1, subd. (f)(1).

² Gov. Code, § 54953.1, subd. (e)(1)(A).

³ Gov. Code, § 54953.1, subd. (e)(1)(C).

⁴ "Just cause" is (i) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely; (ii) a contagious illness that prevents a member from attending in person; (iii) a need related to a physical or mental disability as defined by statute; or (iv) travel while on official business of the legislative body or another state or local agency. (Gov. Code, § 54953.1, subd. (j)(2)).

⁵ Gov. Code, § 54953.1, subd. (f)(2)(A)(i).

⁶ "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person. (Gov. Code, § 54953.1, subd. (j)(1).)

⁷ Gov. Code, § 54953.1, subd. (f)(2)(A)(ii).

the board member's need to appear remotely at the given meeting, without disclosing confidential medical information.⁸

AB 2449 procedures may not be used by a member of the legislative body to teleconference for a period of more than three (3) consecutive months or 20% of the regular meetings within a calendar year, or more than two (2) meetings if the legislative body meets fewer than 10 times per calendar year.⁹ In addition, the "just cause" exemption may only be used two (2) times per calendar year.¹⁰ A member participating remotely must do so through both audio **and** visual technology and – before any action is taken – must publicly disclose whether an individual over the age of 18 is present at the remote location with the board member.¹¹ Remote locations need not be accessible to the public.¹² As required pre-AB 2449, all votes must be taken by roll call.¹³

AB 2449 requires the legislative body to implement procedures for receiving and resolving requests for reasonable accommodations for individuals with disabilities, consistent with applicable civil rights and nondiscrimination laws.¹⁴ Further, if there is an internet or telephonic service disruption that prevents the agency from broadcasting the meeting, the agency may take no action until the broadcast is restored.¹⁵ Actions taken during a disruption may be challenged.¹⁶ Finally, a legislative body may take action on items of business not appearing on the posted agenda if the request to consider action was for a member to participate in a meeting remotely due to emergency circumstances and the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made.¹⁷ The legislative body may approve such a request by a majority vote.¹⁸

AB 2449 is effective on January 1, 2023, and remains in effect until December 31, 2026.¹⁹ Starting January 1, 2026, unless further legislation is adopted, only traditional Brown Act rules will remain in effect.

2. Public Inspection Requirements for Newly Produced Documents (AB 2647)

Following *Sierra Watch v. Placer County*,²⁰ the California Legislature passed AB 2647. AB 2647 amends Government Code section 54957.5 of the Brown Act to clarify the public

⁸ Gov. Code, § 54953.1, subd. (f)(2)(A)(ii).

⁹ Gov. Code, § 54953.1, subd. (f)(3).

¹⁰ Gov. Code, § 54953.1, subd. (f)(2)(A)(i).

¹¹ Gov. Code, § 54953.1, subd. (f)(2)(C).

¹² Gov. Code, § 54953.1, subd. (j)(3).

¹³ Gov. Code, § 54953, subd. (b)(2).

¹⁴ Gov. Code, § 54953, subd. (g).

¹⁵ Gov. Code, § 54953, subd. (e)(1)(E).

¹⁶ Gov. Code, § 54953, subd. (e)(1)(E).

¹⁷ Gov. Code, § 54953, subd. (f)(2)(A)(ii)(II).

¹⁸ Gov. Code, § 54953, subd. (f)(2)(A)(ii)(II).

¹⁹ Gov. Code, § 54953.2, subd. (e).

²⁰ (2021) 69 Cal.App.5th 1.

disclosure requirement when documents related to an upcoming public meeting are distributed to the majority of a legislative body within 72 hours of such publicly-noticed meeting. AB 2647 states that the Brown Act is satisfied if the local agency posts the documents online at the time the documents are distributed to the board members, so long as physical copies are made available for public inspection at the beginning of the next regular business day at the designated public office before the meeting.²¹

Sierra Watch v. Placer County involved a Board of Supervisors meeting in 2011 to consider a proposed real estate development plan. After the agenda for the meeting had been posted, the development agreement was amended to address concerns the Attorney General raised about compliance with the California Environmental Quality Act. The County Clerk received updated documentation after normal business hours on the day before the meeting, and immediately placed copies of the documentation in the County clerk's office. That same evening the County clerk emailed the documents to Board members. The next day the Board met and approved the project. The Court of Appeal ultimately found that the County violated the requirements of the Brown Act at the time, holding that because the County Clerk's office was closed when the documents were placed there, the documents were not "available to the public" until the next day, meaning the documents were not made available at the same time they were circulated to the Board.

As amended, Government Code section 54957.5 states that if a writing is a public record relating to an agenda item and is distributed to all or a majority of the members of a legislative body of a local agency less than 72 hours before the meeting, then the writing must be made available for public inspection at the time the writing is distributed to the members of the body.²² The local agency may comply with this requirement by making the writing available for public inspection at the public office or location designated by the agency, and listing the location for inspection on the agenda for all meetings of the local agency.²³ The local agency may also comply with this requirement if: 1) an initial staff report or similar document containing an executive summary and staff recommendation relating to the agenda item is made available for public inspection at the office or location designated by the local agency; 2) the local agency immediately posts the writing on the local agency's internet website making clear that the writing relates to an agenda item; 3) the local agency's internet website is listed on the agendas for all meetings of the legislative body of that agency; and 4) the local agency makes physical copies available for public inspection beginning the next regular business hours of the local agency provided the next regular business hours commence at least 24 hours before that meeting.²⁴

These changes are effective as of January 1, 2023.

²¹ Gov. Code, § 54957.5.

²² Gov. Code, § 54957.5, subd. (b)(1).

²³ Gov. Code, § 54957.5, subd. (b)(2)(A).

²⁴ Gov. Code, § 54957.5, subd. (b)(2)(B).

3. Additional Process for Expulsion of Disruptive Participants (SB 1100)

SB 1100 is designed to address disruptions at public local government meetings by adding section 54957.95 to the Government Code. Government Code section 54957.95 outlines a new process in which the presiding member of a legislative body conducting a meeting, or his/her designee, may remove an individual for disrupting the meeting, if the official 1) warns the individual that his/her behavior is disrupting the meeting and 2) the individual's failure to cease his/her behavior may result in removal.²⁵ If the individual does not "promptly" cease his/her disruptive behavior, then the individual can be removed.²⁶

Section 54957.95 defines "disrupting" as "engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting."²⁷ These acts include, but are not limited to "[a] failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law" and "[e]ngaging in behavior that constitutes use of force or a true threat of force."²⁸ A "true threat of force" is defined as "a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat."²⁹

B. End of COVID Emergency (AB 361 Teleconference Meetings)

Earlier this year, Governor Newsom announced that the COVID-19 State of Emergency in California will end on February 28, 2023. On its own terms, AB 361 expires on January 1, 2024.³⁰

If the COVID-19 State of Emergency is in fact lifted on February 28, 2023, starting March 1, 2023, AB 361 may only continue to be invoked if: there is another state of emergency declared by the Governor; and a) state or local officials have imposed or recommended measures to promote social distancing, or b) meeting in person would present imminent risks to the health or safety of attendees.³¹

C. Changes to FPPC Form 700

The only substantive change to the FPPC Form 700 required disclosures are that cryptocurrency investments are now expressly exempt from disclosure on schedules A-1 and A-2.

²⁵ Gov. Code, § 54957.95, subd. (a).

²⁶ Gov. Code, § 54957.95, subd. (a).

²⁷ Gov. Code, § 54957.95, subd. (b)(1).

²⁸ Gov. Code, § 54957.95, subd. (b)(1).

²⁹ Gov. Code, § 54957.95, subd. (b)(2).

³⁰ Gov. Code, § 54953, subd. (f).

³¹ Gov. Code, § 54953, subd. (e)(3).

D. Extension of “Levine Act” to Local Elected Officials (SB 1439)

On September 29, 2022, Gavin Newsom signed SB 1439 into law, following unanimous passage by the Assembly and Senate. The bill changes Government Code section 84308 to extend the “Levine Act” restrictions to *elected* local government officials. The law goes into effect on January 1, 2023.

SB 1439 extends the “Levine Act” by modifying California Government Code section 84308. The Levine Act formerly prohibited elected or appointed officials of certain agencies within California from accepting, soliciting or directing contributions of more than \$250 from any party, participant or their agents both 1) while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and 2) for three (3) months following the date of final decision. The Levine Act formerly also required an official to disclose any contributions over \$250 made in the prior twelve (12) months and recuse him- or herself from the proceeding if the official has willfully or knowingly received such a contribution. Additionally, the previous version of the law required parties to the proceeding (as opposed to officials) to disclose any contribution to an official over \$250 made within twelve (12) months prior of the proceeding and prohibited parties from making contributions during the proceeding or within three (3) months of the final decision. Significantly, the previous version of this section exempted “local governmental agencies whose members are directly elected by the voters.” The statute as amended by SB 1439 now applies to local government agencies with elected members and extends the prohibition on soliciting, accepting or directing contributions following a proceeding related to an entitlement from three (3) months to twelve (12) months.

The following is based on the plain language requirements of the statute, applicable regulations, and advice letters from the California Fair Political Practices Commission (“FPPC”).

1. SB 1439 Only Applies to Contributions Over \$250 to the Local Public Official from a “Party”, “Participant”, or Either’s Agents, to a “Proceeding”

The statute, as amended by SB 1439, applies only where there is a contribution over \$250 to a local public official from a Party, Participant, or either’s agent, to a proceeding. Therefore, it is important to define each of these terms under the statute.

(a) Definition of a Party Under Section 84308

The statute, as amended by SB 1439, defines a Party as “any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.” “Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.”³² For a “close

³² Gov. Code, § 82047.

corporation,” the majority shareholder will also be considered the Party.³³ “‘Close corporation’ means a corporation...whose articles contain, in addition to the provisions required by Section 202, a provision that all of the corporation’s issued shares of all classes shall be held of record by not more than a specified number of persons, not exceeding 35, and a statement, ‘This corporation is a close corporation.’”³⁴

Importantly, the categorization of majority shareholders of close corporations as Parties also applies to majority owners of other entities similar to a close corporation.³⁵ Therefore, a Party will be any the entity, individual or group who files the application or is the subject of the license, permit, or other entitlement for use proceeding, including the majority owner in an entity with limited ownership.

(b) Definition of a Participant Under Section 84308

The statute as amended by SB 1439 defines a Participant as “any person who is not a party but who *actively* supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a *financial interest* in the decision.”³⁶ The definition of person is the same as referenced above, including both individuals and entities.

The statute as amended by SB 1439 further clarifies “actively supports or opposes,” stating “[a] person actively supports or opposes a particular decision in a proceeding if that person lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.”³⁷ This is further clarified in the California Code of Regulations, where the acts are described as:

(a) A person “lobbies in person” when the person communicate directly, either in person or in writing, with an officer of an agency for the purpose of influencing the decision in a proceeding.

(b) A person “testifies in person” when the person testifies or makes an oral statement before an agency during a proceeding on a license, permit or other entitlement for use for the purpose of influencing the decision of the agency.

(c) A person “otherwise acts to influence” officers of an agency when the person communicates with an employee of the agency, or when the person’s agent lobbies in person, testifies in person or

³³ Gov. Code, § 84308, subd.(e)(3) [as amended].

³⁴ Corp. Code, § 158.

³⁵ Ralph Faust, 1988 WL 560975, at *1 [“Contributions from a majority shareholder of a closed corporation are treated as if they were the contributions of the corporation. Contributions from comparable investors in other types of business entities are treated in a similar manner.”]

³⁶ Gov. Code, § 84308, subd.(a)(2), emphasis added.

³⁷ Gov. Code, § 84308, subd.(a)(2).

otherwise communicates with officers or employees of the agency, for the purpose of influencing the officers' decision in a proceeding.³⁸

Under Government Code section 87103, a person has a financial interest "if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally."³⁹ According to the California Code of Regulations, "[a]n officer knows or has reason to know that a person has a financial interest in the decision in a proceeding if: (1) The person is a party; or (2) The person is a participant and reveals facts in a written or oral support or opposition before the agency which make the person's financial interest apparent."⁴⁰

(c) Agents are Included With Principals

The statute, as amended by SB 1439, treats agents representing the principals the same as their principals.⁴¹

(d) Definition of a Proceeding

Importantly, "[l]icense, permit, or other entitlement for use' means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises."⁴² This is further clarified in the California Code of Regulations, where it states, "(a) For purposes of Government Code Section 84308, a 'proceeding involving a license, permit or other entitlement for use' includes any proceeding to grant, deny, revoke, restrict, or modify a license, permit or other entitlement for use."⁴³ Additionally, "A proceeding involving a license, permit or other entitlement for use is 'pending before' an agency: (1) When the application has been filed, the proceeding has been commenced, or the issue has otherwise been submitted to the jurisdiction of an agency for its determination or other action; (2) It is the type of proceeding where officers of the agency are required by law to make a decision, or the matter has been otherwise been submitted to the officers of the agency for their decision; and (3) The decision of the officer or officers with respect to the proceeding will not be purely ministerial."⁴⁴ These rules only apply where there is a proceeding that falls within one of these categories.

2. Requirements for Contributions Over \$250 in the Twelve Months Prior to a Proceeding for a Permit, License, or Other Entitlement to Use.

³⁸ Cal. Code Regs., tit. 2, § 18438.4.

³⁹ Gov. Code, § 87103.

⁴⁰ Cal. Code Regs., tit. 2, § 18438.7.

⁴¹ Cal. Code Regs., tit. 2, § 18438.3, subd.(a).

⁴² Gov. Code, § 84308, subd.(a)(5).

⁴³ Cal. Code Regs., tit. 2, § 18438.2, subd.(a).

⁴⁴ Cal. Code Regs., tit. 2, § 18438.2, subd.(a).

If a Party, Participant or its agents have contributed over \$250 within the preceding twelve months of the proceeding the Party, the public official must disclose the contribution on the record of the proceeding and the public official must recuse himself/herself from the decision.⁴⁵

Under the plain text of the statute as amended by SB 1439, a Party to a proceeding would be required to disclose on the record of the proceeding any contribution more than \$250 within the preceding 12 months at the time of the application, but there is no similar required disclosure by a Participant of donations within the preceding 12 months.⁴⁶ However, the public official is required to disclose contributions by a Participant if the public official knows or has reason to know that the participant has a financial interest in the decision. Because disclosure is not required of the Participant for prior contributions, it is possible for the local official may not have knowledge of the financial interest unless the Participant “reveals facts in a written or oral support or opposition before the agency which make the person’s financial interest apparent.”⁴⁷

3. Requirements for Contributions During or Within Twelve Months Following a Proceeding

The statute, as amended by SB 1439, requires both a Party and a Participant not to contribute over \$250 to an officer during the proceeding or for 12 months following the final decision of that agency. This prohibition also extends to the official, who cannot accept, solicit, or direct a contribution over \$250 from a Party, or a Participant if the officer knows or has reason to know that the Participant has a financial interest in the earlier final decision.

4. Despite Disclosure, the Official will Still be Able to Cure a Violation

Even if the local official has accepted a contribution from a Party, Participant or their agents before during or after the proceeding, there is a process for the public official to cure any improper contributions, as follows:

If an officer receives a contribution which would otherwise require disqualification under this section, and **returns the contribution within 30 days** from the time the officer knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, the officer shall be permitted to participate in the proceeding.⁴⁸

⁴⁵ Gov. Code, §§ 84308, subd.(c); subd.(e)(1).

⁴⁶ Gov. Code, § 84308, subd.(e)(1) [as amended]; Gov. Code, § 84308, subd.(d) [prior].

⁴⁷ Cal. Code Regs., tit. 2, § 18438.7, subd. (a)(2).

⁴⁸ Gov. Code, § 84308, subd.(d)(1) [as amended].

An officer knows, or should have known about a contribution if: (1) The contribution has been disclosed by the party pursuant to Section 84308(d); or (2) The officer has actual knowledge of the contribution.⁴⁹

An officer knows, or should have known, about a proceeding pending before the agency if either: (1) The officer has received notice of the license, permit or other entitlement proceeding. Notice includes receipt of an agenda or docket identifying the proceeding and the party or other persons affected by name; or (2) The officer has actual knowledge of the proceeding.⁵⁰

During and after the proceeding, there is still a process to cure such mistakes, but the timeline is much shorter.⁵¹ However, the local public official can utilize the process to cure, “only if the officer did not knowingly and willfully accept, solicit, or direct the prohibited contribution.”⁵² Uncured violations of this law are a misdemeanor.⁵³

CONCLUSION

Baker Manock & Jensen is available to provide you with further guidance on the new Brown Act and Levine Act requirements, as well as assist your agency with the preparation of policies or guidance to ensure compliance with the new laws. Do not hesitate to contact Kenneth Price or Lauren Layne at (559) 432-5400 or via email at kprice@bakermanock.com and llayne@bakermanock.com if you have any questions.

KJP:LDL:JSJ:PWJ

⁴⁹ Cal. Code Regs., tit. 2, § 18438.7, subd.(c).

⁵⁰ Cal. Code Regs., tit. 2, § 18438.7, subd.(b).

⁵¹ Cal. Code Regs., tit. 2, § 18438.7, subd.(d)(2)(A) [as amended] [“Subject to subparagraph (B), if an officer accepts, solicits, or directs a contribution of more than two hundred fifty dollars (\$250) during the 12 months after the date a final decision is rendered in the proceeding in violation of subdivision (b), the officer may cure the violation by returning the contribution, or the portion of the contribution in excess of two hundred fifty dollars (\$250), within 14 days of accepting, soliciting, or directing the contribution, whichever comes latest.”].

⁵² Gov. Code, § 84308, subd.(d)(2)(B).

⁵³ Gov. Code, § 91000.