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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1390

Introduced by Assembly Members Alejo, Gomez, and Perea
(Principal coauthors: Assembly Members Bigelow, Gray, Olsen,
and Salas)

(Principal coauthors: Senators Cannella, Hueso, and Vidak)
(Coauthors: Assembly Members Cooley, Cooper, Eggman, Frazier,
Gallagher, Ridley-Thomas, Wilk, and Wood)
(Coauthors: Senators Fuller, Galgiani, and Nielsen)

February 27, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1390, as amended, Alejo. Groundwater: adjudication.

The California Constitution requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable. Under the Sustainable Groundwater Management Act, which applies to all groundwater basins in the state, all basins designated as high- or medium-priority basins by the Department of Water Resources

as basins that are subject to critical conditions of overdraft, as specified, are required to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020.

This bill would establish special procedures for a comprehensive adjudication, which is defined as an action filed in superior court to comprehensively determine the rights to extract groundwater in a basin. The bill would authorize the court to determine all ~~rights to groundwater in a basin~~ *rights of a basin*, whether based on appropriation, overlying right, or other basis of right. The bill would ~~require~~ *provide that* these special procedures ~~to govern all governing~~ comprehensive adjudications ~~except in cases not involving~~ *do not apply in certain cases that do not involve* a comprehensive allocation of a basin's groundwater ~~supply or cases that can be resolved among a limited number of parties and that do not involve a comprehensive determination of rights to extract groundwater within the basin.~~ *supply.*

This bill would require a complaint filed in an adjudication action to name certain defendants, including all general or special districts managing or replenishing groundwater resources in the basin in whole or in part, and to be served and published in a specified manner. The bill would ~~require the complaint to be accompanied by a draft notice and draft form answer, as specified, and certain disclosures related to the plaintiff's groundwater use. The bill would require the court to hold a preliminary hearing within 180 days of the filing of the complaint to determine if the action should proceed to comprehensively determine rights to extract groundwater within the basin in accordance with the special procedures for comprehensive adjudications. If the court makes that determination, based on a finding that at least one of 4 specified conditions is met, the bill would require the court to issue an order declaring the case a comprehensive adjudication, authorizing the service of the landowners of the basin, and requiring the assessor or assessors of the county or counties in which the basin to be adjudicated lies to provide the plaintiff access to certain records. After the court order is issued,~~ *to be lodged by the plaintiff with the court when filing the complaint. Within 30 days of the assignment of a judge by the Chairperson of the Judicial Council, the bill would require the plaintiff to file an ex parte application for approval of the draft notice and draft form answer. Following a court order approving the notice and form answer and authorizing service of landowners, as specified,* the bill would require the plaintiff to identify the assessor parcel numbers and physical addresses of all real property ~~within~~ *in* the basin and the names

and addresses of all holders of fee title to real property ~~within~~ *in* the basin, as specified; mail the notice, complaint, and form answer to all holders of fee title to real property in the basin, as specified; and publish the notice in one or more newspapers of general circulation, as specified. The bill would require the plaintiff to file with the court a notice of the completion of the mailing, and ~~within 60 days after service is authorized,~~ *of the court order authorizing service of landowners,* to prepare and ~~file a for recording the~~ notice of the comprehensive adjudication in the office of the county recorder of each county overlying the basin in whole or in part. The bill, on the 60th day following completion of the mailing, as described above, would deem fulfillment of the service and publication provisions as effective service of process of the complaint and notice on all interested parties of the comprehensive adjudication for purposes of establishing in rem jurisdiction and the comprehensive effect of the comprehensive adjudication. *The bill would authorize a groundwater sustainability agency for the basin or a portion of the basin, a city, county, or city and county that overlies the basin or a portion of the basin, certain persons, and the state to intervene in a comprehensive adjudication.*

This bill would authorize the court to convene a case management conference ~~at such time the court deems appropriate, after which the court could divide the comprehensive adjudication into phases based on its own discretion or the motion of a party. The bill would require the court to define the scope of any phase of the comprehensive adjudication by written order. The bill would provide that the court's discretion is not limited in ordering as many phases as the court deems appropriate for the expeditious and appropriate resolution of competing claims to the groundwater basin. In a phase of a comprehensive adjudication, the bill would require discovery to be strictly limited to the scope of the phase and would authorize the court to issue a written statement of decision at the completion of each phase.~~ *and would authorize the court to consider certain matters, including dividing the case into phases to resolve legal and factual issues, in the initial case management conference or as soon as practicable.* In addition, the bill would require each party to ~~make, under penalty of perjury, serve within 6 months of appearing in the comprehensive adjudication, specified initial disclosures made under penalty of perjury to all other named parties and a special master, if one has been assigned in the action, within 60 days after appearing in the comprehensive adjudication, except a plaintiff would be required to make the initial disclosures at the time~~

~~it files the complaint. action. By expanding the scope of an existing crime, the bill would impose a state-mandated local program. The bill would authorize the court to appoint a special master one or more special masters in a comprehensive adjudication, who may be one or more individuals, to report on legal and factual issues designated under a specific order of reference. The bill would provide that the special master's duties could include, among other things, initiating a technical committee to conduct joint factfinding regarding the basin and would require the special master to compile a technical report of the findings, as specified. On or before January 1, 2017, the bill would require the Department of Water Resources to establish and maintain a list of individuals who may serve as special masters in comprehensive adjudications and would prescribe the experience needed for an individual to be placed on the list. whose duties could include, among other things, investigating technical and legal issues, as directed by the court, and compiling a report of the findings, as specified. The bill would authorize the court to request the State Water Resources Control Board or the Department of Water Resources to recommend candidates for appointment as a special master or to review the qualifications of candidates.~~

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

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

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

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

3
4 CHAPTER 7. ACTIONS RELATING TO GROUNDWATER RIGHTS

5
6 Article 1. General Provisions

7
8 830. ~~(a) The Legislature finds and declares all of the following:~~

9 ~~(1) Diverse economic, environmental, and social interests are~~
10 ~~implicated by sustainable groundwater management.~~

11 ~~(2) Efficient resolution of conflicts concerning the right to use~~
12 ~~and manage groundwater will promote beneficial use of the waters~~
13 ~~of the state consistent with Section 2 of Article X of the California~~
14 ~~Constitution, the state water policies mandated in Chapter 1~~
15 ~~(commencing with Section 100) of Division 1 of the Water Code,~~
16 ~~and as intended by the Sustainable Groundwater Management Act~~
17 ~~(Part 2.74 (commencing with Section 10720) of Division 6 of the~~
18 ~~Water Code).~~

19 ~~(3) Previous comprehensive groundwater adjudication actions~~
20 ~~have taken more than a decade before issuance of a final judgment~~
21 ~~by the court in the action.~~

22 ~~(4) In light of the scope and complexities of comprehensive~~
23 ~~groundwater adjudication actions, the state's welfare will be~~
24 ~~promoted by the development of specially tailored legal procedures~~
25 ~~to efficiently process actions to comprehensively determine rights~~
26 ~~to extract groundwater in a basin.~~

27 ~~(b) It is the intent of the Legislature to do all of the following:~~

28 ~~(1) Develop procedures to provide a more efficient process to~~
29 ~~comprehensively adjudicate groundwater rights, while at the same~~
30 ~~time fully respecting established principles of water rights law and~~
31 ~~providing participants appropriate due process.~~

32 ~~(2) Establish procedures by which courts may conduct~~
33 ~~comprehensive determinations of rights to extract groundwater in~~
34 ~~a basin.~~

35 ~~(3) Encourage early resolution of groundwater rights disputes.~~

36 ~~(4) Substantially reduce the time and expense of comprehensive~~
37 ~~groundwater adjudications, while ensuring fair procedures to~~
38 ~~protect all parties' rights to groundwater.~~

1 ~~(5) Ensure the judicial process is not used to unnecessarily delay~~
2 ~~or thwart the goal of managing groundwater in a sustainable~~
3 ~~manner.~~

4 ~~(6) Reduce the burdens placed on the judiciary under the current~~
5 ~~adjudication process.~~

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

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

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

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

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

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

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

24 (6) *Providing for the conduct of a comprehensive adjudication*
25 *consistent with *Winters v. United States* (1908) 207 U.S. 564, the*
26 *McCarran Amendment (codified at 43 U.S.C. Sec. 666), and any*
27 *other federal laws regarding the determination of federal or tribal*
28 *water rights, as applicable.*

29 (7) *Providing notice and due process sufficient to enable a court*
30 *in a comprehensive adjudication conducted pursuant to this chapter*
31 *to determine and establish the priority for unexercised water rights.*

32 (c) *This chapter shall not alter groundwater rights or the law*
33 *concerning groundwater rights. The other provisions of this code*
34 *apply to procedures in a comprehensive adjudication to the extent*
35 *they do not conflict with the provisions of this chapter.*

36 831. *In a comprehensive adjudication of a basin required to*
37 *have a groundwater sustainability plan under the Sustainable*
38 *Groundwater Management Act, the court shall manage the*
39 *proceedings in a manner that minimizes interference with the*
40 *timely completion and implementation of a groundwater*

1 *sustainability plan, avoids redundancy and unnecessary costs in*
2 *the development of technical information and a physical solution,*
3 *and is consistent with the attainment of groundwater sustainability*
4 *within the timeframes established by the Sustainable Groundwater*
5 *Management Act.*

6 ~~830.5.~~

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

9 (a) “Basin” means a groundwater basin or subbasin identified
10 pursuant to Section ~~839~~. 841.

11 ~~(b) “Bulletin 118” means the department’s report entitled~~
12 ~~“California’s Groundwater: Bulletin 118” updated in 2003, as it~~
13 ~~may be subsequently updated or revised.~~

14 ~~(e)~~

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

19 ~~(d)~~

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

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

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

34 (f) “Groundwater” means water beneath the surface of the earth
35 within the zone below the water table in which the soil is
36 completely saturated with water, but does not include water that
37 flows in known and definite channels.

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

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

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

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

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

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

13 ~~(k)~~

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

17

18

Article 2. Scope of Action

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20 ~~831.~~

21 833. (a) Except as provided in subdivision ~~(e)~~, (b), this chapter
22 establishes special procedures for an action *applies to actions* that
23 would comprehensively determine rights to extract groundwater
24 in a basin, whether based on appropriation, overlying right, or
25 other basis of right. ~~This chapter applies to an Indian tribe and the~~
26 ~~federal government, to the extent authorized by federal law. This~~
27 ~~chapter shall not alter groundwater rights or the law concerning~~
28 ~~groundwater rights. The other provisions of this code apply to~~
29 ~~procedures in a comprehensive adjudication to the extent they do~~
30 ~~not conflict with the provisions of this chapter.~~

31 ~~(b) The court’s final judgment in a comprehensive adjudication,~~
32 ~~as to the right to groundwater of each party, may declare the~~
33 ~~priority, amount, purposes of use, extraction location, and place~~
34 ~~of use of the water, together with appropriate injunctive relief,~~
35 ~~subject to terms adopted by the court to implement a physical~~
36 ~~solution in the comprehensive adjudication.~~

37 ~~(e) The procedures of this chapter shall govern all~~
38 ~~comprehensive adjudications. If the court finds any one of the~~
39 ~~following, the action shall proceed in accordance with other~~
40 ~~provisions of law:~~

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

2 (1) ~~The An action that concerns only claims that the operation~~
3 ~~of a party's allegations that a groundwater extraction facility~~
4 ~~facility, or group of facilities, is interfering with the physical~~
5 ~~availability of groundwater to one or more other parties' another~~
6 ~~groundwater extraction facility or facilities and does not involve~~
7 ~~a comprehensive allocation of the basin's groundwater supply.~~

8 (2) ~~The An action that concerns only claims to extract, or to~~
9 ~~prevent interference with extractions of, a specific source of~~
10 ~~groundwater recharge and does not involve a comprehensive~~
11 ~~allocation of the basin's groundwater supply.~~

12 (3) ~~The An action that can be resolved among a limited number~~
13 ~~of parties and does not involve a comprehensive determination of~~
14 ~~rights to extract groundwater within the basin.~~

15 (4) ~~The Antelope Valley Groundwater Cases (Judicial Council~~
16 ~~Coordination Proceedings No. 4408).~~

17 ~~(d)~~

18 (c) *In implementing this chapter and applying the other*
19 *provisions of this code in a comprehensive adjudication, the court*
20 *should expedite resolution of the comprehensive adjudication and,*
21 *where a groundwater sustainability plan is required pursuant to*
22 *the Sustainable Groundwater Management Act, the court should*
23 *encourage the parties to cooperatively develop a groundwater*
24 *sustainability plan that may serve as the basis of a stipulated*
25 *judgment setting forth a physical solution for management of the*
26 *basin.*

27 ~~(e) This chapter does not apply to the Antelope Valley~~
28 ~~Groundwater Cases (Judicial Council Coordination Proceedings~~
29 ~~No. 4408).~~

30 834. (a) *In a comprehensive adjudication conducted pursuant*
31 *to this chapter, the court may determine all groundwater rights of*
32 *a basin, whether based on appropriation, overlying right, or other*
33 *basis of right.*

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

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~~Article 2. Commencement of Action~~

Article 3. Notice and Service of Complaint

~~832.~~

835. (a) Unless a court orders otherwise for good cause, the complaint in a comprehensive adjudication shall name all of the following persons as defendants:

(1) All general or special districts managing or replenishing groundwater resources in the basin in whole or in part.

(2) The operator of a public water system that uses groundwater from the basin to supply water service.

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

(b) The complaint in a comprehensive adjudication shall identify all counties or cities that provide water service and overlie the basin in whole or in part.

(c) Within 30 days of the filing of the complaint, both of the following shall occur:

(1) The plaintiff shall serve the complaint on all persons named as defendants pursuant to subdivision (a) and all counties or cities identified in the complaint pursuant to subdivision (b) in the manner prescribed by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5.

(2) The plaintiff shall publish notice of the complaint pursuant to Section 6066 of the Government Code.

~~(d) The court shall allow the following persons to intervene in the comprehensive adjudication:~~

~~(1) A county or city identified in the complaint pursuant to subdivision (b). A county or city identified in the complaint pursuant to subdivision (b) that files an ex parte application shall give notice to the plaintiff consistent with the California Rules of Court.~~

~~(2) A person demonstrating, upon an ex parte application, that that person holds fee simple ownership in a parcel in the basin. A person filing the ex parte application shall give notice to the plaintiff consistent with the California Rules of Court.~~

1 ~~832.5. (a) Within 180 days of the filing of a complaint to~~
2 ~~adjudicate groundwater rights, the court shall conduct a preliminary~~
3 ~~hearing to determine if the action should proceed to~~
4 ~~comprehensively determine rights to extract groundwater within~~
5 ~~the basin in accordance with this chapter. At the preliminary~~
6 ~~hearing the court may hear expert or lay testimony and the plaintiff~~
7 ~~shall demonstrate one of the following:~~
8 ~~(1) There is substantial evidence that declining groundwater~~
9 ~~levels may cause an undesirable result in the basin.~~
10 ~~(2) The court cannot provide adequate relief among the potential~~
11 ~~claimants to a groundwater right in the basin subject to the~~
12 ~~comprehensive adjudication unless the comprehensive adjudication~~
13 ~~is completed.~~
14 ~~(3) Pursuant to Section 847, the parties have agreed to a~~
15 ~~proposed judgment in the comprehensive adjudication.~~
16 ~~(4) Consistent with Section 2 of Article X of the California~~
17 ~~Constitution, the interests of groundwater rights holders will be~~
18 ~~expeditiously and effectively served by the completion of the~~
19 ~~comprehensive adjudication.~~
20 ~~(b) If, after the preliminary hearing, the court finds that any~~
21 ~~condition described in paragraphs (1) to (4), inclusive, of~~
22 ~~subdivision (a) is met, the court shall issue an order that does all~~
23 ~~of the following:~~
24 ~~(1) Declares that the case is a comprehensive adjudication~~
25 ~~subject to this chapter.~~
26 ~~(2) Authorizes service of landowners in accordance with Section~~
27 ~~833.~~
28 ~~(3) Requires the assessor or assessors of the county or counties~~
29 ~~in which the basin to be adjudicated lies to provide the plaintiff~~
30 ~~with access to any records necessary to obtain the information~~
31 ~~required under Section 833.~~
32 ~~(c) If, after the preliminary hearing, the court finds that no~~
33 ~~condition described in paragraphs (1) to (4), inclusive, of~~
34 ~~subdivision (a) is met, the court shall either dismiss the action~~
35 ~~without prejudice, or find that the action is not subject to this~~
36 ~~chapter under Section 831 and permit the action to proceed~~
37 ~~pursuant to the other provisions of this code.~~
38 ~~(d) Before the preliminary hearing, the court may allow~~
39 ~~expedited discovery limited to the matters listed in paragraphs (1)~~
40 ~~to (4), inclusive, of subdivision (a). The court shall actively manage~~

1 ~~the expedited discovery to minimize the burdens on responding~~
2 ~~parties and to prevent delays to the extent possible.~~

3 ~~833.~~

4 ~~836. (a) At the same time as filing~~ *When the plaintiff files* the
5 complaint, the plaintiff shall ~~lodge all of the following with the~~
6 ~~court.~~ *also lodge with the court both of the following:*

7 (1) (A) A draft notice titled “NOTICE OF COMMENCEMENT
8 OF GROUNDWATER BASIN ADJUDICATION” in no less than
9 20-point font and the following text printed immediately below
10 the draft notice title in no less than 14-point font:

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

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

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

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

38 A form answer is provided for your convenience. You may fill
39 out the form answer and file it with the court. Should you choose

1 to file the form answer, it will serve as an answer to all complaints
2 and cross-complaints filed in this case.”

3 (B) The following information shall be provided immediately
4 following the text described in subparagraph (A):

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

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

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

15 ~~(iv) A statement advising anyone claiming the right to use~~
16 ~~groundwater within the basin that he or she must file an answer~~
17 ~~with the court within 90 days after service by mail, as provided~~
18 ~~for in this section.~~

19 ~~(v)~~

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

22 (v) *A date by which persons receiving the notice must appear*
23 *in the comprehensive adjudication.*

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

28 “The undersigned denies all material allegations in the complaint
29 or cross-complaint in this action that seeks to adjudicate rights in
30 the groundwater basin and asserts all applicable affirmative
31 defenses to that complaint.”

32 (B) Notwithstanding any other law, the filing of an answer in
33 the form described in subparagraph (A) in a comprehensive
34 adjudication is sufficient to put at issue all material allegations and
35 applicable affirmative defenses to the complaint in the
36 comprehensive adjudication. If a party intends to seek adjustment
37 of the basin’s boundaries, it shall disclose that intention in the form
38 answer described in subparagraph (A).

39 ~~(3) The initial disclosures required to be lodged by the plaintiff~~
40 ~~pursuant to Section 840.~~

1 (b) ~~Within 15 days of a court order authorizing service of~~
 2 ~~landowners pursuant to subdivision (b) of Section 832.5, 30 days~~
 3 ~~of the assignment of a judge by the Chairperson of the Judicial~~
 4 ~~Council, the plaintiff shall file an ex parte application that seeks~~
 5 ~~the court's approval of plaintiff's for approval of the draft notice~~
 6 and draft form answer filed pursuant to subdivision (a). The
 7 plaintiff shall provide notice of the ex parte application to all parties
 8 in accordance with the California Rules of Court regarding ex parte
 9 hearings. Notice may be provided electronically. The plaintiff's
 10 notice of the ex parte application shall include a copy of the draft
 11 notice and draft form answer filed pursuant to subdivision (a).

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

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

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

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

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

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

1 (2) Service pursuant to this subdivision is not required if the
2 real property is ~~part of~~ *owned by* a class of water users that are
3 otherwise noticed in accordance with this chapter.

4 (e) ~~Upon completion of~~ *After completing* the mailing pursuant
5 to subdivision (d), the plaintiff shall file with the court a notice of
6 the completion of the mailing.

7 (f) ~~Within 60 days after service is authorized, of the court order~~
8 *authorizing service of landowners pursuant to this section*, the
9 plaintiff shall prepare and file ~~a for recording the~~ notice of the
10 comprehensive adjudication in the office of the county recorder
11 of each county overlying the basin in whole or in part. The notice
12 shall be recorded in a manner ~~so as to ensure that a person that~~
13 *anyone* researching the title of a parcel will find the notice.

14 (g) Following a court order authorizing service of landowners
15 pursuant to this section, the plaintiff shall serve any known person
16 that pumps groundwater who would not otherwise be served
17 pursuant to subdivision (d) of this section or noticed pursuant to
18 paragraph (1) of subdivision (c) of Section ~~832~~. 835. Service
19 pursuant to this subdivision may be by personal delivery or by
20 mail in the manner prescribed by Article 3 (commencing with
21 Section ~~413.10~~) 415.10) of Chapter 4 of Title 5.

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

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

27 (j) On the 60th day following completion of the mailing, as set
28 forth in this section, and notwithstanding any other law, the
29 fulfillment of the service provisions of this section, the publication
30 provisions of paragraph (2) of subdivision (c) of Section ~~832~~, 835,
31 and the remaining service and notice provisions of this chapter
32 shall be deemed effective service of process of the complaint and
33 notice on all interested parties of the comprehensive adjudication
34 for purposes of establishing in rem jurisdiction and the
35 comprehensive effect of the comprehensive adjudication.

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

38 (l) The plaintiff shall provide the notice, complaint, and form
39 answer to the department. The department shall post the notice,

1 complaint, and form answer on the department’s Internet Web site
 2 within 15 days of receipt.

3 (m) Section 389 shall not apply to a failure to join the United
 4 States or an Indian tribe to a comprehensive adjudication.

5 ~~834. Within 15 days of the service of a complaint against or~~
 6 ~~by a local agency in a comprehensive adjudication, the court may,~~
 7 ~~and upon the motion of any party the court shall, request the~~
 8 ~~chairperson of the Judicial Council to assign a judge from a neutral~~
 9 ~~county to hear the comprehensive adjudication for all purposes.~~
 10 For purposes of this section, “local agency” has the same definition
 11 as that term is defined in subdivision (m) of Section 10721 of the
 12 Water Code.

13 ~~835. In a comprehensive adjudication there may only be two~~
 14 ~~disqualifications of judges pursuant to Section 170.6, and only one~~
 15 ~~disqualification by each side. For purposes of this section, in a~~
 16 ~~comprehensive adjudication the parties claiming overlying~~
 17 ~~groundwater rights will be on one side of the action and the parties~~
 18 ~~claiming appropriative groundwater rights will be on the other side~~
 19 ~~of the action. A request or motion to disqualify a judge under~~
 20 ~~Section 170.6 shall be filed after service is completed pursuant to~~
 21 ~~Section 833 and within 30 days of a judge being assigned.~~

22 ~~836. (a) A comprehensive adjudication is presumed to be a~~
 23 ~~complex case within the meaning of Rule 3.400 of the California~~
 24 ~~Rules of Court unless a party demonstrates that the comprehensive~~
 25 ~~adjudication is not complex.~~

26 ~~(b) The presiding judge shall assign a comprehensive~~
 27 ~~adjudication to one judge for all purposes.~~

28
 29 *Article 4. Intervention*
 30

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

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

37 *(c) The court shall allow any person to intervene in a*
 38 *comprehensive adjudication conducted pursuant to this chapter*
 39 *upon an ex parte application that demonstrates that the person*
 40 *holds fee simple ownership in a parcel in the basin, or extracts or*

1 stores water in the basin. A person filing an *ex parte* application
2 pursuant to this subdivision shall give notice to the plaintiff
3 consistent with the California Rules of Court.

4 (d) Upon timely motion, the court shall permit the state to
5 intervene in a comprehensive adjudication conducted pursuant to
6 this chapter if the state claims an interest relating to the
7 comprehensive adjudication and the state is so situated that
8 disposing of the comprehensive adjudication may, as a practical
9 matter, impair or impede the state's ability to protect its interest.

10

11

Article 5. Judge

12

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

18 (b) A comprehensive adjudication is presumed to be a complex
19 action within the meaning of Rule 3.400 of the California Rules
20 of Court unless a party demonstrates that the comprehensive
21 adjudication is not complex.

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

24 (d) Notwithstanding subdivision (b) of Section 10726.2 of the
25 Water Code, an action against a groundwater sustainability agency
26 that is located in a basin that is being adjudicated pursuant to this
27 chapter shall be subject to transfer, coordination, and
28 consolidation with the comprehensive adjudication, as appropriate,
29 if the action concerns the adoption, substance, or implementation
30 of a groundwater sustainability plan, or the groundwater
31 sustainability agency's compliance with the timelines in the
32 Sustainable Groundwater Management Act.

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

Article 6. *Electronic Service*

~~837.~~

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

~~Article 3. Conduct of Action~~

~~838. (a) In managing a comprehensive adjudication the court may, notwithstanding any other law, convene a case management conference at such time the court deems appropriate.~~

~~(b) After service is completed pursuant to Section 833 and a case management conference is held, the court may, based on its own discretion or the motion of a party, divide the comprehensive adjudication into phases. This section does not limit the court's discretion to order as many phases as the court deems appropriate for the expeditious and appropriate resolution of competing claims to the groundwater basin. The court shall define the scope of any phase of the comprehensive adjudication by written order and shall revisit that definition only upon a demonstration that continuing with the phase as previously defined would substantially impede the expeditious resolution of the comprehensive adjudication.~~

~~(c) In a phase of a comprehensive adjudication, discovery shall be strictly limited to the scope of the phase, as defined in the court's written order. The court may make any appropriate orders to ensure that discovery during a phase remains within the scope of the phase and, unless an injustice would otherwise result, shall impose monetary sanctions on parties, attorneys, or both parties and attorneys, who, during the phase, propound discovery outside the scope of the phase.~~

1 ~~(d) Pursuant to Section 632, a court may issue a written~~
2 ~~statement of decision at the completion of each phase of the~~
3 ~~comprehensive adjudication. If the court issues a written statement~~
4 ~~of decision, that written statement of decision shall be considered~~
5 ~~a resolution of the phase and shall be binding for the remainder of~~
6 ~~the comprehensive adjudication unless reversed or modified by~~
7 ~~an appellate court. Appellate review of a court's written statement~~
8 ~~of decision that concludes a phase of the comprehensive~~
9 ~~adjudication may be by writ only and a party may only appeal the~~
10 ~~court's final judgment.~~

11 ~~(e) A court may facilitate the formation of a class or classes of~~
12 ~~overlying groundwater rights holders pursuant to the criteria~~
13 ~~specified in Section 382.~~

14 ~~839. (a) Subject to subdivision (b), the initial basin boundaries~~
15 ~~for a comprehensive adjudication shall be the basin boundaries~~
16 ~~identified in Bulletin 118 as of the date the complaint initiating~~
17 ~~the comprehensive adjudication is filed. The plaintiff shall use~~
18 ~~these boundaries in initiating the procedures to serve the complaint~~
19 ~~on landowners in a comprehensive adjudication in accordance with~~
20 ~~Section 833.~~

21 ~~(b) The court may consider adjusting a basin's boundaries at~~
22 ~~the initial phase of a comprehensive adjudication. The court may~~
23 ~~refer consideration of adjustment of a basin's boundaries to the~~
24 ~~department for recommendations in accordance with the procedures~~
25 ~~described in Section 10722.2 of the Water Code. The court may~~
26 ~~stay any proceedings in the comprehensive adjudication pending~~
27 ~~the department's resolution of any boundary adjustments. During~~
28 ~~the stay, the court may require the parties to make initial disclosures~~
29 ~~pursuant to Section 840.~~

30 ~~(c) If a court, following receipt of the department's~~
31 ~~recommendations, determines the basin's boundaries separately~~
32 ~~and before the trial of other issues in the comprehensive~~
33 ~~adjudication, the basin's boundaries as determined by the court~~
34 ~~shall be the basin's boundaries for all purposes in all subsequent~~
35 ~~phases of the comprehensive adjudication. Appellate review of a~~
36 ~~court's determination of the basin's boundaries may be by writ~~
37 ~~only and shall not be subject to any later writ or appeal.~~

Article 7. Case Management

1
2
3 840. (a) *In managing a comprehensive adjudication, the court*
4 *shall convene a case management conference as provided by the*
5 *California Rules of Court.*
6 (b) *In an initial case management conference, or as soon as*
7 *practicable, the court may consider the following in addition to*
8 *other matters:*
9 (1) *Determining whether to seek adjustment of the basin*
10 *boundaries pursuant to Section 841.*
11 (2) *Staying the action pursuant to Section 848.*
12 (3) *Appointing a special master pursuant to Section 845.*
13 (4) *Scheduling a hearing on a preliminary injunction pursuant*
14 *to Section 847.*
15 (5) *Dividing the case into phases to resolve legal and factual*
16 *issues.*
17 (6) *Issuing orders to ensure that issues resolved in one phase*
18 *are not relitigated in another phase.*
19 (7) *Limiting discovery to correspond to the phases.*
20 (8) *Scheduling early resolution of claims to prescriptive rights.*
21 (9) *Forming a class or classes of overlying groundwater rights*
22 *holders pursuant to the criteria specified in Section 382.*

Article 8. Basin Boundaries

23
24
25
26 841. (a) (1) *Except as otherwise provided in this section, the*
27 *boundaries of the area subject to a comprehensive adjudication*
28 *shall be consistent with the boundaries of a basin.*
29 (2) *If the department revises the boundaries of a basin pursuant*
30 *to Section 10722.2, or subdivision (b) of Section 12924, of the*
31 *Water Code after a comprehensive adjudication has been initiated,*
32 *the court may revise the boundaries of the area subject to the*
33 *comprehensive adjudication as the interests of justice and the*
34 *objectives of this chapter require.*
35 (3) *Upon a showing that a revision of the basin boundaries*
36 *would further a fair and effective determination of water rights,*
37 *the court may direct any of the following to submit a request to*
38 *the department pursuant to Section 10722.2 of the Water Code to*
39 *revise the basin boundaries:*
40 (A) *A party to the comprehensive adjudication.*

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

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

5 (4) *The court shall consider the department’s response to a*
6 *request submitted pursuant to paragraph (3) and establish the*
7 *area subject to a comprehensive adjudication as the interests of*
8 *justice and the objective of this chapter require. The department*
9 *shall revise the basin boundaries to conform to the comprehensive*
10 *adjudication.*

11 (b) *If the court finds that including an interconnected surface*
12 *water body or subterranean stream flowing through known and*
13 *definite channels is necessary for the fair and effective*
14 *determination of the groundwater rights in a basin, the court may*
15 *require the joinder of persons who claim rights to divert and use*
16 *water from that surface water body or subterranean stream in a*
17 *comprehensive adjudication conducted pursuant to this chapter.*

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

25
26 *Article 9. Initial Disclosures*

27
28 840.

29 842. (a) ~~Except as otherwise stipulated by the parties or ordered~~
30 ~~by the court, and without waiting for a discovery request, a party~~
31 ~~shall provide to all other named parties and, if one has been~~
32 ~~assigned in the action, the special master, initial disclosures that~~
33 ~~include within six months of appearing in a comprehensive~~
34 ~~adjudication, a party shall serve on the other parties and the~~
35 ~~special master, if one is appointed, an initial disclosure that~~
36 ~~includes all of the following information:~~

37 (1) ~~The name, address, telephone number, and email address of~~
38 ~~the party completing a form developed pursuant to subdivision~~
39 ~~(b). party and, if applicable, the party’s attorney.~~

- 1 (2) The quantity of any groundwater ~~extraction~~ *extracted* from
- 2 the basin by the party, or the party’s representative or agent, during
- 3 each of the 10 calendar years immediately *party and the method*
- 4 *of measurement used by the party or the party’s predecessor in*
- 5 *interest for each of the previous five years* preceding the filing of
- 6 the complaint.
- 7 ~~(3) The claimed basis of the right to extract groundwater.~~
- 8 ~~(4) The beneficial purpose of any use of groundwater from the~~
- 9 ~~basin or the beneficial use of any alternative water use that the~~
- 10 ~~party claims as its use of groundwater.~~
- 11 ~~(5) The location of any extraction of groundwater from the basin~~
- 12 ~~by the party, or the party’s representative or agent.~~
- 13 ~~(6) The location of any beneficial use of groundwater from the~~
- 14 ~~basin or beneficial use of any alternative water use that the party~~
- 15 ~~claims as its use of groundwater.~~
- 16 (3) *The type of water right or rights claimed by the party for*
- 17 *the extraction of groundwater.*
- 18 (4) *A general description of the purpose to which the*
- 19 *groundwater has been put.*
- 20 (5) *The location of each well or other source through which*
- 21 *groundwater has been extracted.*
- 22 (6) *The area in which the groundwater has been used.*
- 23 (7) *Any claims for increased or future use of groundwater.*
- 24 ~~(7)~~
- 25 (8) The quantity of any beneficial use of any alternative water
- 26 use that the party claims as its use of groundwater under any
- 27 applicable law, including, but not limited to, Section 1005.1,
- 28 1005.2, or 1005.4 of the Water Code.
- 29 ~~(8)~~
- 30 (9) Identification of all surface water rights and contracts that
- 31 the party claims provides the basis for its water right claims in the
- 32 comprehensive adjudication.
- 33 ~~(9)~~
- 34 (10) The quantity of any replenishment of water to the basin
- 35 that augmented the basin’s native water supply, resulting from the
- 36 intentional storage of imported or non-native water in the basin,
- 37 managed recharge of surface water, or return flows resulting from
- 38 the use of imported water or non-native water on lands overlying
- 39 the basin by the party, or the party’s representative or agent, during

1 each of the 10 calendar years immediately preceding the filing of
2 the complaint.

3 ~~(10)~~

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

7 ~~(11)~~

8 ~~(12)~~ Any other information deemed appropriate by the court
9 for initial disclosure in a comprehensive adjudication: *facts that*
10 *tend to prove the party's claimed water right.*

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

16 ~~(e) (1) Unless otherwise stipulated by the parties or ordered by~~
17 ~~the court, and not including the plaintiff that initiates the~~
18 ~~comprehensive adjudication, a party shall make the initial~~
19 ~~disclosures described in subdivision (a) within 60 days after~~
20 ~~appearing in the comprehensive adjudication.~~

21 ~~(2) A plaintiff that initiates a comprehensive adjudication shall~~
22 ~~make the initial disclosures described in subdivision (a) at the time~~
23 ~~it files the complaint by lodging the required information with the~~
24 ~~court in an electronic format. The plaintiff shall serve the required~~
25 ~~information on the defendants or cross-defendants that it names~~
26 ~~when it serves the complaint.~~

27 ~~(3) The court may order, after the initial case management~~
28 ~~conference, any supplemental disclosures, other than those~~
29 ~~described in subdivision (a), that may expedite resolution of the~~
30 ~~comprehensive adjudication.~~

31 ~~(d) Unless otherwise ordered by the court, a party that is first~~
32 ~~served, or otherwise joined to the comprehensive adjudication,~~
33 ~~after the initial case management conference shall make the~~
34 ~~disclosures described in subdivision (a) within 30 days after being~~
35 ~~served or joined, unless a different time is set by stipulation of the~~
36 ~~parties or an order of the court. The court shall liberally consider~~
37 ~~any motions or applications to extend the time for a newly-served~~
38 ~~or -joined party to make the disclosures described in subdivision~~
39 ~~(a).~~

40 (e)

1 (c) A party shall make its initial disclosures based on the
 2 information then reasonably available to it. A party is not excused
 3 from making its initial disclosures because it has not fully
 4 investigated the case, because it challenges the sufficiency of
 5 another party’s disclosures, or because another party has not made
 6 its disclosures.

7 ~~(f)~~

8 (d) A party that has made its initial disclosures, as described in
 9 subdivision (a), or that has responded to another party’s discovery
 10 request, shall supplement or correct a disclosure or response in
 11 either *all* of the following situations:

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

17 (2) *If the party extracts groundwater from the basin after the*
 18 *complaint is filed. A supplement filed pursuant to this paragraph*
 19 *shall report the quantity of water extracted and be filed within 90*
 20 *days after the end of the calendar year.*

21 ~~(2)~~

22 (3) As ordered by the court.

23 ~~(g)~~

24 (e) To the greatest extent possible, a party shall serve his or her
 25 initial disclosures ~~electronically through an electronic service~~
 26 ~~system, an electronic document repository, email, or another~~
 27 ~~method of electronic transmission.~~ *electronically.* If it is not
 28 possible for the party to serve his or her disclosures electronically,
 29 he or she shall serve the disclosures in an electronic format saved
 30 on a portable storage media device such as a compact disc or flash
 31 drive.

32 ~~(h)~~

33 (f) A party’s obligations under this section may be enforced by
 34 a court on its own motion or the motion of a party ~~pursuant to~~
 35 ~~Section 2030.300:~~ *to compel disclosure.*

36 ~~(i)~~

37 (g) A party’s disclosures under this section shall be verified
 38 under penalty of perjury as being true and correct to the best of
 39 the party’s knowledge.

Article 10. Expert Witnesses

1
2
3 ~~841.~~

4 843. (a) In addition to all other disclosures required by this
5 chapter, a party shall disclose to the other parties the identity of
6 any expert witness it may use at trial to present evidence. For
7 purposes of this chapter, “expert witness” means a witness qualified
8 pursuant to Section 720 of the Evidence Code.

9 (b) Unless otherwise stipulated by the parties or ordered by the
10 court, the disclosure made pursuant to subdivision (a) shall be
11 accompanied by a written report prepared and signed by the expert
12 witness if the witness is retained or specially employed by the
13 party offering the expert witness to testify as an expert in the action,
14 or if the expert witness’s duties as the party’s employee regularly
15 involves giving expert testimony. The report shall include all of
16 the following:

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

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

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

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

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

27 (6) A statement of the compensation to be paid for the witness’s
28 work and testimony in the comprehensive adjudication.

29 (c) If subdivision (b) does not apply to an expert witness because
30 of a stipulation by the parties or an order of the court, the witness’s
31 disclosure shall include both of the following:

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

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

36 (d) Unless otherwise stipulated by the parties, a party shall make
37 the disclosures of any expert witness it intends to present at trial,
38 except for an expert witness presented solely for purposes of
39 impeachment or rebuttal, at the times and in the sequence ordered

1 by the court. If there is no stipulation or court order, the disclosures
2 of an expert witness shall be made as follows:

3 (1) At least 30 days after the court's entry of an order
4 establishing the scope of the relevant phase of the comprehensive
5 adjudication.

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

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

15 (e) The court may modify the disclosure requirements of
16 subdivisions (b) to (d), inclusive, for expert witnesses presented
17 solely for purposes of impeachment or rebuttal. In modifying the
18 disclosure requirements, the court shall adopt disclosure
19 requirements that expedite the court's consideration of the issues
20 presented and shall ensure that expert testimony presented solely
21 for purposes of impeachment or rebuttal is strictly limited to the
22 scope of the testimony that it intends to impeach or rebut.

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

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

30 (B) As ordered by the court.

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

37 (3) The court may authorize a supplemental deposition of an
38 expert witness based on a supplemental disclosure made pursuant
39 to this subdivision. The court shall appropriately condition the
40 authorization of a supplemental deposition of an expert witness to

1 ensure the expeditious completion of the applicable phase of the
2 comprehensive adjudication. The court may require the party whose
3 expert makes the supplemental disclosure to pay some or all of
4 the costs associated with the supplemental deposition.

5 (g) To the greatest extent possible, the parties shall serve expert
6 witness disclosures electronically through an electronic service
7 system, an electronic document repository, email, or another
8 method of electronic transmission. If it is not possible for the party
9 to serve his or her expert witness disclosures electronically, he or
10 she shall serve the expert witness disclosures in an electronic
11 format saved on a portable storage media device such as a compact
12 disc or flash drive.

13 ~~(h) If a party or its expert witness fails to comply with this~~
14 ~~section, the court may exclude the expert witness's testimony from~~
15 ~~trial, authorize additional depositions of the expert witness at the~~
16 ~~party's expense, or take other appropriate action upon the noticed~~
17 ~~motion, or ex parte application, of a party.~~

18
19 *Article 11. Written Testimony*

20
21 ~~842.~~

22 844. (a) A court may require the parties in a comprehensive
23 adjudication to submit written testimony of relevant witnesses in
24 the forms of affidavits or declarations under penalty of perjury in
25 lieu of presenting live testimony. The required written testimony
26 may include, but is not limited to, expert witness opinions and
27 testimony that authenticates documentary evidence. The court may
28 order that the written testimony constitutes the entirety of the
29 witness's direct testimony, require the written testimony to include
30 any exhibits offered in support of the written testimony, and, in
31 the case of written testimony of an expert witness, require a
32 statement of the witness's qualifications.

33 (b) If the court requires the submission of written testimony
34 pursuant to subdivision (a), a complete copy of the direct testimony
35 shall be served at least 21 days before ~~trial of the applicable phase~~
36 ~~of the comprehensive adjudication.~~ *trial.* A complete copy of any
37 rebuttal testimony shall be served no later than the first day of ~~trial~~
38 ~~of the applicable phase of the comprehensive adjudication.~~ The
39 court shall ensure the rebuttal testimony is strictly limited to the
40 scope of the direct testimony to which it responds. *trial.*

1 (c) If the contents of the written testimony would have been
 2 admissible if the witness testified orally, the written testimony
 3 shall be received by the court as a documentary exhibit ~~if, at the~~
 4 ~~trial of the applicable phase of the comprehensive adjudication, if~~
 5 the witness whose written testimony is being offered is made
 6 available for cross-examination by all parties.

7 ~~843. (a) In a comprehensive adjudication, the court may~~
 8 ~~appoint a special master to report on legal and factual issues~~
 9 ~~designated under a specific order of reference. A special master's~~
 10 ~~duties may include the following:~~

11 ~~(1) Initiating a technical committee consisting of the parties,~~
 12 ~~the parties' designated representatives, or both, to conduct joint~~
 13 ~~factfinding as to the basin's safe yield of groundwater, water~~
 14 ~~demand, and any other technical issues, as directed by the court.~~
 15 ~~The special master shall compile a technical report of the findings~~
 16 ~~in accordance with Section 844.~~

17 ~~(2) Overseeing settlement discussions.~~

18 ~~(3) Performing other tasks the court may deem appropriate.~~

19 ~~(b) The special master may be one or more individuals employed~~
 20 ~~by the court as full-time or part-time employees, or retained as~~
 21 ~~independent contractors. A special master's compensation and~~
 22 ~~other expenses related to the conduct of a comprehensive~~
 23 ~~adjudication shall be fixed by the court, apportioned pro rata to~~
 24 ~~the extent reasonably feasible to do so, and paid by all parties~~
 25 ~~unless the parties agree to another allocation or the court determines~~
 26 ~~that, in the interests of justice, another allocation is necessary. The~~
 27 ~~court may provide for the collection and disbursement of special~~
 28 ~~master fees as it deems appropriate.~~

29 ~~(e) (1) To assist trial courts in selecting special masters the~~
 30 ~~department shall, on or before January 1, 2017, establish and~~
 31 ~~maintain a list of individuals who may serve as special masters in~~
 32 ~~comprehensive adjudications. To be placed on the list, an individual~~
 33 ~~shall have at least 10 years experience as either of the following:~~

34 ~~(A) A licensed professional engineer, professional hydrologist,~~
 35 ~~or professional geologist.~~

36 ~~(B) An attorney licensed to practice law in the state.~~

37 ~~(2) The department shall establish any other qualifications that~~
 38 ~~may be appropriate to ensure that individuals placed on the list are~~
 39 ~~qualified to assist a court in a comprehensive adjudication.~~

1 ~~844. (a) If a technical committee is established pursuant to~~
2 ~~Section 843, the special master shall provide all parties with a copy~~
3 ~~of a draft technical report he or she prepares and a notice setting~~
4 ~~a day at least 60 days after the draft technical report has been~~
5 ~~provided to all parties before which the parties may submit to the~~
6 ~~special master written objections to the draft technical report.~~

7
8 *Article 12. Special Master*
9

10 *845. (a) The court may appoint one or more special masters*
11 *whose duties may include the following:*

12 *(1) Investigating technical and legal issues, as directed by the*
13 *court. The special master shall compile a report of findings in*
14 *accordance with Section 846.*

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

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

20 *(4) Performing other tasks the court may deem appropriate.*

21 *(b) The court shall fix the special master's compensation on the*
22 *basis and terms stated in the appointing order, and the court may*
23 *set a new basis and new terms after giving the parties notice and*
24 *an opportunity to be heard. The court shall allocate payment of*
25 *the special master's compensation among the parties in an amount*
26 *and a manner that the court deems equitable. The court may waive*
27 *a party's obligations to pay the special master's compensation*
28 *upon a showing of good cause.*

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

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

35 *(e) This section does not limit the authority to appoint a*
36 *watermaster pursuant to Chapter 3 (commencing with Section*
37 *4050) of Part 4 of Division 2 of the Water Code or any other law.*

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

1 (b) An objection to the draft ~~technical~~ report shall identify the
 2 specific grounds and evidence on which the objection is based.
 3 ~~Within 10 days after the close of the period for filing objections;~~
 4 ~~the special master shall provide copies of the objections to all~~
 5 ~~parties.~~

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

9 (d) The special master shall consider the objections to the draft
 10 ~~technical report and develop a final certified copy of the technical~~
 11 ~~report that shall be filed with the court, together with a certified~~
 12 ~~copy of all evidence considered by the special master in preparing~~
 13 ~~the draft technical report, all evidence identified in the objections~~
 14 ~~to the draft technical report, and all evidence considered by the~~
 15 ~~special master in preparing the final technical report. *supporting*~~
 16 ~~evidence.~~

17 ~~845. Chapter 2 (commencing with Section 1115) of Division~~
 18 ~~9 of the Evidence Code shall apply to all mediations, settlement~~
 19 ~~conferences, and other similar out-of-court negotiations in~~
 20 ~~comprehensive adjudications subject to this chapter.~~

21 ~~846. (a) It is the policy of the state to encourage the~~
 22 ~~compromise and settlement of comprehensive adjudications.~~

23 ~~(b) Upon the motion of any party to a comprehensive~~
 24 ~~adjudication, a court may do any of the following:~~

25 ~~(1) Stay a comprehensive adjudication for a period of up to one~~
 26 ~~year, subject to renewal in the court’s discretion upon a showing~~
 27 ~~of good cause, in order to facilitate any of the following:~~

28 ~~(A) (i) Timely development of a groundwater sustainability~~
 29 ~~plan under the Sustainable Groundwater Management Act that~~
 30 ~~may serve as the basis of a stipulated judgment setting forth a~~
 31 ~~physical solution for management of the basin.~~

32 ~~(ii) If the court stays a comprehensive adjudication for purposes~~
 33 ~~of facilitating timely progress on a groundwater sustainability plan,~~
 34 ~~the court may direct the parties to provide the court with regular~~
 35 ~~updates on the progress in developing the groundwater~~
 36 ~~sustainability plan.~~

37 ~~(B) Technical studies that may be useful to the parties in~~
 38 ~~developing a stipulated judgment or physical solution.~~

1 ~~(C) Voluntary mediation on all, or a portion of, the subject~~
2 ~~matters or legal questions identified in the comprehensive~~
3 ~~adjudication or any phase of the comprehensive adjudication.~~

4 ~~(D) Compromise and settlement of the comprehensive~~
5 ~~adjudication, a phase of the comprehensive adjudication, or any~~
6 ~~subject matter of the comprehensive adjudication or a phase of the~~
7 ~~comprehensive adjudication.~~

8 ~~(2) Schedule mandatory mediation and appointment of a neutral~~
9 ~~mediator concerning the comprehensive adjudication, a phase of~~
10 ~~the comprehensive adjudication, or any subject matter of the~~
11 ~~comprehensive adjudication or a phase of the comprehensive~~
12 ~~adjudication.~~

13 ~~(3) Schedule phases of trial in combination with mandatory~~
14 ~~mediation for purposes of fostering compromise concerning the~~
15 ~~comprehensive adjudication, a phase of the comprehensive~~
16 ~~adjudication, or any subject matter of the comprehensive~~
17 ~~adjudication or a phase of the comprehensive adjudication.~~

18 ~~(e) A stay may be extended for up to one year at a time. If~~

19
20 *Article 13. Preliminary Injunction*

21
22 *847. (a) Upon a showing that the basin is in a condition of*
23 *long-term overdraft, the court may, upon notice and hearing, issue*
24 *a preliminary injunction.*

25 *(b) Bulletins and other reports of the department, or a report*
26 *of a special master indicating that a condition of long-term*
27 *overdraft exists in the basin, shall be admissible and shall*
28 *constitute prima facie evidence of a condition of long-term*
29 *overdraft.*

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

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

33 *(2) A limitation on, or reduction in, the diversion or extraction*
34 *of water.*

35 *(3) An allocation among the parties establishing amounts of*
36 *extraction allowed during the pendency of the comprehensive*
37 *adjudication.*

38 *(4) Procedures for voluntary transfers.*

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

- 1 (1) *The basin is in a condition of long-term overdraft.*
- 2 (2) *The basin has been designated as a probationary basin or*
3 *the planning deadlines in subdivision (a) of Section 10720.7 of the*
4 *Water Code are not being complied with.*
- 5 (3) *There is no interim plan in effect under Section 10735.8 of*
6 *the Water Code.*
- 7 (e) *The court may provide a schedule for further reductions in*
8 *extractions over a period of years if it finds that doing so appears*
9 *reasonably necessary to achieve groundwater sustainability within*
10 *the timelines provided in subdivision (b) of Section 10727.2 of the*
11 *Water Code.*
- 12 (f) *The terms of a preliminary injunction shall not determine*
13 *the rights in a final judgment of the comprehensive adjudication.*
- 14 (g) *A bond or undertaking shall not be required for the issuance*
15 *of a preliminary injunction pursuant to this section.*
- 16 (h) *The court may appoint a watermaster to oversee enforcement*
17 *of the preliminary injunction.*

18
19 Article 14. Stay

- 20
- 21 848. (a) *Upon the motion of any party to a comprehensive*
22 *adjudication, a court may stay a comprehensive adjudication for*
23 *a period of up to one year, subject to renewal in the court’s*
24 *discretion upon a showing of good cause, in order to facilitate any*
25 *of the following:*
- 26 (1) *Adoption of a groundwater sustainability plan that provides*
27 *for a physical solution or otherwise addresses issues in the*
28 *comprehensive adjudication.*
- 29 (2) *The development of technical studies that may be useful to*
30 *the parties in the comprehensive adjudication.*
- 31 (3) *Voluntary mediation or participation in a settlement*
32 *conference on all, or a portion of, the subject matters or legal*
33 *questions identified in the comprehensive adjudication.*
- 34 (4) *Compromise and settlement of the comprehensive*
35 *adjudication or issues in the comprehensive adjudication.*
- 36 (b) *If a party opposes an extension of a stay, a stay may only*
37 *be granted after a showing that there is good progress being made*
38 *on the issues that were identified as the reasons for the stay and*
39 *that no rights or interest would be impaired by the stay. ~~The total~~*

1 time period a comprehensive adjudication may be stayed shall not
2 exceed 5 years.

3 (d)

4 (c) A stay pursuant to this section shall not stay, or otherwise
5 delay, the parties’ obligations to provide initial disclosures pursuant
6 to Section ~~840~~ 842 unless the court determines the initial
7 disclosures will not benefit resolution of the comprehensive
8 adjudication.

9

10 *Article 15. Physical Solution*

11

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

16 (b) *Before adopting a physical solution presented by a party,*
17 *or considered on the court’s own motion, the court shall consider*
18 *whether the elements of any existing groundwater sustainability*
19 *plan should be incorporated into the court’s physical solution.*

20

21 *Article 16. Stipulated Judgment*

22

23 ~~847.~~

24 850. (a) ~~*If a party or group of parties may submit submits*~~
25 ~~*a proposed stipulated judgment to the court. The court may impose*~~
26 ~~*any physical solution that is part of the stipulated judgment as a*~~
27 ~~*component of the final judgment in the comprehensive adjudication*~~
28 ~~*if the physical solution satisfies judgment, the court may adopt the*~~
29 ~~*stipulated judgment if the court finds that it meets all of the*~~
30 ~~*following criteria:*~~

31 (1) *It furthers the interests of the state in ensuring that the water*
32 *resources of the state are put to beneficial use to the fullest extent*
33 *that they are capable, as required by Section 2 of Article X of the*
34 *California Constitution.*

35 (2) *It is consistent with all water right priorities in the basin.*

36 (3) *It treats all objecting parties and any persons who have*
37 *claims that are exempted pursuant to Section 841 equitably as*
38 *compared to the stipulating parties.*

39 (b) *If a party or group of parties submits a proposed stipulated*
40 *judgment that is supported by more than 50 percent of all*

1 groundwater extractors in the basin and groundwater extractors
 2 responsible for at least 75 percent of the groundwater extracted
 3 in the basin during the five calendar years before the filing of the
 4 complaint, the court may adopt the proposed stipulated judgment,
 5 as applied to the stipulating parties, if the proposed stipulated
 6 judgment meets the criteria described in subdivision (a). A party
 7 objecting to a proposed stipulated judgment shall demonstrate,
 8 by a preponderance of evidence, that the proposed stipulated
 9 judgment does not satisfy one or more criteria described in
 10 subdivision (a) or that it substantially violates the water rights of
 11 the objecting party. If the objecting party is unable to make this
 12 showing, the court may impose the proposed stipulated judgment
 13 on the objecting party. An objecting party may be subject to a
 14 preliminary injunction issued pursuant to Section 847 while his
 15 or her objections are being resolved.

16 (b)

17 (c) A party may object to a stipulated judgment proposed
 18 pursuant to this section on the basis that it does not satisfy the
 19 criteria described in subdivision (a). The stipulated judgment may
 20 be in effect while any objections are being resolved.

21

22 *Article 17. Judgment Binding on Successors*

23

24 851. *The judgment in a comprehensive adjudication conducted*
 25 *pursuant to this chapter shall be binding on the parties to the*
 26 *action and all their successors in interest, including, but not limited*
 27 *to, heirs, executors, administrators, assigns, lessees, licensees, the*
 28 *agents and employees of the parties to the action and all their*
 29 *successors in interest, and all landowners or other persons*
 30 *claiming rights to extract groundwater from the basin.*

31

32 *Article 18. Continuing Jurisdiction*

33

34 852. (a) *The court shall have continuing jurisdiction to modify*
 35 *or amend a final judgment in a comprehensive adjudication in*
 36 *response to new information, changed circumstances, the interests*
 37 *of justice, or to ensure that the criteria of subdivision (a) of Section*
 38 *850 are met. When feasible, the judge who heard the original*
 39 *action shall preside over actions or motions to modify or amend*
 40 *the judgment.*

1 (b) If the court has approved a stipulated judgment pursuant to
2 subdivision (b) of Section 850, the department shall submit to the
3 court the assessments and any recommended corrective actions
4 the department issues pursuant to Section 10733.8 of the Water
5 Code. The court, after notice and hearing, shall determine whether
6 to amend the judgment or adopt the department's recommended
7 corrective actions.

8 848:

9 853. (a) Before the court issues a final judgment in the
10 comprehensive adjudication, a party may file a motion for an order
11 determining that the judgment is consistent with ~~the sustainability~~
12 ~~goal of groundwater sustainability, as established by the~~
13 Sustainable Groundwater Management Act.

14 (b) For any basin required to develop a groundwater
15 sustainability plan under the Sustainable Groundwater Management
16 Act, the department shall provide a report to the court evaluating
17 if the judgment is consistent with ~~the sustainability goal of~~
18 ~~groundwater sustainability, as established by the~~ Sustainable
19 Groundwater Management Act.

20 (c) If the court determines that the judgment will achieve ~~the~~
21 ~~sustainability goal for the basin~~ groundwater sustainability for the
22 basin, as established by the Sustainable Groundwater Management
23 Act, the judgment shall be considered an alternative to a
24 groundwater sustainability plan and shall be deemed to satisfy the
25 objectives of the Sustainable Groundwater Management Act.

26 (d) The court shall have sole jurisdiction to determine if the
27 judgment complies with the Sustainable Groundwater Management
28 Act.

29 (e) The court may consider a motion made pursuant to
30 subdivision (a) for a proposed judgment before the court enters
31 the judgment.

32 (f) For purposes of this section, "judgment" means a judgment,
33 settlement, or other final order concluding proceedings in the
34 comprehensive adjudication in the superior court.

35 (g) Nothing in this section is intended to undermine the goals
36 and outcomes of the Sustainable Groundwater Management Act
37 to the extent water rights, as determined by the court, are not
38 impaired.

1 849.

2 854. The court may appoint a groundwater sustainability agency
3 to serve as the watermaster in any judgment entered in a
4 comprehensive adjudication.

5 SEC. 2. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.