

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 226

Introduced by Senator Pavley

February 13, 2015

An act to amend Sections ~~10721~~ 10720.1, 10720.5, 10720.8, 10721, 10722.2, 10735, and 10735.8 of, to add Section 105.5 to, and to add Chapter 12 (commencing with Section 10737) to Part 2.74 of Division 6 of, the Water Code, relating to ~~groundwater~~ water.

LEGISLATIVE COUNSEL'S DIGEST

SB 226, as amended, Pavley. Sustainable Groundwater Management Act: groundwater ~~rights~~ adjudication.

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

This bill would authorize the state to intervene as a matter of right in any suit brought in any court for determination of rights to water.

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a

groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified.

~~Existing law specifies the jurisdiction of the courts. Under existing law, courts may adjudicate rights to produce groundwater and exercise other powers relating to the supervision of a groundwater basin.~~

~~This bill would find and declare that it establishes a timely and comprehensive method for determining rights to groundwater. *establish special procedures for certain adjudication actions determining rights to groundwater in furtherance of the objectives of the act.* The bill would provide that a court shall use the *procedures in the Code of Civil Procedure for determining rights to groundwater, these adjudication actions*, except as provided by the special procedures established in the bill. ~~This bill would require the process for determining rights to groundwater to be available to any court of competent jurisdiction. The bill would provide that it applies to Indian tribes and the federal government. The bill would require the boundaries of a basin to be as identified in Bulletin 118, unless other basin boundaries are established, as specified. The bill would authorize the Department of Water Resources and the Department of Fish and Wildlife to intervene in an action or proceeding if they claim an interest relating to the action or proceeding, as provided. The bill would authorize the court to determine all rights to groundwater in a basin whether based on appropriation, overlying right, or other basis of right. The bill would require the boundaries of the area subject to an adjudication action to be consistent with the boundaries of a basin, with specified exceptions. The bill would specify service and notice procedures. *procedures and 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 adjudication action for purposes of establishing in rem jurisdiction and the comprehensive effect of the adjudication action.* The bill would require a party to provide specified initial disclosures to the other parties, including, among other disclosures, information relating to expert witnesses. *disclosures, as prescribed, and under penalty of perjury. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill would require the court to have the authority and duty to impose a physical solution on the parties in*~~~~

an adjudication action where necessary and would authorize the court to adopt a stipulated judgment if the court finds that the judgment meets certain criteria. This bill would require the court to have continuing jurisdiction to modify or amend a final judgment in an adjudication action, as specified.

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: ~~no~~-yes.

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

1 SECTION 1. Section 105.5 is added to the Water Code, to read:
2 105.5. Notwithstanding any other law, the state may intervene
3 as a matter of right in any suit brought in any court for
4 determination of rights to water.

5 SEC. 2. Section 10720.1 of the Water Code is amended to read:
6 10720.1. In enacting this part, it is the intent of the Legislature
7 to do all of the following:

8 (a) To provide for the sustainable management of groundwater
9 basins.

10 (b) To enhance local management of groundwater consistent
11 with rights to use or store groundwater and Section 2 of Article X
12 of the California Constitution. It is the intent of the Legislature to
13 preserve the security of water rights in the state to the greatest
14 extent possible consistent with the sustainable management of
15 groundwater.

16 (c) To establish minimum standards for sustainable groundwater
17 management.

18 (d) To provide local groundwater agencies with the authority
19 and the technical and financial assistance necessary to sustainably
20 manage groundwater.

21 (e) To avoid or minimize subsidence.

22 (f) To improve data collection and understanding about
23 groundwater.

1 (g) To increase groundwater storage and remove impediments
 2 to recharge.

3 (h) To manage groundwater basins through the actions of local
 4 governmental agencies to the greatest extent feasible, while
 5 minimizing state intervention to only when necessary to ensure
 6 that local agencies manage groundwater in a sustainable manner.

7 *(i) To provide a more efficient and cost-effective groundwater*
 8 *adjudication process that protects water rights, ensures due*
 9 *process, prevents unnecessary delay, and furthers the objectives*
 10 *of this part.*

11 *SEC. 3. Section 10720.5 of the Water Code is amended to read:*

12 10720.5. (a) Groundwater management pursuant to this part
 13 shall be consistent with Section 2 of Article X of the California
 14 Constitution. Nothing in this part modifies rights or priorities to
 15 use or store groundwater consistent with Section 2 of Article X of
 16 the California Constitution, except that in basins designated
 17 medium- or high-priority basins by the department, no extraction
 18 of groundwater between January 1, 2015, and the date of adoption
 19 of a groundwater sustainability plan pursuant to this ~~part~~, *part or*
 20 *the approval by the department of an alternative submitted under*
 21 *Section 10733.6, whichever is sooner, may be used as evidence*
 22 *of, or to establish or defend against, any claim of prescription.*

23 (b) Nothing in this part, or in any groundwater management
 24 plan adopted pursuant to this part, determines or alters surface
 25 water rights or groundwater rights under common law or any
 26 provision of law that determines or grants surface water rights.

27 *(c) Water rights may be determined in an adjudication action*
 28 *pursuant to Chapter 12 (commencing with Section 10737).*

29 *SEC. 4. Section 10720.8 of the Water Code is amended to read:*

30 10720.8. (a) Except as provided in ~~subdivision (e)~~, *subdivisions*
 31 *(e) and (g)*, this part does not apply to the following adjudicated
 32 areas or a local agency that conforms to the requirements of an
 33 adjudication of water rights for one of the following adjudicated
 34 areas:

- 35 (1) Beaumont Basin.
- 36 (2) Brite Basin.
- 37 (3) Central Basin.
- 38 (4) Chino Basin.
- 39 (5) Cucamonga Basin.
- 40 (6) Cummings Basin.

- 1 (7) Goleta Basin.
- 2 (8) Lytle Basin.
- 3 (9) Main San Gabriel Basin.
- 4 (10) Mojave Basin Area.
- 5 (11) Puente Basin.
- 6 (12) Raymond Basin.
- 7 (13) Rialto-Colton Basin.
- 8 (14) Riverside Basin.
- 9 (15) San Bernardino Basin Area.
- 10 (16) San Jacinto Basin.
- 11 (17) Santa Margarita River Watershed.
- 12 (18) Santa Maria Valley Basin.
- 13 (19) Santa Paula Basin.
- 14 (20) Scott River Stream System.
- 15 (21) Seaside Basin.
- 16 (22) Six Basins.
- 17 (23) Tehachapi Basin.
- 18 (24) Upper Los Angeles River Area.
- 19 (25) Warren Valley Basin.
- 20 (26) West Coast Basin.

21 (b) The Antelope Valley basin at issue in the Antelope Valley
22 Groundwater Cases (Judicial Council Coordination Proceeding
23 Number 4408) shall be treated as an adjudicated basin pursuant to
24 this section if the superior court issues a final judgment, order, or
25 decree.

26 (c) Any groundwater basin or portion of a groundwater basin
27 in Inyo County managed pursuant to the terms of the stipulated
28 judgment in *City of Los Angeles v. Board of Supervisors of the*
29 *County of Inyo, et al.* (Inyo County Case No. 12908) shall be
30 treated as an adjudicated area pursuant to this section.

31 (d) The Los Osos Groundwater Basin at issue in *Los Osos*
32 *Community Service District v. Southern California Water Company*
33 *[Golden State Water Company] et al.* (San Luis Obispo County
34 Superior Court Case No. CV 040126) shall be treated as an
35 adjudicated basin pursuant to this section if the superior court
36 issues a final judgment, order, or decree.

37 (e) If an adjudication action has determined the rights to extract
38 groundwater for only a portion of a basin, subdivisions (a), (b),
39 (c), and (d) apply only within the area for which the adjudication
40 action has determined those rights.

- 1 (f) The watermaster or a local agency within a basin identified
 2 in subdivision (a) shall do all of the following:
- 3 (1) By April 1, 2016, submit to the department a copy of a
 4 governing final judgment, or other judicial order or decree, and
 5 any amendments entered before April 1, 2016.
- 6 (2) Within 90 days of entry by a court, submit to the department
 7 a copy of any amendment made and entered by the court to the
 8 governing final judgment or other judicial order or decree on or
 9 after April 1, 2016.
- 10 (3) By April 1, 2016, and annually thereafter, submit to the
 11 department a report containing the following information to the
 12 extent available for the portion of the basin subject to the
 13 adjudication:
- 14 (A) Groundwater elevation data unless otherwise submitted
 15 pursuant to Section 10932.
- 16 (B) Annual aggregated data identifying groundwater extraction
 17 for the preceding water year.
- 18 (C) Surface water supply used for or available for use for
 19 groundwater recharge or in-lieu use.
- 20 (D) Total water use.
- 21 (E) Change in groundwater storage.
- 22 (F) The annual report submitted to the court.
- 23 (g) *A court with jurisdiction over a proposed expansion of an*
 24 *adjudicated area described in subdivisions (a) to (d), inclusive,*
 25 *may order that the proceeding be conducted in accordance with*
 26 *Chapter 12 (commencing with Section 10737).*
- 27 ~~SECTION 4.~~
- 28 *SEC. 5.* Section 10721 of the Water Code is amended to read:
 29 10721. Unless the context otherwise requires, the following
 30 definitions govern the construction of this part:
- 31 (a) “Adjudication action” means an action filed in the superior
 32 or federal district court to determine the rights to extract
 33 groundwater from a basin or store water within a basin, including,
 34 but not limited to, actions to quiet title respecting rights to extract
 35 or store groundwater or an action brought to impose a physical
 36 solution on a basin.
- 37 (b) “Basin” means a groundwater basin or subbasin identified
 38 and defined in Bulletin 118 or as modified pursuant to Chapter 3
 39 (commencing with Section 10722).

1 (c) “Bulletin 118” means the department’s report entitled
2 “California’s Groundwater: Bulletin 118” updated in 2003, as it
3 may be subsequently updated or revised in accordance with Section
4 12924.

5 (d) “Coordination agreement” means a legal agreement adopted
6 between two or more groundwater sustainability agencies that
7 provides the basis for coordinating multiple agencies or
8 groundwater sustainability plans within a basin pursuant to this
9 part.

10 (e) “De minimis extractor” means a person who extracts, for
11 domestic purposes, two acre-feet or less per year.

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

14 (g) “Governing body” means the legislative body of a
15 groundwater sustainability agency.

16 (h) “Groundwater” means water beneath the surface of the earth
17 within the zone below the water table in which the soil is
18 completely saturated with water, but does not include water that
19 flows in known and definite channels.

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

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

24 (k) “Groundwater sustainability agency” means one or more
25 local agencies that implement the provisions of this part. For
26 purposes of imposing fees pursuant to Chapter 8 (commencing
27 with Section 10730) or taking action to enforce a groundwater
28 sustainability plan, “groundwater sustainability agency” also means
29 each local agency comprising the groundwater sustainability
30 agency if the plan authorizes separate agency action.

31 (l) “Groundwater sustainability plan” or “plan” means a plan
32 of a groundwater sustainability agency proposed or adopted
33 pursuant to this part.

34 (m) “Groundwater sustainability program” means a coordinated
35 and ongoing activity undertaken to benefit a basin, pursuant to a
36 groundwater sustainability plan.

37 (n) “Local agency” means a local public agency that has water
38 supply, water management, or land use responsibilities within a
39 groundwater basin.

1 (o) “Operator” means a person operating a groundwater
2 extraction facility. The owner of a groundwater extraction facility
3 shall be conclusively presumed to be the operator unless a
4 satisfactory showing is made to the governing body of the
5 groundwater sustainability agency that the groundwater extraction
6 facility actually is operated by some other person.

7 (p) “Owner” means a person owning a groundwater extraction
8 facility or an interest in a groundwater extraction facility other
9 than a lien to secure the payment of a debt or other obligation.

10 (q) “Personal information” has the same meaning as defined in
11 Section 1798.3 of the Civil Code.

12 (r) “Planning and implementation horizon” means a 50-year
13 time period over which a groundwater sustainability agency
14 determines that plans and measures will be implemented in a basin
15 to ensure that the basin is operated within its sustainable yield.

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

18 (t) “Recharge area” means the area that supplies water to an
19 aquifer in a groundwater basin.

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

22 ~~(t)~~

23 (v) “Sustainability goal” means the existence and
24 implementation of one or more groundwater sustainability plans
25 that achieve sustainable groundwater management by identifying
26 and causing the implementation of measures targeted to ensure
27 that the applicable basin is operated within its sustainable yield.

28 ~~(v)~~

29 (w) “Sustainable groundwater management” means the
30 management and use of groundwater in a manner that can be
31 maintained during the planning and implementation horizon
32 without causing undesirable results.

33 ~~(w)~~

34 (x) “Sustainable yield” means the maximum quantity of water,
35 calculated over a base period representative of long-term conditions
36 in the basin and including any temporary surplus, that can be
37 withdrawn annually from a groundwater supply without causing
38 an undesirable result.

39 ~~(x)~~

1 (y) “Undesirable result” means one or more of the following
2 effects caused by groundwater conditions occurring throughout
3 the basin:

4 (1) Chronic lowering of groundwater levels indicating a
5 significant and unreasonable depletion of supply if continued over
6 the planning and implementation horizon. Overdraft during a period
7 of drought is not sufficient to establish a chronic lowering of
8 groundwater levels if extractions and recharge are managed as
9 necessary to ensure that reductions in groundwater levels or storage
10 during a period of drought are offset by increases in groundwater
11 levels or storage during other periods.

12 (2) Significant and unreasonable reduction of groundwater
13 storage.

14 (3) Significant and unreasonable seawater intrusion.

15 (4) Significant and unreasonable degraded water quality,
16 including the migration of contaminant plumes that impair water
17 supplies.

18 (5) Significant and unreasonable land subsidence that
19 substantially interferes with surface land uses.

20 (6) Depletions of interconnected surface water that have
21 significant and unreasonable adverse impacts on beneficial uses
22 of the surface water.

23 ~~(y)~~

24 (z) “Water budget” means an accounting of the total groundwater
25 and surface water entering and leaving a basin including the
26 changes in the amount of water stored.

27 ~~(z)~~

28 (aa) “Watermaster” means a watermaster appointed by a court
29 or pursuant to other law.

30 ~~(aa)~~

31 (ab) “Water year” means the period from October 1 through
32 the following September 30, inclusive.

33 ~~(ab)~~

34 (ac) “Wellhead protection area” means the surface and
35 subsurface area surrounding a water well or well field that supplies
36 a public water system through which contaminants are reasonably
37 likely to migrate toward the water well or well field.

38 *SEC. 6. Section 10722.2 of the Water Code is amended to read:*

39 10722.2. (a) A local agency or an entity directed by the court
40 in an adjudication action to file the request may request that the

1 department revise the boundaries of a basin, including the
2 establishment of new subbasins. A ~~local agency's~~ request shall be
3 supported by the following information:

4 (1) Information demonstrating that the proposed adjusted basin
5 can be the subject of sustainable groundwater management.

6 (2) Technical information regarding the boundaries of, and
7 conditions in, the proposed adjusted basin.

8 (3) Information demonstrating that the entity proposing the
9 basin boundary adjustment consulted with interested local agencies
10 and public water systems in the affected basins before filing the
11 proposal with the department.

12 (4) Other information the department deems necessary to justify
13 revision of the basin's boundary.

14 (b) By January 1, 2016, the department shall adopt regulations
15 regarding the information required to comply with subdivision (a),
16 including the methodology and criteria to be used to evaluate the
17 proposed revision. The department shall adopt the regulations,
18 including any amendments thereto, authorized by this section as
19 emergency regulations in accordance with the Administrative
20 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
21 Part 1 of Division 3 of Title 2 of the Government Code). The
22 adoption of these regulations is an emergency and shall be
23 considered by the Office of Administrative Law as necessary for
24 the immediate preservation of the public peace, health and safety,
25 or general welfare. Notwithstanding the Administrative Procedure
26 Act, emergency regulations adopted by the department pursuant
27 to this section shall not be subject to review by the Office of
28 Administrative Law and shall remain in effect until revised by the
29 department.

30 (c) Methodology and criteria established pursuant to subdivision
31 (b) shall address all of the following:

32 (1) How to assess the likelihood that the proposed basin can be
33 sustainably managed.

34 (2) How to assess whether the proposed basin would limit the
35 sustainable management of adjacent basins.

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

38 (d) ~~Prior to adopting and finalizing the regulations, the~~
39 ~~regulations pursuant to subdivision (b),~~ the department shall
40 conduct three public meetings to consider public comments. The

1 department shall publish the draft regulations on its Internet Web
2 site at least 30 days before the public meetings. One meeting shall
3 be conducted at a location in northern California, one meeting
4 shall be conducted at a location in the central valley of California,
5 and one meeting shall be conducted at a location in southern
6 California.

7 (e) The department shall provide a copy of its draft revision of
8 a basin's boundaries to the California Water Commission. The
9 California Water Commission shall hear and comment on the draft
10 revision within 60 days after the department provides the draft
11 revision to the commission.

12 *SEC. 7. Section 10735 of the Water Code is amended to read:*

13 10735. As used in this chapter and Chapter 12 (commencing
14 with Section 10737), the following terms have the following
15 meanings:

16 (a) "Condition of long-term overdraft" means the condition of
17 a groundwater basin where the average annual amount of water
18 extracted for a long-term period, generally 10 years or more,
19 exceeds the long-term average annual supply of water to the basin,
20 plus any temporary surplus. Overdraft during a period of drought
21 is not sufficient to establish a condition of long-term overdraft if
22 extractions and recharge are managed as necessary to ensure that
23 reductions in groundwater levels or storage during a period of
24 drought are offset by increases in groundwater levels or storage
25 during other periods.

26 (b) "Person" means any person, firm, association, organization,
27 partnership, business, trust, corporation, limited liability company,
28 or public agency, including any city, county, city and county,
29 district, joint powers authority, state, or any agency or department
30 of those entities. "Person" includes, to the extent authorized by
31 federal or tribal law and subject to the limitations described in
32 subdivisions (c) and (d) of Section 10720.3, the United States, a
33 department, agency or instrumentality of the federal government,
34 an Indian tribe, an authorized Indian tribal organization, or
35 interstate body.

36 (c) "Probationary basin" means a basin for which the board has
37 issued a determination under Section 10735.2.

38 (d) "Significant depletions of interconnected surface waters"
39 means reductions in flow or levels of surface water that is
40 hydrologically connected to the basin such that the reduced surface

1 water flow or levels have a significant and unreasonable adverse
2 impact on beneficial uses of the surface water.

3 ~~SEC. 2.~~

4 *SEC. 8.* Section 10735.8 of the Water Code is amended to read:

5 10735.8. (a) The board, after notice and a public hearing, may
6 adopt an interim plan for a probationary basin.

7 (b) The interim plan shall include all of the following:

8 (1) Identification of the actions that are necessary to correct a
9 condition of long-term overdraft or a condition where groundwater
10 extractions result in significant depletions of interconnected surface
11 waters, including recommendations for appropriate action by any
12 person.

13 (2) A time schedule for the actions to be taken.

14 (3) A description of the monitoring to be undertaken to
15 determine effectiveness of the plan.

16 (c) The interim plan may include the following:

17 (1) Restrictions on groundwater extraction.

18 (2) A physical solution.

19 (3) Principles and guidelines for the administration of rights to
20 surface waters that are connected to the basin.

21 (d) Except as provided in subdivision (e), the interim plan shall
22 be consistent with water right priorities, subject to Section 2 of
23 Article X of the California Constitution.

24 (e) The board shall include in its interim plan a groundwater
25 sustainability plan, or any element of a plan, that the board finds
26 complies with the sustainability goal for that portion of the basin
27 or would help meet the sustainability goal for the basin. Where,
28 in the judgment of the board, an adjudication action can be relied
29 on as part of the interim plan, either throughout the basin or in an
30 area within the basin, the board may rely on, or incorporate
31 elements of, that adjudication into the interim plan adopted by the
32 board.

33 (f) In carrying out activities that may affect the probationary
34 basin, state entities shall comply with an interim plan adopted by
35 the board pursuant to this section unless otherwise directed or
36 authorized by statute and the state entity shall indicate to the board
37 in writing the authority for not complying with the interim plan.

38 (g) (1) After the board adopts an interim plan under this section,
39 the board shall determine if a groundwater sustainability plan or
40 an adjudication action is adequate to eliminate the condition of

1 long-term overdraft or condition where groundwater extractions
2 result in significant depletions of interconnected surface waters,
3 upon petition of either of the following:

4 (A) A groundwater sustainability agency that has adopted a
5 groundwater sustainability plan for the probationary basin or a
6 portion thereof.

7 (B) A person authorized to file the petition by a judicial order
8 or decree entered in an adjudication action in the probationary
9 basin.

10 (2) The board shall act on a petition filed pursuant to paragraph
11 (1) within 90 days after the petition is complete. If the board, in
12 consultation with the department, determines that the groundwater
13 sustainability plan or adjudication action is adequate, the board
14 shall rescind the interim plan adopted by the board for the
15 probationary basin, except as provided in paragraphs (3) and (4).

16 (3) Upon request of the petitioner, the board may amend an
17 interim plan adopted under this section to eliminate portions of
18 the interim plan, while allowing other portions of the interim plan
19 to continue in effect.

20 (4) The board may decline to rescind an interim plan adopted
21 pursuant to this section if the board determines that the petitioner
22 has not provided adequate assurances that the groundwater
23 sustainability plan or judicial order or decree will be implemented.

24 (5) This subdivision is not a limitation on the authority of the
25 board to stay its proceedings under this section or to rescind or
26 amend an interim plan adopted pursuant to this section based on
27 the progress made by a groundwater sustainability agency or in
28 an adjudication action pursuant to Chapter 12 (commencing with
29 Section 10737), even if the board cannot make a determination of
30 adequacy in accordance with paragraph (1).

31 (h) Before January 1, 2025, the state board shall not establish
32 an interim plan under this section to remedy a condition where the
33 groundwater extractions result in significant depletions of
34 interconnected surface waters.

35 (i) The board's authority to adopt an interim plan under this
36 section does not alter the law establishing water rights priorities
37 or any other authority of the board.

38 ~~SEC. 3.~~

39 *SEC. 9.* Chapter 12 (commencing with Section 10737) is added
40 to Part 2.74 of Division 6 of the Water Code, to read:

1 CHAPTER 12. DETERMINATION OF RIGHTS TO GROUNDWATER

2

3

Article 1. General Provisions

4

5 10737. (a) ~~The Legislature finds and declares that this~~ *This*
6 chapter establishes a timely and comprehensive method for
7 determining rights to groundwater in furtherance of the objectives
8 of this part.

9 ~~(b) This chapter establishes special procedures for court use in~~
10 ~~determining rights to groundwater. Unless otherwise provided in~~
11 ~~this chapter, a court shall determine rights to groundwater using~~
12 ~~the procedures codified in the Code of Civil Procedure.~~

13 ~~(c) Nothing contained in this chapter shall be deemed to repeal~~
14 ~~or preclude an action to determine rights to groundwater in~~
15 ~~accordance with the common law.~~

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

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

20 *(2) Conducting an adjudication action in a manner that*
21 *promotes efficiency, reduces unnecessary delays, provides due*
22 *process, and is consistent with the achievement of the sustainability*
23 *goal within the timeframes of this part.*

24 *(3) Encouraging the compromise and settlement of adjudication*
25 *actions.*

26 *(4) Establishing procedures by which courts may conduct*
27 *comprehensive determinations of all rights and priorities to*
28 *groundwater in a basin.*

29 *(5) Providing for the conduct of an adjudication action*
30 *consistent with Winters v. U.S. (1908) 207 U.S. 564, the McCarran*
31 *Amendment (codified at 43 U.S.C. Sec. 666), and any other federal*
32 *law regarding the determination of federal or tribal water rights,*
33 *as applicable.*

34 *(6) Providing notice and due process sufficient to enable a court*
35 *in an adjudication action to determine and establish the priority*
36 *for unexercised water rights consistent with the principles*
37 *established in In re Waters of Long Valley Creek Stream System*
38 *(1979) 25 Cal.3d 339.*

1 ~~10737.2. In making its determination of rights to groundwater,~~
2 ~~a court shall avoid an undesirable result as defined in Section~~
3 ~~10721.~~

4 *10737.2. In an adjudication action for a basin required to have*
5 *a groundwater sustainability plan under this part, the court shall*
6 *manage the proceedings in a manner that minimizes interference*
7 *with the timely completion and implementation of a groundwater*
8 *sustainability plan, avoids redundancy and unnecessary costs in*
9 *the development of technical information and a physical solution,*
10 *and is consistent with the attainment of the sustainability goal*
11 *within the timeframes established by this part.*

12 *10737.4. Except as otherwise provided in this chapter, a court*
13 *shall determine rights to groundwater using the procedures*
14 *codified in the Code of Civil Procedure.*

15
16 ~~Article 2. Application~~

17
18 ~~10738. The process defined in this chapter shall be available~~
19 ~~to any court of competent jurisdiction.~~

20 ~~10738.2. (a) Consistent with subdivision (b) of Section~~
21 ~~10720.3, this chapter applies to an Indian tribe and to the federal~~
22 ~~government, to the extent authorized under federal law.~~

23 ~~(b) Section 389 of the Code of Civil Procedure shall not apply~~
24 ~~to any failure to join an Indian tribe or the United States to an~~
25 ~~action or proceeding brought under this chapter.~~

26 ~~10738.4. An action requesting a court to determine water rights~~
27 ~~under this chapter shall be deemed provisionally complex within~~
28 ~~the meaning provided in Rule 3.400 of Title 3 of the California~~
29 ~~Rules of Court.~~

30
31 ~~Article 3. Basin Boundaries~~

32
33 ~~10739. Unless other basin boundaries are established pursuant~~
34 ~~to Section 10722.2 or subdivision (b) of Section 12924, the~~
35 ~~boundaries of a basin shall be as identified in Bulletin 118.~~

36
37 ~~Article 4. Parties~~

38
39 ~~10740. Upon timely motion, the court shall permit the~~
40 ~~department or the Department of Fish and Wildlife, or both, to~~

1 intervene in an action or proceeding brought under this chapter if
2 the movant claims an interest relating to the action or proceeding
3 and is so situated that disposing of the action or proceeding may,
4 as a practical matter, impair or impede the movant's ability to
5 protect its interest.

6

7

Article 5. Service and Notice

8

9 10741. (a) All known defendants shall be served in the manner
10 provided in Chapter 4 (commencing with Section 413.10) of Title
11 5 of Part 2 of the Code of Civil Procedure.

12 (b) (1) All unknown defendants shall be served by publication
13 as provided in Section 415.50 of the Code of Civil Procedure.

14 (2) In addition to other requirements of Section 415.50 of the
15 Code of Civil Procedure, the publication shall describe the
16 groundwater basin that is the subject of the action. The publication
17 shall describe the groundwater basin as identified pursuant to
18 Section 10739, the Internet address for a map depicting the basin,
19 and any other identifying information that the court deems
20 appropriate.

21

22

Article 6. Discovery

23

24 10742. (a) Except as otherwise stipulated or ordered by the
25 court, a party shall, without awaiting a discovery request, provide
26 to the other parties all of the following:

27 (1) The name and, if known, the address and telephone number
28 of each individual likely to have discoverable information, along
29 with the subjects of that information, who the disclosing party may
30 use to support its claims or defenses, unless the use would be solely
31 for impeachment.

32 (2) A copy or a description by category and location, of all
33 documents, electronically stored information, and tangible things
34 that the disclosing party has in its possession, custody, or control
35 that it may use to support its claims or defenses, unless the use
36 would be solely for impeachment.

37 (3) A quantification of claims to water in the basin by the
38 disclosing party. The disclosing party shall also make available
39 for inspection and copying any documents or other evidentiary
40 material, unless privileged or protected from disclosure, on which

1 each claim is based, including materials bearing on the nature and
2 extent of those claims.

3 (b) A party shall make all disclosures required by this article at
4 or within 14 days after the parties' initial case management
5 conference unless a different time is set by stipulation or court
6 order, or unless a party objects during the conference that initial
7 disclosures are not appropriate in this action and states the objection
8 in a proposed discovery plan. In ruling on the objection, the court
9 shall determine what disclosures, if any, are to be made and shall
10 set the time for disclosure.

11 (c) A party that is first served or otherwise joined after the initial
12 case management conference shall make its initial disclosures
13 within 30 days after being served or joined, unless a different time
14 is set by stipulation or court order.

15 (d) A party shall make its initial disclosures based on the
16 information then reasonably available to it. A party is not excused
17 from making its disclosures because it has not fully investigated
18 the case or because it challenges the sufficiency of another party's
19 disclosures or because another party has not made its disclosures.

20
21 *Article 2. Scope of the Action*

22
23 10738. (a) *Except as provided in subdivision (b), this chapter*
24 *applies to either of the following:*

- 25 (1) *An adjudication action in a high- or medium-priority basin.*
- 26 (2) *Where a court considers the need for effective determination*
27 *and administration of water rights and priorities, the purposes of*
28 *this part, and the interest in judicial economy, and determines that*
29 *proceedings in an adjudication action should be conducted under*
30 *this chapter.*

31 (b) *This chapter does not apply to any of the following*
32 *adjudication actions:*

- 33 (1) *An adjudication action that concerns only allegations that*
34 *a groundwater extraction facility, or a group of facilities, is*
35 *interfering with another groundwater extraction facility or facilities*
36 *and that does not require an allocation of the basin's groundwater*
37 *supply.*
- 38 (2) *An adjudication action that concerns only claims to extract,*
39 *or prevent interference with extractions from, water stored in a*

1 basin as a result of artificial recharge and does not involve an
2 allocation of the basin's groundwater supply.

3 (3) An adjudication action that can be resolved among a limited
4 number of parties and does not involve a comprehensive allocation
5 of the basin's groundwater supply.

6 10738.2. (a) The court may determine all rights to groundwater
7 in an adjudication action for a basin, whether based upon
8 appropriation, overlying right, or other basis of right.

9 (b) As to the right to groundwater of each party, the court's
10 final judgment in an adjudication action may declare the priority,
11 amount, purposes of use, extraction location, and place of use of
12 the water, together with appropriate injunction relief, subject to
13 terms adopted by the court to implement a physical solution in the
14 adjudication action.

15 10738.4. (a) (1) Except as otherwise provided in this section,
16 the boundaries of the area subject to an adjudication action shall
17 be consistent with the boundaries of a basin.

18 (2) If the department revises the boundaries of a basin under
19 Section 10722.2 or subdivision (b) of Section 12924 after an
20 adjudication action has been initiated, the court may revise the
21 boundaries of the area subject to the adjudication action as the
22 interest of justice and the objectives of this chapter require.

23 (3) Upon a showing that a revision of the basin boundaries
24 would further a fair and effective determination of water rights,
25 the court may direct any of the following to submit a request to
26 the department for revision of the basin boundaries in accordance
27 with Section 10722.2:

28 (A) A party to the adjudication action.

29 (B) The board, if the court has made a reference under Part 3
30 (commencing with Section 2000) of Division 2.

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

32 (b) If the court finds that including an interconnected surface
33 water body or subterranean stream flowing through known and
34 definite channels is necessary to the fair and effective
35 determination of the rights to a basin, the court may require the
36 joinder of persons who claim rights to divert and use water from
37 that surface water body or subterranean stream in the adjudication
38 action.

39 (c) If the court finds that claims of right to extract or divert only
40 minor quantities of water, not to exceed five acre-feet per year,

1 *have no material effect on the rights of other parties, the court*
2 *may exempt those claimants with respect to those claims for only*
3 *minor quantities of water. A person exempted pursuant to this*
4 *subdivision may elect to continue as a party to the adjudication*
5 *action.*

6
7 *Article 3. Selection of Judge*
8

9 *10739. (a) A judge of a superior court of a county within which*
10 *a portion of the groundwater adjudication lies shall be disqualified.*
11 *The chair of the Judicial Council shall assign a judge to preside*
12 *in all proceedings in an adjudication action.*

13 *(b) An adjudication action is presumed to be a complex action*
14 *within the meaning of Rule 3.400 of the California Rules of Court*
15 *unless a party demonstrates that the comprehensive adjudication*
16 *is not complex.*

17 *(c) Sections 170.6 and 394 of the Code of Civil Procedure shall*
18 *not apply in an adjudication action.*

19 *(d) (1) Notwithstanding subdivision (b) of Section 10726.6, an*
20 *action against a groundwater sustainability agency that is located*
21 *in a basin that is being adjudicated under this chapter shall be*
22 *subject to transfer, coordination, and consolidation with the*
23 *adjudication action, as appropriate, if the action concerns the*
24 *adoption, substance, or implementation of a groundwater*
25 *sustainability plan, or the agency's compliance with the timelines*
26 *in this part.*

27 *(2) The judge assigned by the Judicial Council pursuant to*
28 *subdivision (a) shall determine whether transfer, coordination, or*
29 *consolidation is appropriate.*

30
31 *Article 4. Electronic Service*
32

33 *10739.6. Except for the service of a complaint pursuant to*
34 *Article 5 (commencing with Section 10740), the service of*
35 *pleadings and papers in an adjudication action shall occur*
36 *electronically to the greatest extent possible. Each party shall*
37 *serve documents by electronic mail, or other equivalent electronic*
38 *means, to the greatest extent possible. To enable electronic service*
39 *of pleadings and papers, the attorney of record or a party*
40 *representing themselves shall include an electronic mail address*

1 *for service in the captions of pleadings and papers that the attorney*
2 *or party files in the adjudication action.*

3

4

Article 5. Notice and Service of Complaint

5

6 *10740. (a) The plaintiff shall publish notice of the complaint*
7 *pursuant to Section 6065 of the Government Code in each county*
8 *that overlies the basin or a portion of the basin.*

9 *(b) (1) The plaintiff shall provide notice of the adjudication*
10 *action to all of the following:*

11 *(A) A groundwater sustainability agency that overlies any*
12 *portion of the basin.*

13 *(B) A city, county, or city and county that overlies any portion*
14 *of the basin.*

15 *(C) A district with authority to manage or replenish groundwater*
16 *resources of the basin in whole or in part.*

17 *(D) The operator of a public water system or state small water*
18 *system that uses groundwater from the basin to supply water*
19 *service.*

20 *(E) A California Native American tribe that is on the contact*
21 *list maintained by the Native American Heritage Commission.*

22 *(F) The Attorney General, the board, the department, and the*
23 *Department of Fish and Wildlife.*

24 *(G) A federal department or agency that manages a federal*
25 *reservation that in any portion overlies the basin.*

26 *(H) A person identified under subdivision (a) or (b) of Section*
27 *10740.4 who is not a party to the action.*

28 *(I) An owner of real property in the basin, if a person who*
29 *receives notice under Section 10740.2 notifies the plaintiff of the*
30 *address of the owner of real property subject to the property tax*
31 *bill.*

32 *(J) A person who makes a request in writing, including*
33 *electronic mail.*

34 *(2) The plaintiff may provide notice required pursuant to this*
35 *subdivision by first class mail or electronic mail.*

36 *(3) (A) Except as provided in subparagraph (B), the plaintiff*
37 *shall provide notice required pursuant to this subdivision as*
38 *follows:*

1 (i) To any person entitled to notice under subparagraphs (A)
2 to (G), inclusive, of paragraph (1) within 15 days of the filing of
3 the complaint.

4 (ii) To any person entitled to notice under subparagraphs (H)
5 to (J), inclusive, of paragraph (1) within 30 days of receipt of the
6 name and address of the person entitled to notice.

7 (B) The plaintiff may take additional time as is reasonably
8 necessary before providing notice under this subdivision if the
9 plaintiff determines that additional time is necessary to identify a
10 person entitled to notice under this subdivision, to confirm the
11 accuracy of the name or address of that person, or to determine
12 whether the conditions requiring notice have been satisfied.

13 (4) The plaintiff is not required to provide notice under this
14 subdivision to a person who has already been served or intervened
15 in the adjudication action.

16 10740.2. (a) When the plaintiff files the complaint, the plaintiff
17 shall lodge all of the following with the court:

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

22 “THIS NOTICE IS IMPORTANT. ANY RIGHTS YOU CLAIM
23 TO PUMP OR STORE GROUNDWATER FROM THE BASIN
24 IDENTIFIED IN THIS NOTICE MAY BE AFFECTED BY A
25 LAWSUIT INITIATED BY THE COMPLAINT SUMMARIZED
26 BELOW.

27 A copy of the complaint may be obtained by contacting the
28 plaintiff or the plaintiff’s attorney identified in this notice. If you
29 claim rights to pump or store groundwater within the basin, either
30 now or in the future, you may become a party to this lawsuit by
31 filing an answer to the lawsuit on or before the deadline specified
32 in this notice. You may file an answer by completing the attached
33 form answer, filing it with the court indicated in this notice, and
34 sending a copy of the form answer to the plaintiff or the plaintiff’s
35 attorney. The form answer is provided for your convenience.
36 Should you choose to file the form answer, it will serve as an
37 answer to all complaints and cross-complaints filed in this case.

38 It is the duty of all persons who receive this notice and who claim
39 rights to pump or store groundwater within the basin to appear
40 in the lawsuit by the date specified below. All persons who claim

1 *rights to pump or store groundwater within the basin will be*
2 *required to make proof of their claims within six months of their*
3 *appearance in the lawsuit. Any claimant who fails to appear and*
4 *submit proof of his or her claim shall be held to have forfeited all*
5 *rights to pump or store groundwater. At the conclusion of the*
6 *lawsuit, the superior court will enter a decree determining all*
7 *water rights of the basin, whether based upon appropriation,*
8 *overlying right, or other basis of right. You are encouraged to seek*
9 *the advice of an attorney promptly.”*

10 *(B) The following information shall be provided immediately*
11 *following the text described in subparagraph (A):*

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

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

18 *(iii) The name, address, telephone number, and electronic mail*
19 *address of the plaintiff, or plaintiff’s attorney, from which the*
20 *complaint may be obtained and to whom a copy of the form answer*
21 *should be sent.*

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

24 *(v) A date by which persons receiving the notice must appear*
25 *in the action.*

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

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

34 *(B) Notwithstanding any other law, the filing of an answer in*
35 *the form described in subparagraph (A) in an adjudication action*
36 *is sufficient to put at issue all material allegations and applicable*
37 *affirmative defenses to the complaint in the adjudication action.*

38 *(b) Within 30 days of the assignment of a judge by the Judicial*
39 *Council, the plaintiff shall file a motion for approval of plaintiff’s*

1 *draft notice and draft form answer filed pursuant to subdivision*
2 *(a).*

3 *(c) Once the court approves the draft notice, service of that*
4 *notice in accordance with this section shall substitute for the*
5 *summons otherwise provided for in civil actions pursuant to Section*
6 *412.20 of the Code of Civil Procedure.*

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

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

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

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

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

32 *(2) Service pursuant to this subdivision is not required if the*
33 *real property is part of a class of water users that are otherwise*
34 *noticed in accordance with this chapter.*

35 *(e) Upon completion of the mailing pursuant to subdivision (d),*
36 *the plaintiff shall file with the court a notice of the completion of*
37 *the mailing.*

38 *(f) Within 60 days after service is authorized, the plaintiff shall*
39 *prepare and file a notice of the adjudication action in the office*
40 *of the county recorder of each county overlying the basin in whole*

1 *or in part. The notice shall be recorded in a manner so as to ensure*
2 *that a person researching the title of a parcel will find the notice.*

3 *(g) The plaintiff shall serve the court-approved notice and form*
4 *answer by first class mail to any entity that is known, or with*
5 *reasonable diligence can be determined, to hold title to real*
6 *property in the basin but is exempt from property tax.*

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

10 *(i) The court may require notice to be made available in*
11 *languages other than English.*

12 *(j) Within 15 days of the court's approval of the notice and form*
13 *answer, the plaintiff shall provide the notice and form answer to*
14 *the department and each county and groundwater sustainability*
15 *agency that overlies any portion of the basin. The department, and*
16 *each county and groundwater sustainability agency that overlies*
17 *any portion of the basin and has an Internet Web site, shall do the*
18 *following:*

19 *(1) Post the notice and form answer on their Internet Web site*
20 *within 15 days of receipt.*

21 *(2) Provide a link to the notice and form answer from their*
22 *Internet Web site home page.*

23 *(3) Maintain the posting and link pursuant to paragraphs (1)*
24 *and (2) for the entire time that the adjudication action is pending.*
25 *The plaintiff shall notify the department and each county and*
26 *groundwater sustainability agency when the adjudication action*
27 *is no longer pending.*

28 *10740.4. (a) (1) Within 15 days of the court's approval of the*
29 *notice under Section 10740.2, the plaintiff shall request from the*
30 *following entities the names and addresses of persons reporting*
31 *extractions within the basin under this part, or Part 5 (commencing*
32 *with Section 4999) or Part 5.2 (commencing with Section 5200)*
33 *of Division 2:*

34 *(A) The board.*

35 *(B) Any local agency designated as a board-designated local*
36 *area that includes the basin, or a portion of the basin, under*
37 *Section 5009.*

38 *(C) Any groundwater sustainability agency for the basin or a*
39 *portion of the basin.*

1 (2) *The entities described in subparagraphs (A) to (C), inclusive,*
2 *of paragraph (1) shall provide the plaintiff with the names, mailing*
3 *addresses, and electronic mail addresses, if available, within 45*
4 *days of the plaintiff's request. Additionally, the board shall provide*
5 *the mailing address and electronic mail address, if available, of*
6 *any person known to the board who holds a permit or license*
7 *authorizing underground storage in the basin or who claims a*
8 *right to divert water for underground storage in the basin.*

9 (b) *If extractions in the basin or a portion of the basin are not*
10 *subject to reporting requirements under this part, or Part 5*
11 *(commencing with Section 4999) or Part 5.2 (commencing with*
12 *Section 5200) of Division 2, the plaintiff shall request the names*
13 *and addresses of all customers in the area who are supplied power*
14 *to operate groundwater extraction facilities in the basin, as*
15 *reflected in the utility records, from any investor-owned utility or*
16 *municipal utility that provides electrical power in the area. The*
17 *utility shall provide the plaintiffs with the names, mailing*
18 *addresses, and electronic mail addresses, if available, within 45*
19 *days of the plaintiff's request.*

20 (c) *Upon request, the plaintiff shall provide reimbursement for*
21 *the reasonable costs incurred under this section to an entity*
22 *described in subparagraphs (A) to (C), inclusive, of paragraph*
23 *(1) of subdivision (a) or a utility described in subdivision (b). The*
24 *entity or utility shall incur no civil liability by reason of its*
25 *compliance with this section.*

26 10740.6. (a) *The plaintiff shall serve the complaint on any*
27 *person known to extract groundwater within the basin. Service*
28 *may be by personal service or by other method as provided by*
29 *Article 3 (commencing with Section 415.10) of Chapter 4 of Title*
30 *5 of Part 2 of the Code of Civil Procedure.*

31 (b) *The plaintiff shall serve the complaint on any person known*
32 *to own real property that overlies the basin and that has not been*
33 *sent the court-approved notice and form answer. Service shall be*
34 *by first class mail.*

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

37 (d) *Section 389 of the Code of Civil Procedure shall not apply*
38 *to a failure to join the United States or an Indian tribe to a*
39 *comprehensive adjudication.*

1 10740.8. (a) Whenever proceedings are instituted to determine
 2 rights to water under this chapter, it is the duty of all claimants
 3 interested in the proceedings and having notice of the proceedings
 4 pursuant to this chapter to appear in the proceedings and to submit
 5 proof of their claims at the time, and in the manner, required by
 6 this chapter.

7 (b) The fulfillment of the notice and service provisions of this
 8 chapter shall be deemed effective service of process of the
 9 complaint and notice on all interested parties of the adjudication
 10 action for purposes of establishing in rem jurisdiction and the
 11 comprehensive effect of the adjudication action.

12

13

Article 6. Intervention

14

15 10741. Any of the following may intervene in an adjudication
 16 action under this chapter:

17 (a) The groundwater sustainability agency for the basin or
 18 portion of the basin.

19 (b) Any city, county, or city and county, that overlies any portion
 20 of the basin.

21 (c) Any person upon an *ex parte* application that demonstrates
 22 that the person holds fee simple ownership in a parcel in the basin
 23 or extracts or stores water in the basin. A person filing an *ex parte*
 24 application pursuant to this subdivision shall give notice to the
 25 plaintiff consistent with the California Rules of Court.

26

27

Article 7. Initial Disclosure

28

29 10741.5. (a) Except as otherwise ordered by the court, a party
 30 shall serve on the other parties and the special master, if one is
 31 appointed, an initial disclosure within six months of appearing in
 32 the adjudication action that includes all of the following
 33 information:

34 (1) The name, address, telephone number, and electronic mail
 35 address of the party and, if applicable, of the party's attorney.

36 (2) The quantity of groundwater extracted from the basin by
 37 the party and the method of measurement used by the party or the
 38 party's predecessor in interest for each of the previous five
 39 calendar years preceding the filing of the complaint.

- 1 (3) *A general description of the purpose to which the water has*
2 *been put.*
- 3 (4) *The area in which the water has been used.*
- 4 (5) *The location of each well or other source through which*
5 *groundwater has been extracted.*
- 6 (6) *The type of water right or rights claimed by the party for*
7 *the extraction of groundwater.*
- 8 (7) *Any claims for increased or future use of groundwater.*
- 9 (8) *The quantity of any beneficial use of any alternative water*
10 *use that the party claims as its use of groundwater under any*
11 *applicable law, including, but not limited to, Sections 1005.1,*
12 *1005.2, 1005.4, 1010, or 1011.*
- 13 (9) *Identification of all surface water rights and contracts that*
14 *the party claims provides the basis for its water right claims in*
15 *the adjudication action.*
- 16 (10) *The quantity of any replenishment of water to the basin*
17 *that augmented the basin's native water supply, resulting from the*
18 *intentional storage of imported or nonnative water in the basin,*
19 *managed recharge of surface water, or return flows resulting from*
20 *the use of imported water or nonnative water on lands overlying*
21 *the basin by the party, or the party's representative or agent,*
22 *during each of the five calendar years immediately preceding the*
23 *filing of the complaint.*
- 24 (11) *The names, addresses, telephone numbers, and electronic*
25 *mail addresses of all persons possessing information that supports*
26 *the party's disclosures.*
- 27 (12) *Any other facts that tend to prove the party's claimed water*
28 *right.*
- 29 (b) *A party shall make its initial disclosures based on the*
30 *information then reasonably available to it. A party is not excused*
31 *from making its initial disclosures because it has not fully*
32 *investigated the case, because it challenges the sufficiency of*
33 *another party's disclosures, or because another party has not*
34 *made its disclosures.*
- 35 (c) *A party that has made its initial disclosures, as described*
36 *in subdivision (a), or that has responded to another party's*
37 *discovery request, shall supplement or correct a disclosure or*
38 *response in all of the following situations:*
- 39 (1) *In a timely manner if the party learns that in some material*
40 *respect the disclosure or response is incomplete or incorrect and*

1 *the additional or corrective information has not otherwise been*
2 *made known to the other parties during the disclosure or discovery*
3 *process.*

4 *(2) If the party extracts groundwater from the basin after the*
5 *complaint is filed. The supplement filed under this paragraph shall*
6 *report the quantity of water involved and be filed within 90 days*
7 *of the end of the calendar year.*

8 *(3) As ordered by the court.*

9 *(d) To the greatest extent possible, a party shall serve its initial*
10 *disclosures electronically. If it is not possible for the party to serve*
11 *its disclosures electronically, the party shall serve the disclosures*
12 *in an electronic format saved on a portable storage media device*
13 *such as a compact disc or flash drive.*

14 *(e) A party's obligations under this section may be enforced by*
15 *a court on its own motion or the motion of a party to compel*
16 *disclosure.*

17 *(f) A party's disclosures under this section shall be verified*
18 *under penalty of perjury as being true and correct to the best of*
19 *the party's knowledge.*

20

21

Article 8. Case Management

22

23 *10742. (a) In managing an adjudication action, the court shall*
24 *convene a case management conference as provided by the*
25 *California Rules of Court.*

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

29 *(1) Determining whether to seek adjustment of the basin*
30 *boundaries pursuant to Section 10738.4.*

31 *(2) Staying the action pursuant to Article 9 (commencing with*
32 *Section 10742.5).*

33 *(3) Appointing a special master pursuant to Article 10*
34 *(commencing with Section 10743).*

35 *(4) Scheduling a hearing on a preliminary injunction pursuant*
36 *to Article 11 (commencing with Section 10743.5).*

37 *(5) Dividing the case into phases to resolve legal and factual*
38 *issues.*

39 *(6) Issuing orders to ensure that issues resolved in one phase*
40 *are not relitigated in another.*

1 (7) *Limiting discovery to correspond to the phases.*

2 (8) *Scheduling early resolution of claims to prescriptive rights.*

3 (9) *Formation of a class or classes of an overlying groundwater*
4 *rights holder pursuant to the criteria specified in Section 382 of*
5 *the Code of Civil Procedure.*

6
7 *Article 9. Stay*
8

9 *10742.5. (a) Upon the motion of any party to an adjudication*
10 *action, a court may stay an adjudication action for a period of up*
11 *to one year, subject to renewal in the court's discretion upon a*
12 *showing of good cause, in order to facilitate any of the following:*

13 (1) *The adoption of a groundwater sustainability plan that*
14 *provides for a physical solution or may otherwise address issues*
15 *in the adjudication action.*

16 (2) *The development of technical studies that may be useful to*
17 *the parties in the adjudication action.*

18 (3) *The voluntary mediation or participation in a settlement*
19 *conference on all, or a portion of, the subject matters or legal*
20 *questions identified in the adjudication action.*

21 (4) *The compromise and settlement of the adjudication action*
22 *or issues in the adjudication action.*

23 (b) *A stay pursuant to this section shall not stay, or otherwise*
24 *delay, the parties' obligations to provide initial disclosures*
25 *pursuant to Article 7 (commencing with Section 10741.5) unless*
26 *the court determines the initial disclosures will not benefit*
27 *resolution of the comprehensive adjudication.*

28
29 *Article 10. Special Master*
30

31 *10743. (a) The court may appoint one or more special masters,*
32 *whose duties may include the following:*

33 (1) *Investigating technical and legal issues, as directed by the*
34 *court. The special master shall compile a report of findings in*
35 *accordance with Section 10743.2.*

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

38 (3) *Investigating the need for, and developing the proposal for,*
39 *a preliminary injunction pursuant to Article 11 (commencing with*
40 *Section 10743.5).*

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

2 (b) *The court shall fix a special master's compensation on the*
3 *basis and terms stated in the appointing order. The court may set*
4 *a new basis and terms for the special master after giving notice*
5 *and an opportunity to be heard. The court shall allocate payment*
6 *for the cost of the special master among the parties in an amount*
7 *and a manner that the court deems equitable. The court may waive*
8 *a party's payment obligation upon a showing of good cause.*

9 (c) *The court may request that the board or department*
10 *recommend candidates for appointment as special master or review*
11 *the qualifications of candidates.*

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

15 (e) *This section does not limit the authority to appoint a*
16 *watermaster pursuant to Chapter 3 (commencing with Section*
17 *4050) of Part 4 of Division 2 or any other law.*

18 10743.2. (a) *The special master shall make available a draft*
19 *report and provide at least 60 days for the parties to submit written*
20 *objections to the draft report.*

21 (b) *An objection to the draft report shall identify the specific*
22 *grounds and evidence on which the objection is based.*

23 (c) *The special master may notice and hold hearings, as the*
24 *special master deems appropriate, to gather information or address*
25 *issues raised in the objections to the draft report.*

26 (d) *The special master shall consider the objections to the draft*
27 *report and prepare a final report that shall be filed with the court.*

28

29 *Article 11. Preliminary Injunction*

30

31 10743.5. (a) *Upon a showing that the basin is in a condition*
32 *of long-term overdraft, the court may, upon notice and a hearing,*
33 *issue a preliminary injunction.*

34 (b) *The following information shall be admissible and shall*
35 *constitute prima facie evidence of a condition of long-term*
36 *overdraft:*

37 (1) *Bulletins and other reports of the department.*

38 (2) *A report of a special master indicating that a condition of*
39 *long-term overdraft exists.*

1 (c) A preliminary injunction may include, but is not limited to,
2 any of the following:

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

4 (2) A limitation on or reduction in the diversion or extraction
5 of water.

6 (3) An allocation among the parties establishing amounts of
7 extraction allowed during the pendency of the action.

8 (4) Procedures for voluntary transfers.

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

11 (1) The basin is in a condition of long-term overdraft.

12 (2) The basin is a probationary basin or is not in compliance
13 with the planning deadlines in subdivision (a) of Section 10720.7.

14 (3) There is no interim plan in effect for the basin pursuant to
15 Section 10735.8.

16 (e) The court may provide a schedule for further reductions in
17 extractions over a period of years if the court finds that doing so
18 appears reasonably necessary to meet the sustainability goal within
19 the timelines provided in subdivision (b) of Section 10727.2.

20 (f) The terms of a preliminary injunction shall not determine
21 the rights in the final judgment of the action.

22 (g) No bond or undertaking shall be required for the issuance
23 of a preliminary injunction.

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

26

27

Article 7-12. Expert Witnesses

28

29 ~~10743.~~

30 10744. (a) In addition to the other disclosures required by this
31 chapter, a party shall disclose to the other parties the identity of
32 any expert witness it may use at trial to present evidence.

33 (b) Unless otherwise ~~stipulated or~~ ordered by the court, this
34 disclosure shall be accompanied by a written report, prepared and
35 signed by the expert witness, if the expert witness is retained or
36 specially employed ~~to provide expert testimony in the case or~~
37 ~~whose~~ by the party offering the expert witness to testify as an expert
38 in the action, or if the expert witness's duties as the party's
39 employee regularly involve giving expert testimony. The report
40 shall contain all of the following:

1 (1) A complete statement of all opinions the expert witness will
2 express and the basis and reasons for ~~them~~: *those opinions*.

3 (2) The facts or data considered by the expert witness in forming
4 his or her opinions.

5 (3) Any exhibits ~~that will be used to summarize or support the~~
6 ~~opinions of the expert witness~~: *the expert witness will use to*
7 *summarize or support his or her opinion*.

8 (4) The expert ~~witness~~² *witness's* qualifications, including a list
9 of all publications authored *by the expert witness* in the previous
10 10 years.

11 (5) A list of all other cases in ~~which, during the previous four~~
12 ~~years, which the expert witness testified~~ *testified*, as an expert at
13 trial or by ~~deposition~~: *deposition, in the last five years*.

14 (6) A statement of the compensation to be paid ~~to the expert~~
15 ~~witness for the study and testimony in the case~~: *for the witness's*
16 *work and testimony in the adjudication action*.

17 (c) ~~Unless otherwise stipulated or ordered by the court, if the~~
18 ~~expert witness is not required to provide a written report, the~~ *If*
19 *subdivision (b) does not apply to an expert, the witness's* disclosure
20 shall ~~state~~ *include* both of the following:

21 (1) The subject matter on which the expert witness is expected
22 to present evidence.

23 (2) A summary of the facts and opinions to which the expert
24 ~~witness is expected to testify~~: *witness's opinions and the facts or*
25 *data considered by the expert witness in forming his or her opinion*.

26 (d) ~~A party shall make the required disclosures at the times and~~
27 ~~in the sequence that the court orders. Absent a stipulation or a court~~
28 ~~order, the disclosures shall be made at either of the following times:~~

29 (1) ~~At least 90 days before the date set for trial or for the case~~
30 ~~to be ready for trial~~.

31 (2) ~~If the evidence is intended solely to contradict or rebut~~
32 ~~evidence on the same subject matter identified by another party,~~
33 ~~within 30 days after the other party's disclosure~~.

34 (d) *Unless otherwise stipulated by the parties, a party shall*
35 *make the disclosures of any expert witness it intends to present at*
36 *trial, except for an expert witness presented solely for purposes*
37 *of impeachment or rebuttal, at the times and in the sequence*
38 *ordered by the court. If there is no stipulation or court order, the*
39 *disclosures of an expert witness shall be made as follows:*

1 (1) No sooner than 30 days after the court’s entry of an order
2 establishing the scope of the relevant phase of the adjudication
3 action.

4 (2) Except for a supplemental expert witness described in
5 paragraph (3), no later than 60 days before the date set for trial
6 for the relevant phase of the adjudication action.

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

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

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

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

29 (B) As ordered by the court.

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

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

1 *the adjudication action. The court may require the party whose*
2 *expert makes the supplemental disclosure to pay some or all of*
3 *the costs associated with the supplemental deposition.*

4 *(g) If a party or its expert witness fails to comply with this*
5 *section, the court may, upon notice and hearing, exclude the expert*
6 *witness's testimony from trial, authorize additional depositions of*
7 *the expert witness at the party's expense, or take other appropriate*
8 *action.*

9

10 *Article 13. Written Testimony*

11

12 *10744.5. (a) A court in an adjudication action may require*
13 *the parties to submit written testimony of witnesses in the forms*
14 *of affidavits or declarations under penalty of perjury in lieu of*
15 *presenting live testimony. The required written testimony may*
16 *include, but is not limited to, expert witness opinions and testimony*
17 *that authenticates documentary evidence. The court may order*
18 *that the written testimony constitutes the entirety of the witness's*
19 *direct testimony, require the written testimony to include any*
20 *exhibits offered in support of the written testimony, and, in the*
21 *case of written testimony of an expert witness, require a statement*
22 *of the witness's qualifications.*

23 *(b) If the court requires the submission of written testimony*
24 *pursuant to subdivision (a), a complete copy of the direct testimony*
25 *shall be served at least 21 days before trial. A complete copy of*
26 *any rebuttal testimony shall be served no later than the first day*
27 *of trial.*

28 *(c) If the contents of the written testimony would have been*
29 *admissible if the witness testified orally, the written testimony shall*
30 *be received by the court as a documentary exhibit provided that*
31 *the witness whose written testimony is being offered is made*
32 *available for cross-examination by all parties.*

33

34 *Article 14. Physical Solution*

35

36 *10745. (a) The court shall have the authority and the duty to*
37 *impose a physical solution on the parties in an adjudication action,*
38 *consistent with Section 2 of Article X of the California Constitution,*
39 *where necessary.*

1 ***(b) Prior to adopting a physical solution presented by a party***
 2 ***or considered on the court’s own motion, the court shall determine***
 3 ***whether a physical solution is required to prevent waste and***
 4 ***unreasonable use by Section 2 of Article X of the California***
 5 ***Constitution after considering any existing groundwater***
 6 ***sustainability plan or program.***

7
 8 ***Article 15. Stipulated Judgment***
 9

10 ***10746. (a) If a party, or a group of parties, submits a proposed***
 11 ***stipulated judgment, the court may adopt the proposed stipulated***
 12 ***judgment if the court finds that it meets all of the following criteria:***

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

15 ***(2) It treats objecting parties and any persons who have claims***
 16 ***that are exempted under Section 10738.4 equitably as compared***
 17 ***to the stipulating parties.***

18 ***(3) It will not substantially impair the ability of a groundwater***
 19 ***sustainability agency, the board, or the department to comply with***
 20 ***this part and to achieve the sustainability goal.***

21 ***(b) (1) The court may adopt a proposed stipulated judgment,***
 22 ***as applied to the stipulating parties, if the stipulation meets the***
 23 ***criteria described in subdivision (a) and it is submitted by a party,***
 24 ***or a group of parties, and supported by either of the following:***

25 ***(A) More than 50 percent of all named parties in the***
 26 ***adjudication action.***

27 ***(B) Groundwater extractors responsible for at least 75 percent***
 28 ***of the groundwater production in the basin during the past five***
 29 ***calendar years.***

30 ***(2) A party objecting to a proposed stipulated judgment pursuant***
 31 ***to this subdivision shall demonstrate, by a preponderance of the***
 32 ***evidence, that the proposed stipulated judgment does not satisfy***
 33 ***one or more criteria described in subdivision (a) or that it***
 34 ***substantially violates the party’s water rights. If the objecting***
 35 ***party is unable to make this showing, the court may impose the***
 36 ***proposed stipulated judgment on the objecting party. The objecting***
 37 ***party may be subject to a preliminary injunction under Article 11***
 38 ***(commencing with Section 10743.5) while the party’s objections***
 39 ***remain unresolved.***

1 10746.2. Chapter 11 (commencing with Section 10735) shall
 2 not apply to a stipulated judgment approved by the court pursuant
 3 to Section 10746 if all of the following apply:

4 (a) The proposed stipulated judgment meets the criteria of
 5 subdivision (a) of Section 10746.

6 (b) All groundwater sustainability agencies within the basin
 7 support the proposed stipulated judgment.

8 (c) A local agency has submitted the proposed stipulated
 9 judgment to the department for evaluation and assessment pursuant
 10 to Section 10733.4 or paragraph (2) of subdivision (b) of Section
 11 10733.6. Notwithstanding subdivision (c) of Section 10733.6, a
 12 proposed stipulated judgment may be submitted to the department
 13 after January 1, 2017.

14 (d) The department determines that the proposed stipulated
 15 judgment satisfies the objectives of this part for the basin.

16

17 Article 16. Judgment Binding on Successors

18

19 10747. The judgment in an adjudication action under this
 20 chapter shall be binding on the parties to the action, each party's
 21 successors in interest, including, but not limited to, heirs, executors,
 22 administrators, assigns, lessees, licensees, and upon the agents
 23 and employees of all these persons, and upon all landowners or
 24 other persons claiming rights to extract groundwater from within
 25 the basin.

26

27 Article 17. Continuing Jurisdiction

28

29 10748. (a) The court shall have continuing jurisdiction to
 30 modify or amend a final judgment in an adjudication action as
 31 follows:

32 (1) In response to new information or changed circumstances.

33 (2) In the interests of justice.

34 (3) To ensure that the criteria of subdivision (a) of Section 10746
 35 are met.

36 (b) When feasible, the judge who heard the original adjudication
 37 action should preside over subsequent actions or motions to modify
 38 or amend the judgment.

39 (c) If the court has approved a stipulated judgment not subject
 40 to Chapter 11 (commencing with Section 10735) in accordance

1 *with Section 10746.2, the department shall submit to the court the*
2 *assessments and any recommended corrective actions that the*
3 *department issues pursuant to Section 10733.8. The court, after*
4 *notice and a hearing, shall determine whether to amend the*
5 *judgment to adopt the department's recommended corrective*
6 *actions.*

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

O