

February 15, 2018

TO: Delta-Mendota Subbasin Coordination Committee
and Interested Parties

FROM: Andrew Garcia

RE: **THURSDAY, February 22, 2018, 1:00 p.m.**
Coordination Committee Meeting

Attached for your review in preparation of the February 22, 2018 Delta-Mendota Subbasin Coordination Committee meeting are:

- 1) Draft Cost Sharing Agreement – Delta-Mendota Subbasin Coordination
- 2) Draft Delta-Mendota Subbasin Coordination Agreement

Should you have questions or concerns regarding this information, please feel free to give us a call.

Thank you.

COST SHARING AGREEMENT
Delta-Mendota Subbasin Coordination

This Cost Sharing Agreement (“Agreement”) is made effective as of _____, 2018 by and among the groundwater sustainability agencies within the Delta-Mendota Subbasin representatives, each a “GSP Group Representative,” for the six groupings of Groundwater Sustainability Agencies, stakeholders, and interested parties developing individual groundwater sustainability plans within the Delta Mendota Subbasin (“GSP Groups”), and the San Luis & Delta-Mendota Water Authority (“SLDMWA”). The entities listed above may be referred to herein individually as a “Party” or jointly as “Parties.” For purposes of this Agreement, the “Effective Date” shall be the date the last Party executes this Agreement.

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RECITALS

- A. The Sustainable Groundwater Management Act (“SGMA”) requires all groundwater subbasins designated as high or medium priority to manage groundwater in a sustainable manner.
- B. The Delta-Mendota Subbasin (Basin Number 5-22.07, DWR Bulletin 118) within the San Joaquin Valley Groundwater Basin (“Subbasin”), has been designated as a high-priority basin by DWR.
- C. The Delta-Mendota Subbasin includes multiple groundwater sustainability agencies (“GSAs”) that intend to manage the Subbasin through the development and implementation of multiple different groundwater sustainability plans (“GSPs”).
- D. The GSAs have organized into groundwater sustainability plan (“GSP”) groups (“GSP Groups”) and have agreed to be represented by GSP Group Representatives, on terms to be developed and implemented by separate agreements between each GSP Group and the parties within such GSP Group.
- E. SGMA allows local agencies to engage in the sustainable management of groundwater, but requires GSAs in all basins that are managed by more than one GSP to enter into a Coordination Agreement to coordinate the multiple GSPs to sustainably manage the Subbasin pursuant to SGMA.
- F. The GSP Groups desire to dictate terms describing the mechanisms for the sharing of the costs associated with the coordination activities described in below and in the a Delta-Mendota Subbasin Coordination Agreement (“Coordination Agreement”) that the Parties plan to execute. The Coordination Agreement will establish a Coordination Committee (“Coordination Committee”) to provide the forum for the parties to accomplish the coordination obligation of SGMA and will enumerate the Coordination Committee’s responsibilities. The Coordination Agreement will also establish the roles of Secretary and Plan Manager and enumerate their respective responsibilities.

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- G. The SLDMWA has been assisting the GSP Groups with SGMA compliance, and will act as the initial Secretary and Plan Manager with respect to the Coordination Agreement. As part of that effort, the SLDMWA and/or its agents agrees to undertake all activities required of it under the Coordination Agreement, so long as each GSP Group reimburses the SLDMWA for its expenses and that GSP Group's apportioned share of the Coordinated Plan Expenses, described in Section 2 below.
- H. The Parties desire to enter into this Agreement to refine the Parties' informal agreements prior to the date of execution and to accomplish all of the foregoing matters on the terms and conditions set forth herein.

NOW, THEREFORE, based on the Recitals set forth above and on the terms and conditions set forth herein, the Parties agree as follows:

AGREEMENT

1. Administrative Coordination. ~~For so long as desired by the Coordination Committee, The the~~ SLDMWA will be responsible for undertaking all activities required of it under the Coordination Agreement including, but not limited to: intrabasin coordination; activities required in its role as Secretary of the Coordination Committee; activities required in its role as Plan Manager under the Coordination Agreement; and entering into professional services agreement(s) and any supplemental agreements required for the consultant work necessary to meet the objectives of the Coordination Agreement.
2. Coordinated Plan Expenses. The Parties agree that **Coordinated Plan Expenses** incurred under the Coordination Agreement shall mean any expenses incurred by the Secretary and Plan Manager at the direction of the Coordination Committee within approved annual cost estimates pursuant to Section 5 of this Cost Sharing Agreement for purposes of developing and implementing the Coordination Agreement, including actual expenses incurred in executing obligations under the Coordination Agreement for intrabasin and interbasin coordination beginning in August 2017. The Parties agree to make payments for Coordinated Plan Expenses through their GSP Groups, described in Section 6 below.
3. Participation Percentages. The Parties acknowledge and agree that the participation percentages in Exhibit "A" ("**Participation Percentages**") shall be utilized to determine the share of Coordinated Plan Expenses allocated to each GSP Group.
 - a. Initial Participation Percentages. Coordinated Plan Expenses will be paid proportionally by each GSP Group through the Responsible Agency to Invoice ("**Responsible Agency**") identified on Exhibit "A," pursuant to ~~their each~~ GSP Group's respective Participation Percentages, which ~~have is~~ initially ~~been~~ set in equal percentages, as indicated in Exhibit "A."
 - b. Updated Participation Percentages. Participation Percentages may be evaluated by the Coordination Committee from time to time, including to consider new information

Commented [RRA1]: Jeffrey Grant: It seems the development of would not fall within something the Coordination Committee approved as it occurred prior to its existence.

While we understand the point, we believe the parties are required to share the cost for the development of the agreement. If the parties prefer to reach a separate agreement regarding the responsibility for this cost, we can discuss.

Commented [RRA2]: Edit intended to respond to comment from Andrew McClure.

concerning the relative contribution or responsibility of each GSP Group towards achieving the Subbasin-wide sustainability goal of their coordinated GSPs.

- c. Ongoing Documentation of Participation Percentages. The most current Participation Percentages of each GSP Group shall be dated and attached as Exhibit “A” to this Cost Sharing Agreement, effective upon the date approved by the Parties under delegated authority by their respective GSP Groups, without any further Amendment to this Cost Sharing Agreement being required.

- 4. Obligations Outside of Cost Sharing Agreement. ~~Each GSP Group Representative acknowledges that it has the authority to bind the members of its GSP Group pursuant to that GSP Group’s outside agreement.~~ It is the responsibility and obligation of each Party under the Coordination Cost Sharing Agreement that is part of a multi-party GSP Group to provide documentation to the Secretary and the Coordination Committee establishing that such GSP Group has a binding agreement or mechanism assuring that the GSP Group will pay its Participation Percentage set forth on Exhibit “A,” as said Exhibit “A” may be modified from time to time, including documentation of provisions regarding the default of any Party within such GSP Group. ~~such obligation shall be a joint and several obligation first, of the Parties to such GSP Group, but in the event any GSP Group defaults in paying Coordinated Plan Expenses the obligation to pay shall be a joint and several liability of all the GSP Groups.~~ Provided, that the Secretary shall not be obligated to evaluate or provide an opinion on the legal sufficiency of the documentation.

Commented [RRA3]: Peter Wall: Presumably this means the cost-sharing agreement will not be signed until the group-level agreements are established. If so, that is fine with the County of Fresno. If not, then this language needs to be changed, because it will be factually untrue.

Becca: That is the intent.

Commented [RRA4]: Jeffrey Grant: Merced County is not in favor of joint and several liability.

- 5. Cost Estimates. The SLDMWA will obtain and provide the GSP Groups, through the Coordination Committee, with a written estimate (“**Estimate**”) of the cost of each task required for executing its obligations under the Coordination Agreement prior to March 1 each year, and as new tasks arise. Each Estimate will be subject to approval by the Coordination Committee, pursuant to the Coordination Agreement. The SLDMWA shall account for Coordinated Plan Expenses in accordance with standard public agency accounting procedures and shall invoice amounts to be collected from the GSP Groups in accordance with Section 6 below. All costs related to subcommittees and workgroups shall be the responsibility of each Party providing the subcommittee or workgroup participant.

Commented [RRA5]: If we are executing the CSA before the Coordination Agreement, should I change this to have the estimates go to the Responsible Agencies / GSP Group Reps? Each of the Parties?

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Commented [DR6]: Should this be the “Group Contacts” on Exhibit “A” of the Coordination Agreement, rather than the individual Group Representative, or should the individual be invoiced and pass the invoice on to the GSP Group Contact?

Becca: I’m leaving this for others to weigh in on – I don’t remember whether/how we resolved this.

Commented [RRA7]: Edit intended to respond to comment from Andrew McClure.

Commented [RRA8]: Peter Wall suggested using the “responsible agency” language.

- 6. Invoicing and Payment. The SLDMWA shall bill the GSP Groups, through the Responsible Agency identified on Exhibit “A,” for all Coordinated Plan Expenses based upon their respective Participation Percentages, upon receipt of each individual invoice. The SLDMWA shall submit Invoices-invoices are to be distributed to the appointed responsible agency as listed in Exhibit “A.” Payments ~~are~~ is due from each Responsible Agency thirty (30) days following receipt of the invoice by the Responsible Agency. Amounts in arrears for more than thirty (30) days shall earn interest at the applicable legal rate. Each Responsible Agency is responsible to collect payment from members of its GSP Group, if any.

- 7. Reporting. A cumulative Coordinated Plan Expense report shall be presented monthly. Each Invoice, described in Section 6 above, shall be accompanied by a Coordinated Plan Expenses report (“Report”). The Report shall consist of a cumulative itemized statement of all costs and expenses incurred pursuant to the Coordination Agreement and any disbursement of funds received by the SLDMWA under this Agreement.

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8. Records. The SLDMWA shall maintain separate records regarding Coordinated Plan Expenses, including records of billing and payment and other documents related to the execution of its obligations under the Coordination Agreement. The Parties and their designated agents shall have the right to inspect all records maintained by the SLDMWA associated with this Cost Sharing Agreement at any time within normal business hours, with fifteen (15) business days' advance notice to the SLDMWA in writing.

9. Notice. Whenever notice is required to be in writing, it may be given by delivery addressed as follows:

a. The SLDMWA:

San Luis & Delta-Mendota Water Authority
P.O. Box 2157
Los Banos, CA 93635
Attention: [CONTACT]

b. Northern/Central Delta-Mendota Region GSP Group

West Stanislaus Irrigation District
116 E Street, P.O. Box 37
Westley, CA 95387
Attention: Robert Pierce

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c. San Joaquin River Exchange Contractors GSP Group

San Joaquin River Exchange Contractors
541 H Street PO Box 2115
Los Banos, CA 95363
Attention: Jarrett Martin Steve Chedester

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d. Farmers Water District GSP Group

Farmers Water District
4460 W. Shaw Avenue, #219
Fresno, CA 93722
Attention: Jim Stillwell

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e. Aliso Water District GSP Group

Aliso Water District
10302 Avenue 7-1/2
Firebaugh, CA 93622
Attention: Roy Catania

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f. Grassland Water District GSP Group

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Grassland Water District
200 W. Willmont Avenue
Los Banos, CA 93635
Attention: Ricardo Ortega

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g. Fresno County Management Area A & B GSP Group

~~Fresno County of Fresno~~
~~Department of Public Works and Planning~~
2220 Tulare Street, 6th Floor
Fresno, CA 93721
Attention: Fresno County Division of Water and Natural Resources

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If sent by United States Mail, notice will be considered to have been given forty-eight (48) hours after it has been deposited in the United States Mail, addressed as set forth above, with postage prepaid. If sent by overnight delivery service, notice will be considered to have been given twenty-four (24) hours after it has been deposited with the overnight delivery service. Any Party may change its address for these purposes by giving written notice of the change to all other Parties.

10. Law Governing. This Agreement is made in the State of California under the constitution and laws of the State of California and is to be so construed.

11. Section Headings. All section headings in this Agreement are for convenience of reference only and are not to be construed as modifying or governing this language in the section referred to or to define or limit the scope of any provision of this Agreement.

12. Entire Agreement. This Agreement (including the preamble and Recitals) constitutes the entire Agreement between the Parties and supersedes prior agreements or discussions relating to the matters set forth herein, if any, both written and oral.

13. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

~~13.14.~~

~~14. Modification or Amendment.~~

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~~a. Modification or Amendment of Exhibit "A." The Parties agree that Exhibit "A" may be updated by unanimous vote of the Parties from time to time. Upon such modification, the updated Exhibit "A" shall be attached to this Agreement as a replacement to the previously existing Exhibit "A." Upon such attachment, the updated Exhibit "A" shall become a part of this Cost Sharing Agreement without further Amendment of the Cost Sharing Agreement being required.~~

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Commented [RRA9]: Modified consistent with direction provided in 1/8 phone call among attorneys.

~~b. Modification or Amendment of Cost Sharing Agreement.~~ The Parties hereby agree that ~~(except as provided in Section 14.b)~~, this Agreement may be supplemented,

amended, or modified only by the mutual written agreement of the Parties. No supplement, amendment, or modification of this Cost Sharing Agreement shall be binding unless it is in writing and signed by all Parties.

15. Withdrawal. A GSP Group Representative may withdraw its GSP Group from this Cost Sharing Agreement without causing or requiring termination of this Cost Sharing Agreement, effective upon thirty (30) days written notice to the SLDMWA and all other Parties. Any GSP Group whose GSP Group Representatives withdraws shall remain obligated to pay its share of all Coordinated Plan Expenses ~~incurred or~~ accrued prior to the effective date of such withdrawal. The SLDMWA will notify the California Department of Water Resources (“DWR”) within thirty (30) days of any GSP Group’s withdrawal from this Cost Sharing Agreement.

~~15-16.~~ Term. ~~As modified pursuant to Section 14, this Cost Sharing Agreement shall continue for a term coterminous with the requirements of SGMA.~~

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17. Indemnification. ~~The Parties agree that the~~ GSP Groups shall, in proportion to their respective Participation Percentages, hold the entity serving as Secretary SLDMWA-free and harmless from and indemnify the SLDMWA-entity serving as Secretary against any and all costs, losses, damages, claims, and liabilities arising from this Cost Sharing Agreement. The Parties acknowledge that each GSP Group intends to pay only its share of Coordinated Plan Expenses, but ~~each GSP Group agrees that it is jointly and severally liable for all obligations to pay Coordinated Plan Expenses.acknowledge that the GSP Group may be required to pay an adjusted Participation Percentage to meet its obligation to the Secretary and seek its remedy against any defaulting GSP Group.~~

Commented [RRA10]: Jeffrey Grant: Merced would accept Fresno County's proposed indemnity provision. Indemnity with joint and several liability is too broad.

Commented [RRA11]: Language revised to track Coordination Agreement.

~~16.~~

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17-18. Construction of Agreement. The Parties acknowledge that each has informed and able counsel to advise it concerning the terms of this Agreement, and agree that no Party shall be deemed the drafting Party in any dispute involving construction of the terms of the Agreement.

18-19. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

19-20. No Partnership. The Parties hereto do not intend to create a partnership for federal income tax purposes or state law purposes, and nothing herein shall be construed to create such a partnership. The provisions set forth in this Agreement, and the respective obligations of each Party hereto, shall be construed consistently with such intent.

~~20. Breach.~~ ~~Any Party may terminate this Agreement in the event of a material breach by another Party. The Party alleging the breach shall give written notice to the Party in breach, and this Agreement shall terminate unless the breach is cured within thirty (30) days of the date of such notice.~~

21. Dispute Resolution. In the event of any dispute arising from or relating to this Agreement, the disputing Party shall, within thirty (30) calendar days of discovery of the events giving rise to

Commented [RRA12]: Jeffrey Grant: Merced County generally does not accept binding arbitration. Is there a reason this process does not match the process in the coordination agreement.

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the dispute, notify all Parties to this Agreement in writing of the basis for the dispute. Within thirty (30) calendar days of receipt of said notice, all Parties shall meet and confer in a good-faith attempt to informally resolve the dispute. All disputes that are not resolved informally shall be settled by arbitration. Within ten (10) days following the failed informal proceedings, each Party shall name one arbitrator, and the named arbitrators shall within (10) additional days name one neutral arbitrator. The arbitration shall be administered in accordance with the procedures set forth in the California Code of Civil Procedure, Section 1280, et seq., and of any state or local rules then in effect for arbitration pursuant to said section, pursuant to the California Commercial Arbitration Rules. The award of the arbitrator shall be final as long as the award is rendered in conformity with California statutory and decisional law. The arbitrator shall be selected by requesting a list of nine (9) commercial arbitrators from AAA and following AAA's selection procedure. Any such dispute resolution or arbitration, however, will not terminate the Parties' obligations under Sections 2, 4, and 6 nor the Parties' obligations under Section 16.

22. Authorized Signature. Each ~~person~~ Party represents that the individual signing this Agreement on its behalf represents that he or she is duly authorized to execute this Agreement and will legally bind that Party to the terms of this Agreement on behalf of his or her GSP Group.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

By: _____

Attest:

Date: _____

NORTHERN/CENTRAL DELTA-MENDOTA REGION GSP GROUP

By: _____

Attest:

Date: _____

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By: _____

Attest:

Date: _____

SAN JOAQUIN RIVER EXCHANGE CONTRACTORS GSP GROUP

By: _____

Attest:

Date: _____

By: _____

Attest:

Date: _____

FARMERS WATER DISTRICT GSP GROUP

By: _____

Attest:

Date: _____

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ALISO WATER DISTRICT GSP GROUP

By: _____

Attest:

Date: _____

GRASSLAND WATER DISTRICT GSP GROUP

By: _____

Attest:

Date: _____

FRESNO COUNTY MANAGEMENT AREA A & B GSP GROUP

By: _____

Attest:

Date: _____

Exhibit A – GSP Groups

	Groundwater Sustainability Plan Group	Responsible Agency to Invoice	Participation Percentage
1	Northern / Central Delta-Mendota Region – 2 Representatives Central DM Subgroup – 1 Member representing the following: Central Delta-Mendota Multi-Agency GSA Widren Water District GSA Northern DM Subgroup – 1 Member representing the following: City of Patterson GSA DM-II GSA Merced County GSA Northwestern Delta-Mendota GSA Oak Flat Water District GSA Patterson Irrigation District GSA West Stanislaus Irrigation District GSA	West Stanislaus Irrigation District	16.7%
2	San Joaquin River Exchange Contractors – 2 Representatives City of Dos Palos GSA City of Firebaugh GSA City of Gustine GSA City of Los Banos GSA City of Mendota GSA City of Newman GSA Madera County GSA Merced County – Delta Mendota GSA San Joaquin River Exchange Contractors Water Authority GSA Turner Island Water District-2 GSA	San Joaquin River Exchange Contractors	16.7%
3	Farmers Water District – 1 Representative Farmers Water District GSA	Farmers Water District	16.7%
4	Aliso Water District – 1 Representative Aliso Water District GSA	Aliso Water District	16.7%
5	Grassland Water District – 1 Representative Grassland Water District GSA Grassland WD and Grassland Resource Conservation District	Grassland Water District	16.7%
6	Fresno County Management Area A & B – 1 Representative Fresno County Management Area A GSA Fresno County Management Area B GSA	Fresno County	16.7%

DRAFT DELTA-MENDOTA SUBBASIN COORDINATION AGREEMENT

THIS DELTA-MENDOTA SUBBASIN COORDINATION AGREEMENT is made effective as of _____, 2018 by and among the groundwater sustainability agencies within the Delta-Mendota Subbasin (each a “Party” and collectively the “Parties”) and is made with reference to the following facts:

WHEREAS, On September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319 and Assembly Bill 1739, known collectively as the Sustainable Groundwater Management Act (“SGMA”);

WHEREAS, SGMA requires all groundwater subbasins designated as high or medium priority by the California Department of Water Resources (“DWR”) to manage groundwater in a sustainable manner;

WHEREAS, the Delta-Mendota Subbasin (Basin Number 5-22.07, DWR Bulletin 118) within the San Joaquin Valley Groundwater Basin (“Subbasin”), has been designated as a high-priority basin by DWR;

WHEREAS, the Delta-Mendota Subbasin includes multiple groundwater sustainability agencies that intend to manage the Subbasin through the development and implementation of multiple different groundwater sustainability plans;

WHEREAS, SGMA allows local agencies to engage in the sustainable management of groundwater, but requires groundwater sustainability agencies in all basins that are managed by more than one groundwater sustainability plan to enter into a coordination agreement to coordinate the multiple groundwater sustainability plans to sustainably manage the Subbasin pursuant to SGMA;

WHEREAS, pursuant to the requirements of SGMA, and the California Code of Regulations, and in recognition of the need to sustainably manage the groundwater within the Delta-Mendota Subbasin, the Parties desire to enter into this Agreement between their individual groundwater sustainability agencies;

WHEREAS, in order to efficiently coordinate among the large number of GSPs in the Subbasin, the Parties intend to organize themselves into GSP Groups and to be represented by the GSP Group Representatives, on terms to be developed and implemented by separate Agreements between each GSP Group and the Parties within such GSP Group; and

WHEREAS, this Coordination Agreement in its initial form cannot meet all aspects of SGMA coordination guidelines [established in Title 23, California Code of Regulations, section 357.4](#), because it is being executed before the respective GSPs have been prepared, and the Parties anticipate attaching and incorporating technical reports covering such additional required information before submittal of this Agreement to DWR with the Parties' respective GSPs without separate amendment being required.

THEREFORE, in consideration of the facts recited above and of the covenants, terms and conditions set forth herein, the Parties agree as follows:

SECTION 1 – PURPOSE

1.1 Compliance with SGMA

In subbasins with multiple GSPs, SGMA requires the GSPs to be coordinated through a ~~negotiated~~ coordination agreement. The purpose of this Coordination ~~Agreement in its anticipated amended form, including the attachment and incorporation of technical reports to be developed after the initial execution of this Agreement~~, is to comply with that SGMA requirement and ensure that the multiple GSPs within the Subbasin are developed and implemented utilizing the same methodologies and assumptions, that the elements of the GSPs are appropriately coordinated to support sustainable management, and to ultimately set forth the information necessary to show how the multiple GSPs in the Subbasin will achieve the sustainability goal, as determined for the Subbasin in compliance with SGMA and its associated regulations.

1.2 Description of Criteria & Function

An additional purpose of this Coordination Agreement is to describe the criteria for establishing the responsibilities of each Party for meeting the terms of this Coordination Agreement, the procedure for the exchange of information between the Parties, and procedures for resolving conflicts between the Parties. The goal of the coordination is to ensure that the Subbasin GSPs utilize the same data and methodologies, including but not limited to, groundwater elevation data, groundwater extraction data, surface water supply, total water use, changes in groundwater storage, water budgets, and sustainable yield during their development as required by SGMA and associated regulations. Additionally, this Coordination Agreement sets out the process for identifying a Plan Manager.

SECTION 2 – DEFINITIONS

2.1 –“**Coordinated Plan Expenses**” shall mean any expenses incurred by the Secretary and the Plan Manager for purposes of **developing** and implementing the Coordination Agreement.

2.2 “**Coordination Agreement**” shall mean this Coordination Agreement.

2.3 “**Coordination Committee**” shall mean the committee of GSP Group Representatives established pursuant to this Coordination Agreement.

2.4 “**Group Contact**” shall mean one Party designated on Exhibit “A” attached hereto and by reference incorporated herein as responsible to supply notices and to circulate information and invoices for its respective Exhibit “A” GSP Group, as said Exhibit may be updated from time to time.

2.5 “**GSA**” shall mean a groundwater sustainability agency established in accordance with SGMA and its associated regulations, and “**GSAs**” shall mean more than one such groundwater sustainability agency. Each Party is a GSA.

2.6 “**GSP**” shall mean a groundwater sustainability plan as defined by SGMA and its regulations, and “**GSPs**” shall mean more than one such plan.

2.7 “**GSP Group**” shall mean a grouping of Parties, stakeholders, and interested parties developing an individual GSP within the Subbasin, as shown in Exhibit “A,” who are combined for purposes of representation and voting on the Coordination Committee and for purposes of sharing Coordinated Plan Expenses as set forth in this Coordination Agreement.

2.8 “**GSP Group Alternate Representative,**” “**Alternate Representative,**” or “**Alternate**” and their plural forms shall mean an alternate member of the Coordination Committee selected to represent the GSP Groups in accordance with Exhibit “A” and Section 5.1.2-5.1.4 of this Coordination Agreement who shall serve in the absence of the respective GSP Group Representative and shall be entitled to cast the vote for the absent GSP Representative.

2.9 “**GSP Group Representative**” or “**Representative**” and their plural forms as appropriate shall mean a member or members of the Coordination Committee selected to represent the GSP Groups in accordance with Exhibit “A” and Section 5.1.2 – 5.1.4 this Coordination Agreement.

Commented [DR1]: SLDMWA has incurred costs to develop Coordination Agreement on behalf of all the potential parties for the benefit of the parties who would otherwise need to prepare them on their own and needs to be able to collect those costs

Commented [DR2]: WPCComment: Strike “developing and” before “implementing.” The County of Fresno ordinarily specifically excludes from payment the costs incurred by other parties to develop or negotiate agreements to which those others will be parties, or under which they will benefit.

2.10 “Participation Percentages” shall mean that percentage of Coordinated Plan Expenses allocated to each GSP Group as described on Exhibit “A” to this Coordination Agreement, which is attached and incorporated by reference herein, as updated from time to time.

2.11 “Party” or “Parties” shall mean a Groundwater Sustainability Agency or in the plural, two or more Groundwater Sustainability Agencies within the Delta-Mendota Subbasin.

2.12 “Plan Manager” shall mean an entity or individual, appointed at the pleasure of the Coordination Committee, [or as provided in section 4.1.2 of this Coordination Agreement](#), to perform the role of the Plan Manager to serve as the point of contact to DWR as set forth in Section [5.2.3](#) of this Coordination Agreement.

2.13 “Seasonal High” shall mean the highest annual static groundwater elevation associated with stable aquifer conditions following a period of lowest annual groundwater demand.

2.14 “Seasonal Low” shall mean the lowest annual static groundwater elevation associated with a period of stable aquifer conditions following a period of highest annual groundwater demand.

2.15 “San Luis & Delta-Mendota Water Authority” or “SLDMWA” shall mean the San Luis & Delta-Mendota Water Authority, a California joint powers agency.

2.16 “SGMA” shall mean the Sustainable Groundwater Management Act, as amended from time to time, commencing at Water Code section 10720, together with its implementing regulations applicable to Groundwater Sustainability Plans, set forth at California Code of Regulations, Title 23, Division 2, Chapter 1.5, Subchapter 2.

2.17 “SGMA Definitions” shall mean those SGMA-specific definitions provided by statute or regulation and attached in the Appendix to this Coordination Agreement; in the event of any inconsistency between a term defined in this Section and a SGMA-specific definition, the definition contained in this Coordination Agreement shall prevail.

2.18 “Subbasin” shall mean the Delta-Mendota Subbasin (Basin Number 5-22.07, DWR Bulletin 118) within the San Joaquin Valley Groundwater Basin.

2.19 “Technical Memoranda” shall mean the memoranda prepared by the Coordination Committee that include the data and methodologies for assumptions described in Water Code section 10727.6 to prepare coordinated plans. Individually, the memoranda shall be referred to as a **“Technical Memorandum.”**

2.20 “Water Year” shall mean the period from October 1 through the following September 30 as defined by SGMA.

2.21 “Water Year Type” shall mean the classification provided by DWR to assess the amount of annual precipitation in a basin and as defined by SGMA.

SECTION 3 – GENERAL GUIDELINES

3.1 Responsibilities of the Parties

3.1.1 Obligation to Coordinate

The Parties to this Coordination Agreement agree to work collaboratively to meet the objectives of SGMA and this Coordination Agreement. Each Party to this Coordination Agreement is a GSA and acknowledges that it is bound by the terms of this Coordination Agreement as an individual Party.

3.1.2 Obligations Outside of Coordination Agreement Regarding GSP Groups

a) **Representation and Voting** Each Party also understands its participation, as more fully set forth in **Section 5** of this Coordination Agreement, is based on representation through and by its GSP Group Representative(s). It is the responsibility and obligation of each Party under this Coordination Agreement to develop its own arrangements for how its respective GSP Group Representative and Alternate Representative are selected and how required actions of GSAs within the GSP Group under its respective GSP are identified and implemented.

1) The Coordination Committee and its members shall have no requirement to recognize a voting status or other decisional authority of any Party to this Coordination Agreement other than through the designated GSP Group Representative(s). For purposes of this Coordination Agreement, it is assumed that **GSP Group** Representatives have been authorized by the Parties in their GSP Groups to participate as described herein.

2) Further, bBy signing this Coordination Agreement, each Party commits to provide documentation to the Secretary and the Coordination Committee of the authorization of its GSP Group Representative(s). -Provided, that the Secretary shall not be obligated to evaluate or provide an opinion on the legal sufficiency of the documentation.

3) It is the responsibility and obligation of each Party under this Coordination Agreement that is included on Exhibit “A” as part of a multi-party GSP Group to provide documentation to the Secretary and to the Coordination Committee establishing that such GSP Group has a binding agreement or mechanism assuring that the GSP Group will pay its Participation Percentage set forth on Exhibit “A,” as said Exhibit “A” may be modified from time to time. ~~such obligation shall be a joint and several obligation first, of the Parties to such GSP Group, but in the event any GSP Group defaults in paying Coordinated Plan Expenses, the obligation to pay shall be a joint and several liability of all the GSP Groups.~~ -Provided, that the Secretary shall not be obligated to evaluate or provide an opinion on the legal sufficiency of the documentation.-

Commented [DR3]: Language regarding liability for payment obligations in Cost Sharing Agreement only; modified there to address comments objecting to joint and several liability.

3.1.32 Non-Entity Status

The Parties acknowledge and agree that this Coordination Agreement does not create a legal entity with power to sue or be sued, to enter into contract, or to enjoy the benefits or accept the obligations of a legal entity.

3.1.43 Implementation of Individual GSPs

This Coordination Agreement does not otherwise affect each Party’s responsibility to implement the terms of its respective GSP in accordance with SGMA. Rather, this Coordination Agreement is the mechanism through which the Parties will coordinate their respective GSPs to the extent necessary to ensure that such GSP coordination complies with SGMA.

3.2 Adjudicated or Alternate Plans in the Subbasin

As of the date of this Coordination Agreement, there are no portions of the Subbasin that have been adjudicated or approved to submit an alternative Plan as defined by SGMA.

SECTION 4 –ROLE OF SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

4.1 Agreement to Serve

By executing this Agreement, and not as a Party, the San Luis & Delta-Mendota Water Authority agrees to carry out the functions described in this Section [4 and its subparts](#) consistent with the terms of this Section [and under the direction and supervision of the Coordination Committee](#), subject to the reimbursement and the termination provisions contained in this Section.

4.1.1 Secretary

The SLDMWA agrees to perform the obligations of the Secretary described in this Coordination Agreement, by delegation to one or more of its employees or to a consultant under contract to the SLDMWA.

4.1.2 Plan Manager

The SLDMWA agrees to perform the obligations of the Plan Manager described in this Coordination Agreement, by delegation to one or more of its employees or to a consultant under contract to the SLDMWA.

4.2 Reimbursement of SLDMWA

The commitment of the SLDMWA to perform the designated functions under this Section is contingent upon the execution and performance of a separate cost sharing agreement between the SLDMWA and the [Parties, GSP Group Representatives, that establishes the joint and several liability of the GSP Groups for Coordinated Plan Expenses and indemnifies the SLDMWA for payment of costs incurred pursuant to the cost sharing agreement. The SLDMWA shall be reimbursed for its actual costs of providing personnel for purposes of the Coordination Agreement; for its expenses incurred in executing its obligations under the Coordination Agreement; and for a reasonable administrative charge as agreed in the separate cost sharing agreement.](#)

Commented [DR4]: Payment liability language moved to Cost Sharing Agreement.

4.3 Termination of SLDMWA's Services

Either the Parties acting through the Coordination Committee or the SLDMWA at any time may terminate the services being provided by the SLDMWA under this Coordination Agreement upon thirty (30) days' -written notice, if from the SLDMWA, to the Coordination Committee and each GSP Group Representative; and if from the Coordination Committee, to the SLDMWA and each GSP Group Representative.

SECTION 5 RESPONSIBILITIES FOR KEY FUNCTIONS

5.1 Coordination Committee

5.1.1 The Parties agree to establish a Coordination Committee to provide the forum for the parties to accomplish the coordination obligation of SGMA pursuant to ~~to coordinate all activities under~~ this Coordination Agreement. ~~For example, the Coordination Committee shall determine how the GSPs are required to be coordinated to satisfy SGMA; receive technical information from the Parties, GSP Groups, DWR, subcommittees authorized by this Agreement or other sources and take related actions.~~

5.1.2 The Coordination Committee will consist of the GSP Group Representatives identified on Exhibit "A" attached hereto and incorporated herein by this reference, as said Exhibit "A" may be modified from time to time pursuant to **Section 13** of this Agreement. Each GSP Group Representative shall have one Alternate Representative authorized to vote in the absence of the GSP Group Representative.

5.1.3 Individuals serving as GSP Group Representatives and Alternate Representatives shall be selected by each respective GSP Group in the discretion of the respective GSP Group, and such appointments shall be effective upon providing written notice to the Secretary and to each Group Contact listed on Exhibit "A".

5.1.4 The Coordination Committee will recognize each GSP Group Representative and ~~a~~GSP Group Alternate Representative until such time as the Group Contact provides written notice of removal and replacement to the Secretary and to every other Group Contact designated on Exhibit "A." Each GSP Group or GSP Subgroup shall promptly fill any vacancy created by the removal of such Representative or Alternate Representative so that each GSP Group shall have the number of validly designated Representatives and Alternate Representatives specified on Exhibit "A".

5.1.5. Minutes of the Coordination Committee will be prepared and maintained as set forth in Section 5.5.4.

5.2 Coordination Committee Officers

The Officers of the Coordination Committee will include a Chairperson, Vice Chairperson, Secretary, and Plan Manager. Except where the Parties have named such Officers pursuant to Section 4 of this Coordination Agreement, Officers shall be selected at the initial meeting of the Committee or as soon thereafter as reasonably can be accomplished.

5.2.1 Chairperson and Vice Chairperson

a) A GSP Group Representative shall serve as Chairperson. The Vice Chairperson, who shall also be a GSP Group Representative, shall serve in the absence of the Chairperson. In the absence of both the Chairperson and Vice Chairperson, a meeting may be led by an Acting Chairperson selected on an ad hoc basis.

b) The positions of Chairperson and Vice Chairperson shall rotate among the GSP Groups on an annual basis according to alphabetical order, with the first rotation beginning on the date the first Chairperson is selected. The schedule for rotation among the GSP Groups will be set at the first meeting after the Chairperson is appointed and reviewed and adjusted annually. A GSP Group Representative may waive designation as Chairperson. In such a case the Chairperson office would rotate to the next designated entity.

5.2.2 Secretary

The Coordination Committee shall select a Secretary to carry out the functions described in this subsection, to serve at the pleasure of the Coordination Committee. The Secretary shall be a public agency who may be, but need not be a Party to this Coordination Agreement. The San Luis & Delta-Mendota Water Authority is hereby designated as the initial Secretary, to serve at the pleasure of the Coordination Committee.

a) The Secretary shall select an appointee to implement the Secretary's responsibilities under this Coordination Agreement, for example, to coordinate meetings; prepare agendas; circulate notices and agendas; provide written notice to all Parties that the Coordination Committee has made a recommendation requiring approval by the Parties; prepare and maintain minutes of Meetings of the Coordination Committee; receive notices on behalf of the Coordination Committee and call to the Coordination Committee's attention

the need for responding; and provide such other assistance in coordination as may be appropriate.

5.2.3 Plan Manager

If the SLDMWA ceases to serve as Plan Manager as agreed under Section 4.1.2 of this coordination Agreement, then The Coordination Committee shall name a successor Plan Manager, who may be a consultant hired by the Secretary pursuant to the Coordination Agreement, the representative of an entity that has been selected as Secretary, or a public agency servicing as or participating in a GSA that is a Party to this Coordination Agreement, and who shall serve as the point of contact for DWR as specified by SGMA. The San Luis & Delta-Mendota Water Authority is hereby designated as the initial Plan Manager, to serve at the pleasure of the Coordination Committee.

a) ~~The Plan Manager's role is defined by SGMA shall carry out the duties of a "plan manager" as provided in Title 23, division 2, Chapter 1.5, Subchapter 2, California Code of Regulations. The Parties expect that the Plan Manager as the point of contact will be to communicate information, decisions, and policy direction from the Coordination Committee to DWR and from DWR to the Coordination Committee. In this role, the Plan Manager shall, at the direction of the Coordination Committee, submit all GSPs, Coordination Agreements, plan amendments, supporting information, monitoring data and other pertinent information, Annual Reports, and periodic evaluations to DWR when required.~~

b) The Plan Manager has no authority to make policy decisions or represent the Coordination Committee without the specific direction of the Coordination Committee. The Plan Manager is obligated to disclose all substantive communications he/she transmits and receives in his/her capacity as Plan Manager to the Coordination Committee.

5.3 Coordination Committee Authorized Actions and Limitations

5.3.1 Authorized Actions

The Coordination Committee is authorized to act upon the following enumerated items~~determine any action subject to its jurisdiction as set forth in this Coordination Agreement. Examples of these actions include but are not limited to:~~

a) ~~Prior to adoption of GSPs by all GSP Groups, the primary focus and authorized actions of the Coordination Committee will shall be to produce review, and consistent with the requirements of SGMA, approve~~ the Technical Memoranda described in Sections ~~8-124~~ of this Coordination Agreement.~~ensection-~~

b) ~~Once GSP Plans have been submitted to and approved by DWR, the Coordination Committee shall be responsible for ongoing review and updating of the Technical Memoranda as needed, assuring submittal of annual reports; providing 5five-year assessments and recommending any needed revisions to the Coordination Agreement; and providing review and assistance with coordinated projects and programs.~~

c) ~~The Coordination Committee shall review and approve work plans, and in accordance with the budgetary requirements of the respective Parties, approve, approve annual estimates of Coordinated Plan Expenses presented by the Secretary and any updates to such estimates; provided, that such estimates or updates with supporting documentation shall be circulated to all Parties for comment at least thirty (30) days in advance of the meeting at which the Coordination Committee will consider approval of the annual estimate-~~

d) ~~Pursuant to Section 13,~~ the Coordination Committee is authorized to approve changes to Exhibit "A" to this Coordination Agreement and to recommend amendments to terms of this Coordination Agreement.

e) ~~The Coordination Committee shall assign work to subcommittees and workgroups as needed, provide guidance and feedback and assure that subcommittees prepare work products in a timely manner.-~~

f) ~~The Coordination Committee shall direct the Plan Manager in the performance of its duties under SGMA.~~

g) ~~The Coordination Committee shall provide direction to its Officers concerning other administrative and ministerial issues necessary for the fulfillment of the above-enumerated tasks.~~

~~5.3.2 Modification of Authorized Activities~~

~~The Coordination Committee's authorized activities may be revised pursuant to unanimous consent in accordance with the procedures described in Section 5.6.2~~

Commented [DR5]: Based on section 357.4(i) of the regulations.

Commented [DR6]: Coordination Committee suggested addition of a provision to add flexibility for additional activities; several parties objected to such a broad delegation and paragraph not included.

5.3.3 Limitations

When the terms of this Coordination Agreement or applicable law require the approval of a Party, that approval shall be required and evidenced as indicated in Section 6 of this Agreement.

~~5.3.4 Parties Agree to Be Bound by Coordination Committee Decisions~~

~~The Parties to this Coordination Agreement agree to be bound by the votes of their respective GSP Group Representatives and further agree to comply with directions, determinations, and issuances duly approved by the Coordination Committee and recorded by Resolution, Motion, or Minutes of the Coordination Committee. Such directions, determinations, and issuances shall be specifically enforceable by and against each of the Parties to this Coordination Agreement.~~

Commented [DR7]: Some counsel had recommended this specific language but others objected to it as unnecessary because the Parties are bound by the overall terms of the Coordination Agreement, which requires documented authorizations for the GSP Group Representatives (see 3.1.2 a) 3).

5.4 Subcommittees and Workgroups

The Coordination Committee may appoint subcommittees, workgroups, or otherwise direct staff made available by the Parties. Such subcommittees or workgroups may include qualified individuals possessing the knowledge and expertise to advance the goals of the Coordination Agreement on the topics being addressed by the subcommittee, whether or not such individuals are GSP Group Representatives or Alternate Representatives. ~~All costs related to subcommittees and workgroups shall be the responsibility of each Party providing the subcommittee or workgroup participant.~~

Commented [DR8]: Note that subcommittee structure is not specified in terms of numbers. Concept is for participation by technical experts on particular topic; no quorum requirements; and voting is merely to apprise the Coordination Committee on opinion of subcommittee participants. See 5.4.2.

Commented [DR9]: Moved to Cost Sharing Agreement

5.4.1 Work of Subcommittees

Tasks assigned to subcommittees, workgroups, or staff made available by the Parties may include developing technical data, supporting information, and/or recommendations on matters including, but not limited to:

a) Developing a process to update the Coordination Committee on the activities of the respective Parties, including the development, planning, financing, environmental review, permitting, implementation, and long-term monitoring of the multiple GSPs in the Subbasin;

b) Subject to the oversight of the Coordination Committee, Establishing and scheduling subcommittee or workgroup meetings of the subcommittee or workgroup as

necessary to coordinate development and implementation of the [Technical Memoranda and Coordination Agreement](#). Attendance at these meetings may be augmented to include staff or consultants of all Parties to ensure that the appropriate expertise is available;

- c) Determining common methodologies for GSP development;
- d) Developing a Subbasin-wide monitoring network;
- e) Preparing a coordinated water budget;

f) Developing a coordinated data management system;

~~g)~~ [Providing an explanation of how the respective GSP's implemented together satisfy the requirements of SGMA and are in substantial compliance with and SGMA; and](#)

~~g)h)~~ Such other tasks as may be referred by the Coordination Committee from time to time.

5.4.2 Subcommittee Voting

One ~~voting representative per~~ GSP Group [Representative -or Alternate Representative](#) shall vote [on behalf of the GSP Group](#) at the subcommittee level; [if no GSP Group Representative or Alternate Representative is present, one individual working on a subcommittee on behalf of the Parties in a GSP Group shall vote on behalf of the GSP Group](#). Subcommittees shall report voting results and provide information to the Coordination Committee but shall not be entitled to make determinations or determinations that are binding on the Parties.

5.5 Coordination Committee Meetings

5.5.1 Timing and Notice

The Chairperson of the Coordination Committee, any two GSP Group Representatives, or the Secretary may call meetings of the Coordination Committee as needed to carry out the activities described in this Coordination Agreement. The Coordination Committee may, but is not required to, set a date for regular meetings for the purposes described in this Coordination Agreement. The Secretary shall prepare an agenda and notice, publicly post, and distribute agendas to all GSP Group or Subgroup Representatives, the Parties and any other interested persons who requests, in writing, such notices. [The](#) Agenda shall be of

Commented [DR10]: Authority requesting further legal opinion on whether or not formal Brown Act compliance is required and if it is, whether compliance re Coordination Committee meetings will satisfy requirements for Parties.

adequate detail to inform the public and the parties of the meeting and the matters to be transacted or discussed, and shall be posted in a public location and distributed to each of the parties to this Coordination Agreement at least seventy-two (72) hours prior to every regular meeting and at least twenty-four (24) hours prior to every special meeting.

5.5.2 Quorum

~~A voting-~~ The GSP Group Representative(s) ~~or Alternate~~ from ~~each every~~ GSP Group ~~listed on Exhibit "A"~~ must attend to constitute a quorum of the Coordination Committee. For example, so long as there are seven (7) GSP Group Representative positions on Exhibit "A", a quorum shall be seven (7). ~~-a meeting during which the Coordination Committee may take action.~~ The GSP Group Alternate Representative(s) of each GSP Group shall be counted towards a quorum and as ~~the~~ voting representative(s) in the absence of the GSP Group Representative for which the GSP Group Alternate has been appointed. If less than a quorum is present, the GSP Group Representatives and Alternate Representatives may hear reports and discuss items on the agenda, but no action may be taken.

5.5.3 Open Attendance

Members of the public, stakeholders, and representatives of the Parties who are not appointed as GSP Group Representatives may attend all meetings and shall be provided with an opportunity to comment on matters on the meeting agenda, but shall have no vote.

5.5.4 Minutes

The Secretary's appointee shall keep and prepare minutes of all Coordination Committee meetings. Notes of subcommittee meetings shall be kept by the Secretary's appointee or an assistant to the appointee. All minutes and subcommittee meeting notes shall be maintained by the Secretary as Coordination Agreement records and shall be available to the Parties and the public upon request.

5.6 Voting by Coordination Committee

5.6.1. Each GSP Group Representative shall be entitled to one vote at the Coordination Committee. It shall be up to the Parties in each GSP Group to determine how the GSP Group vote(s) will be cast.

5.6.2 Except as set forth in Section 5.6.3, and for authorization to call meetings of the Coordination Committee described in Section 5.5, ~~the~~ unanimous vote of a quorum of

the Coordination Committee is required on all items upon which the Coordination Committee is authorized to act as identified in Section 5.3, the following items:

a) ~~Approval of annual cost estimates of Coordinated Plan Expenses presented by the Secretary;~~

b) ~~Except as set forth in subsection 5.6.3, determinations on coordination of rules and regulations, or policies and procedures for coordination of GSPs within the Subbasin;~~

c) ~~Decisions addressing the use of the same data and methodologies for assumptions described in Water Code Section 10727.6 to prepare Coordinated Plans. By way of example and not limitation, the approval of the Technical Memoranda described in Sections 9, 10, 11 and 12 of this Coordination Agreement shall require unanimous approval of the Coordination Committee as set forth herein; and~~

d) ~~Changes to Exhibit "A" to this Coordination Agreement pursuant to Section 13.1.~~

e) ~~Any other action for which a unanimous vote is required by the terms of this Coordination Agreement.~~

5.6.3 Voting Procedures to Address Lack of Unanimity for Formulation of Policies, Rules, Regulations, Projects and Programs.

~~When it appears likely that the Coordination Committee will not be able to come to unanimous decision on any matter upon which it is authorized to act, upon a majority vote of a quorum of the Coordination Committee, the matter may be subjected to the following additional procedures: decisions regarding policies; coordination of rules and regulations; and projects or programs to implement SGMA on a coordinated basis may move forward upon the vote of a majority of a quorum, subject to the additional procedures outlined in this Section.~~

a) Straw Polls

Straw poll votes may ~~also~~ be taken for the purpose of refining ideas and providing guidance~~direction~~ to the Coordination Committee, subcommittees, or both.

b) Provisional Voting

Commented [DR11]: Andrew McClure: Ok with process but notes that does allow not resolve what happens in event of a veto due to inability to meet unanimous vote requirement. See one possible approach in 14.2.1 c).

Provisional votes may occur prior to final votes. This will be done when an initial vote is needed to refine a proposal but the GSP Group Representatives wish to consult with their respective GSP Group(s) before making a final vote.

c) ~~A vote shall be delayed if any GSP Group Representative may request a delay in taking a vote opposed by that Representative in order declares its intention to propose an constructive alternative or modified recommended action, to be proposed at the next meeting, or as soon thereafter as the GSP Group Representative can obtain any further information or clarifying direction from its GSP Group or governing body, or both, as needed to proposed its alternative or modified recommended action, which may include resolution by modifying the decision to remove objectionable features.~~

d) ~~If the process outlined in subsection 5.6.3(c) fails to result in a unanimous vote, any GSP Group Representative not voting in favor of the recommended action opposing the action may request that the vote be delayed for one (1) additional meeting while so that the Coordination Committee can obtain further, ~~or if appropriate, any subcommittee established under this Coordination Agreement that has provided information on the recommended action (for example, by directing a subcommittee established under this Coordination Agreement), so the GSP Group Representative can obtain clarifying direction from its GSP Group or governing body, or both, as needed, considers the objection and comes up with any final accommodation before the matter is presented for a vote.~~~~

e) ~~Each of the Parties acknowledges the limited time provided by SGMA to complete the GSP preparation process, and agrees to make its best efforts to cooperate through the Coordinating Committee in coming toThe processes outlined in subsections c) and d) may not delay final action on any matter more than two (2) meetings unless such delay is authorized by a unanimous vote of the Coordination Committee. Final action shall require a unanimous vote.~~

Commented [DR12]: This replaces the 2-meeting limit for deferring action.

SECTION 6 – APPROVAL BY INDIVIDUAL PARTIES

6.1 Where law or this Coordination Agreement require separate written approval by each of the Parties, such approval shall be evidenced in writing by providing the resolution, Motion, or Minutes of their respective Boards of Directors to the Secretary of the Coordination Committee.

SECTION 7 - EXCHANGE OF DATA AND INFORMATION

7.1 Exchange of Information

The Parties acknowledge and recognize pursuant to this Coordination Agreement that the Parties may need to exchange information amongst and between the Parties.

7.2 Procedure for Exchange of Information

7.2.1 The Parties shall exchange public and non-privileged information through collaboration and/or informal requests made at the Coordination Committee level or through subcommittees designated by the Coordination Committee. However, to the extent it is necessary to make a written request for information to another Party, each Party shall designate a representative to respond to information requests and provide the name and contact information of the designee to the Coordination Committee. Requests may be communicated in writing and transmitted in person or by mail, facsimile machine, or other electronic means to the appropriate representative as named in this Coordination Agreement. The designated representative shall respond in a reasonably timely manner.

7.2.2 Nothing in this Coordination Agreement shall be construed to prohibit any Party from voluntarily exchanging information with any other Party by any other mechanism separate from the Coordination Committee.

7.2.3 The Parties agree that each GSP Group shall provide the data required to develop the Subbasin-wide coordinated water budget but unless required by law, will not be required to provide individual well or parcel-level information in order to preserve confidentiality of individuals to the extent authorized by law, [including but not limited to Water Code Section 10730.8, subdivision \(b\)](#).

7.2.4 To the extent that a court order, subpoena, or the California Public Records Act is applicable to a Party, such Party in responding to a request made pursuant to that Act for release of information exchanged from another Party shall notify each other Party in writing of its proposed release of information in order to provide the other Parties with the opportunity to seek a court order preventing such release of information.

SECTION 8 – METHODOLOGIES & ASSUMPTIONS

8.1 SGMA Coordination Requirements

Pursuant to SGMA, this Coordination Agreement must ensure that the individual GSPs utilize the same data and methodologies for developing assumptions used to determine: 1) groundwater elevation; ~~2) groundwater-~~and~~~~ extraction data; ~~3) surface water supply~~; ~~3) total water use~~; ~~5) changes in groundwater storage~~; ~~5) water budgets~~; and ~~6) sustainable yield~~.

8.2 Pre-GSP Coordination

Prior to the individual development of GSPs, the Parties agree to develop agreed-upon methodologies and assumptions for 1) groundwater elevation; ~~2) groundwater-~~and~~~~ extraction data; ~~3) surface water supply~~; ~~4) total water use~~; ~~5) changes in groundwater storage~~; ~~6) water budgets~~; and ~~7) sustainable yield~~. This development may be facilitated through the Coordination Committee's delegation to a sub-committee or workgroup of the technical staff provided by some or all of the Parties. The basis upon which the methodologies and assumptions will be developed includes existing data/information, best management practices, and/or best modeled or projected data available and may include consultation with the DWR as appropriate.

8.3 Technical Memorandum Required

The data and methodologies for assumptions described in Water Code section 10727.6 ~~and 23 CFR 357.4~~ to prepare coordinated plans shall be set forth in ~~a~~ Technical Memoranda~~###~~ prepared by the Coordination Committee ~~for~~ each of the elements discussed in Sections 9, 10, 11, and 12 of this Agreement. The Technical Memoranda~~###~~ shall be subject to the unanimous approval of the Coordination Committee and once approved, shall be attached to and incorporated by reference into this Coordination Agreement without formal amendment of the Coordination Agreement being required. The Parties agree that they shall not submit this Coordination Agreement to DWR until the Technical Memoranda described herein have been added to the Coordination Agreement. The Technical Memoranda created pursuant to this Agreement shall be utilized by the Parties during the development and implementation of their GSPs in order to assure coordination of the GSPs in compliance with SGMA.

Commented [DR13]: Andrew & Becca, should we add this and then eliminate 9.3; 10.3, 11.3 and 12.3? Or is it helpful to have the Technical Memoranda called out for each of those Sections?

SECTION 9 – MONITORING NETWORK

9.1 In accordance with SGMA, the Parties hereby agree to coordinate the development and maintenance of a monitoring network at a Subbasin level through the coordination of the respective monitoring networks established pursuant to the GSPs in which each of the Parties hereto are participating. The Subbasin monitoring network description shall include monitoring objectives, protocols, and data reporting requirements specific to enumerated sustainability indicators. Each GSP Group’s network shall facilitate the collection of data in order to characterize groundwater and related surface water conditions in the Subbasin and evaluate changing conditions that occur from implementation of the individual GSPs. Each Party’s GSP will describe the monitoring network’s objectives for the Subbasin, including an explanation of network development and implementation to monitor groundwater and related surface conditions, and the interconnection of surface water and groundwater.

9.2 Each GSP Group shall provide the Coordination Committee all relevant data and information for their respective representative monitoring sites established in accordance with [Title 23, California Code of Regulations CCR § section 354.36](#), as amended from time to time.

9.3 Approval of Technical Memorandum Required.

The monitoring objectives, protocols, and data reporting requirements specific to enumerated sustainability indicators required for the monitoring networks shall be set forth in a Technical Memorandum prepared by the Coordination Committee. The Technical Memorandum shall be subject to the unanimous approval of the Coordination Committee and once approved, shall be attached to and incorporated by reference into this Coordination Agreement without formal amendment of the Coordination Agreement being required.

Commented [DR14]: Cover in 83 and remove Here?

SECTION 10 – COORDINATED WATER BUDGET

10.1 In accordance with SGMA, the Parties hereby agree to prepare a single coordinated water budget for the Subbasin as described in this subsection for use in the respective GSP in which each of the Parties hereto are participating. The water budget will provide an estimate of the total annual volume of groundwater and surface water entering and leaving

the Subbasin, including historical, current and projected water budget conditions, and the change in the volume of water stored and the safe yield for differing aquifers.

10.2 To the extent feasible, the Parties will consider the best available information and best available science to quantify the water budget for the Subbasin in order to provide an understanding of historical and projected hydrology, water demand, water supply, land use, population, climate change, sea level rise, groundwater and surface water interaction, and subsurface groundwater flow.

10.3 Technical Memorandum Required:

The foregoing considerations and conclusions regarding the coordinated water budget shall be set forth in a Technical Memorandum prepared by the Coordination [Agreement Committee](#). The Technical Memorandum shall be subject to the unanimous approval of the Coordination Committee and once approved, shall be attached to and incorporated by reference into this Coordination Agreement without formal amendment of the Coordination Agreement being required.

Commented [DR15]: Cover in 8.3 and remove here?

SECTION 11 – COORDINATED DATA MANAGEMENT SYSTEM

11.1 The Parties will develop and maintain a coordinated data management system that is capable of storing and reporting information relevant to the reporting requirements and/or implementation of the GSPs and monitoring network of the Subbasin.

11.2 The Parties also will develop and maintain separate data management systems. Each separate data management system developed for each GSP will store information related to implementation of each individual GSP, monitoring network data and monitoring sites requirements, and water budget data requirements. Each system will be capable of reporting all pertinent information to the Coordination Committee. After providing the Coordination Committee with data from the individual GSPs, the Coordination Committee will ensure the data is stored and managed in a coordinated manner throughout the Subbasin and reported to DWR annually as required.

11.3 Technical Memorandum Required:

The criteria for the development and maintenance of a coordinated data management system shall be set forth in a Technical Memorandum prepared by the Parties to this Coordination

Commented [DR16]: Cover in 8.3 and remove here?

Agreement. The Technical Memorandum shall be subject to unanimous approval of the Coordination Committee and once approved, shall be attached to and incorporated by reference into this Coordination Agreement without formal amendment of the Coordination Agreement being required.

SECTION 12 - ADOPTION AND USE OF THE COORDINATION AGREEMENT

12.1 Coordination of GSPs

Each Party is responsible to ensure that its own GSP complies with the statutory requirements of SGMA, including but not limited to the filing deadline. The Parties to this Coordination Agreement intend that their individual GSPs be coordinated together in order to satisfy the requirements of SGMA and to be in substantial compliance with the California Code of Regulations. The collective GSPs will satisfy the requirements of Sections 10727.2 and 10727.4 of the Water Code by providing a description of the physical setting and characteristics of the separate aquifer systems within the Subbasin, the measurable objectives for each such GSP, interim milestones, and monitoring protocols that together provide a detailed description of how the Basin as a whole will be sustainably managed.

12.2 GSP and Coordination Agreement Submission

The Parties agree to submit their respective GSPs to DWR through the Coordination Committee and Plan Manager, in accordance with all applicable requirements. Subject to the subsequent attachment of the Technical Memoranda described in Sections 8-124 and this Section 12, the Parties intend that this Coordination Agreement fulfill the requirements of providing an explanation of how the GSPs implemented together satisfy the requirements SGMA for the entire Subbasin.

12.3 Technical Memorandum Required

An explanation of how the GSP-s implemented together satisfy the requirement of SGMA and provide substantial compliance with its terms shall be included in a Technical Memorandum prepared by the Parties to this Coordination Agreement. The Technical Memorandum shall be subject to unanimous approval of the Coordination Committee and

Commented [DR17]: Cover in 8.3 and remove here?

once approved, shall be attached to and incorporated by reference into this Coordination Agreement without formal amendment of the Coordination Agreement being required.

13 MODIFICATION AND TERMINATION OF THE COORDINATION AGREEMENT

13.1 Modification or Amendment of Exhibit “A”

The Parties agree that Exhibit “A,” except for the withdrawal or addition of Parties to this Agreement, may be updated by unanimous vote of the Coordination Committee from time to time. -Upon such modification, the updated Exhibit “A” shall be attached to this Agreement as a replacement to the previously existing Exhibit “A.” -Upon such attachment, the updated “Exhibit “A” shall become a part of this Coordination Agreement without further Amendment of the Coordination Agreement being required. -The Secretary shall provide notice of such change to all Group Contacts.

13.1.1 Withdrawal of a Party

~~In the event the Exhibit “A” change reflects the withdrawal of a Party, such withdrawal shall be accomplished in accordance with the terms of Section 14.2.1 of this Coordination Agreement.~~

13.1.2 Addition of a Party

~~In the event the Exhibit “A” change reflects the addition of a Party, such~~ A Party may be added to this Coordination Agreement only upon its execution of a counterpart of this Agreement and its provision of any additional documentation required by **Sections 3.1.2 a) and 3.1.2 b)** of this Coordination Agreement. No Party may be added that is not within the Delta-Mendota Subbasin or that fails to execute an agreement to share in Coordinated Plan Expense, unless such payment is waived by consent of all Parties.

13.2 Modification or Amendment of Coordination Agreement

Except as provided in Sections 13.1 and 13.3, The Parties hereby agree that ~~(except as provided in Section 13.1)~~ this Coordination Agreement may be supplemented, amended, or modified only ~~by the mutual written agreement of the Parties. No supplement, amendment, or~~

~~modification of this Coordination Agreement shall be binding unless it is in writing and signed by all Parties.~~

13.3 Amendment for Compliance with Law

~~Should any provision of this Coordination be determined to be not in compliance with legal requirements under circumstances where amendment of the Agreement to include a provision addressing the legal requirement will cure the non-compliance, the Parties agree to promptly prepare and approve such amendment.~~

14.2 ~~Withdrawal, Term and Termination~~ WITHDRAWAL, TERM, AND TERMINATION

14.2.1 Withdrawal

Subject to the requirements identified in SGMA and the any coordination guidelines or regulations issued by DWR, a Party may unilaterally withdraw from this Coordination Agreement without causing or requiring termination of this Coordination Agreement, effective upon thirty (30) days written notice to the Secretary and all other Parties. The Plan Coordinator shall report any such withdrawal to DWR within five (5) days of receipt of the written notice.

14.1.1

~~a) Any Party who withdraws shall remain obligated for Coordinated Plan Expenses as provided in a separate Cost Sharing Agreement. If no separate Cost Sharing Agreement is then in effect or enforceable against the withdrawing Party, the Party is obligated to pay its share of all debts, liabilities, and obligations the Party incurred or accrued under the Coordination Agreement prior to the effective date of such withdrawal, as established under its separate GSP Group agreement concerning such share of obligations.~~

14.1.2

~~b) Upon withdrawal, a Party agrees that it has a continuing obligation to comply with SGMA and any coordination guidelines or regulations issued by DWR, which require a coordination agreement if there are multiple GSPs in the Subbasin. This obligation shall survive the withdrawal from this Coordination Agreement and is for the express benefit of the remaining Parties.~~

14.1.3

e) —In the event any GSP Group Representative(s) prevents/prevent a required unanimous vote of the Coordination Committee after following all procedures described in 5.3.1 or Section 15 of this Agreement, the Parties in such GSP Group agree to appoint a GSP Group Representative willing to cast a positive vote on the issue or to provide notice that such GSP Group has unilaterally withdrawn from this Agreement in accordance with this Section.

14.2.2 Term-

As modified pursuant to Section 13-and unless terminated in accordance with Section 14.2.3, this Coordination Agreement shall continue for a term that is coterminous with the requirements of SGMA for the existence of a Coordination Agreement.

14.2.3 Termination

This Coordination Agreement may be terminated or rescinded and the coordinated implementation of GSPs terminated by unanimous written consent of all the Parties. Nothing in this Coordination Agreement shall prevent the Parties from entering into another coordination agreement for coordination with any other subbasin.

SECTION 15 – DISPUTE RESOLUTION

15.1 Procedures for Resolving Conflicts

In the event of any dispute arising from or relating to this Agreement, the disputing Party shall, within thirty (30) calendar days of discovery of the events giving rise to the dispute, notify all Parties to this Agreement in writing of the basis for the dispute. Within thirty (30) calendar days of receipt of said notice, all Parties shall meet and confer in a good-faith attempt to informally resolve the dispute. All disputes that are not resolved informally shall be settled by arbitration. Within ten (10) days following the failed informal proceedings, each Party shall name one arbitrator, and the named arbitrators shall within (10) additional days name one neutral arbitrator. The arbitration shall be administered in accordance with the procedures set forth in the California Code of Civil Procedure, section 1280, et seq., and of any state or local rules then in effect for arbitration pursuant to said section. Upon completion of arbitration, if the controversy has not been resolved, any Party may exercise all rights to bring a legal action relating to the controversy. This provision shall be a condition precedent to, but shall not otherwise replace the rights of the Parties judicial resolution of their disputes.

Commented [DR18]: Language changed to match Cost Sharing Agreement provision.

~~In the event that any dispute arises among the Parties relating to this Coordination Agreement or the rights and obligations arising from this Coordination Agreement, the aggrieved Party or Parties shall provide written notice to the other Parties of the controversy. Within thirty (30) days after such written notice, the Parties shall attempt in good faith to resolve the controversy through informal means. Each Party involved in the mediation shall promptly notify in writing each other Party of its representatives for dispute resolution. Such representatives shall agree upon a meeting date and place, which may be in person or by conference call, within fifteen (15) days. If the Parties involved in the dispute cannot agree upon a resolution of the controversy within thirty (30) days from the providing of written notice specified above, the dispute shall be submitted to mediation prior to commencement of any legal action. The mediation shall be no less than a full day (unless agreed otherwise among the Parties) and the cost of mediation shall be paid in equal proportion among the Parties involved in the mediation. The mediator shall be either voluntarily agreed to, or, if the Parties cannot agree upon a mediator, appointed by the Superior Court of Merced County upon a suit and motion for appointment of a neutral mediator. Upon completion of mediation, if the controversy has not been resolved, any Party may exercise all rights to bring a legal action relating to the controversy. This provision shall be a condition precedent to, but shall not otherwise replace the rights of the Parties to seek arbitration under the procedures set forth in the Code of Civil Procedure or judicial resolution of their disputes.~~

15.2 Litigation

15.2.1 In the event a dispute or claim is not resolved by a mutually agreeable settlement through negotiation or mediation, the aggrieved Party may file suit in Merced County Superior Court with jurisdiction to provide a binding decision on the matter.

15.2.2 The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity.

SECTION 16 – GENERAL PROVISIONS

16.1 Authority of Signers

The individuals executing this Coordination Agreement represent and warrant that they have the authority to enter into this Coordination Agreement and to legally bind the Party for whom they are signing to the terms and conditions of this Coordination Agreement.

16.2 Governing Law

The validity and interpretation of this Coordination Agreement will be governed by the laws of the State of California without giving effect to the principles of conflict of laws, with venue for all purposes to be proper only in the County of **Merced**, State of California.

16.3 Severability

~~Except as provided for cure by amendment in Section 13.3, if~~ any term, provision, covenant, or condition of this Coordination Agreement is determined to be unenforceable by a court of competent jurisdiction, it is the Parties' intent that the remaining provisions of this Coordination Agreement will remain in full force and effect and will not be affected, impaired, or invalidated by such a determination.

16.4 Counterparts

This Coordination Agreement may be executed in any number of counterparts, each of which will be an original, but all of which will constitute one and the same agreement.

16.5 Good Faith

The Parties agree to exercise their best efforts and utmost good faith to effectuate all the terms and conditions of this Coordination Agreement and to execute such further instruments and documents as are reasonably necessary, appropriate, expedient, or proper to carry out the intent and purposes of this Coordination Agreement.

SECTION 17 – SIGNATORIES

<i>GSA Name:</i>	<i>Date:</i>	<i>GSA Name:</i>	<i>Date:</i>
XYZ GSA	9-1-2017	ABC GSA	9-1-2017

Signature

Signature

(Name of Representative)

(Name of Representative)

<i>GSA Name:</i>	<i>Date:</i>	<i>GSA Name:</i>	<i>Date:</i>
XYZ GSA	9-1-2017	ABC GSA	9-1-2017
Signature		Signature	
(Name of Representative)		(Name of Representative)	
<i>GSA Name:</i>	<i>Date:</i>	<i>GSA Name:</i>	<i>Date:</i>
XYZ GSA	9-1-2017	ABC GSA	9-1-2017
Signature		Signature	
(Name of Representative)		(Name of Representative)	
<i>GSA Name:</i>	<i>Date:</i>	<i>GSA Name:</i>	<i>Date:</i>
XYZ GSA	9-1-2017	ABC GSA	9-1-2017

Signature		Signature	
(Name of Representative)		(Name of Representative)	

GSA Name: *Date:* *GSA Name:* *Date:*

XYZ GSA 9-1-2017 ABC GSA 9-1-2017

Signature

Signature

(Name of Representative)

(Name of Representative)

<i>GSA Name:</i>	<i>Date:</i>	<i>GSA Name:</i>	<i>Date:</i>
XYZ GSA	9-1-2017	ABC GSA	9-1-2017
Signature		Signature	
(Name of Representative)		(Name of Representative)	

<i>GSA Name:</i>	<i>Date:</i>	<i>GSA Name:</i>	<i>Date:</i>
XYZ GSA	9-1-2017	ABC GSA	9-1-2017
Signature		Signature	
(Name of Representative)		(Name of Representative)	
<i>GSA Name:</i>	<i>Date:</i>	<i>GSA Name:</i>	<i>Date:</i>
XYZ GSA	9-1-2017	ABC GSA	9-1-2017
Signature		Signature	
(Name of Representative)		(Name of Representative)	

GSA Name: *Date:* *GSA Name:* *Date:*
 XYZ GSA 9-1-2017 ABC GSA 9-1-2017

Signature

Signature

(Name of Representative)

(Name of Representative)

<i>GSA Name:</i>	<i>Date:</i>	<i>GSA Name:</i>	<i>Date:</i>
XYZ GSA	9-1-2017	ABC GSA	9-1-2017
Signature		Signature	
(Name of Representative)		(Name of Representative)	
<i>GSA Name:</i>	<i>Date:</i>	<i>GSA Name:</i>	<i>Date:</i>
XYZ GSA	9-1-2017	ABC GSA	9-1-2017
Signature		Signature	
(Name of Representative)		(Name of Representative)	

EXECUTING NOT AS A MEMBER:

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

By: _____

EXHIBIT “A” – Groundwater Sustainability Plan (GSP) Groups

	Groundwater Sustainability Plan Group & Representation on Coordination Committee	Group Contact Agency	Participation Percentage
1	<p>Northern / Central Delta-Mendota Region – 2 Representatives</p> <p>Central DM Subgroup – 1 Member representing the following: Central Delta-Mendota Multi-Agency GSA Widren Water District GSA</p> <p>Northern DM Subgroup – 1 Member representing the following: City of Patterson GSA DM-II GSA Merced County GSA Northwestern Delta-Mendota GSA Oak Flat Water District GSA Patterson Irrigation District GSA West Stanislaus Irrigation District GSA</p>	West Stanislaus Irrigation District	16.7%
2	<p>San Joaquin River Exchange Contractors – 2 Representatives</p> <p>City of Dos Palos GSA City of Firebaugh GSA City of Gustine GSA City of Los Banos GSA City of Mendota GSA City of Newman GSA Madera County GSA Merced County – Delta Mendota GSA San Joaquin River Exchange Contractors Water Authority GSA Turner Island Water District-2 GSA</p>	San Joaquin River Exchange Contractors	16.7%
3	<p>Farmers Water District – 1 Representative</p> <p>Farmers Water District GSA</p>	Farmers Water District	16.7%

4	Aliso Water District – 1 Representative Aliso Water District GSA	Aliso Water District	16.7%
5	Grassland Water District – 1 Representative Grassland Water District GSA Grassland WD and Grassland Resource Conservation District	Grassland Water District	16.7%
6	Fresno County Management Area A & B – -1 Representatives Fresno County Management Area A GSA Fresno County Management Area B GSA	Fresno County	16.7%

APPENDIX – SGMA DEFINITIONS

1. “Agency” or “GSA” shall mean a groundwater sustainability agency as defined in SGMA.
2. [“Coordination Agreement”](#) shall mean this Coordination Agreement, unless indicated otherwise.
3. “Annual Report” shall mean the report required by Water Code Section 10728 and SGMA Regulations Section 356.2.
4. “Basin” shall mean the Delta-Mendota subbasin and defined in Bulletin 118 as Basin 5- 22.07; [for purposes of the Coordination Agreement, “Basin” and “Subbasin shall have the same meaning.](#)
5. “Basin Setting” shall mean the information about the physical setting, characteristics, and current conditions of the basin as described by the Agency in the hydrogeologic conceptual model, the groundwater conditions, and the water budget, pursuant to California Code of Regulations, title 23, sections 354.12-354.20.
6. “CASGEM” shall mean the California Statewide Groundwater Elevation Monitoring Program developed by the DWR.
7. “DWR” shall mean the Department of Water Resources.
8. “Groundwater” shall mean the water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.
9. “Groundwater flow” shall mean the volume and direction of groundwater movement into, out of, or throughout a basin.
10. “Interconnected surface water” shall mean the surface water that is hydraulically connected at any point by a continuous saturated zone to the underlying aquifer and the overlying surface water is not completely depleted.

11. **“Measureable objectives”** shall mean specific, quantifiable goals for the maintenance or improvement of specified groundwater conditions that have been included in an adopted GSP to achieve the sustainability goal for the basin.
12. **“Principal Aquifers”** shall mean aquifers or aquifer systems that store, transmit, and yield significant or economic quantities of groundwater to wells, springs, or surface water systems.
13. **“Representative Monitoring”** shall mean a monitoring site within a broader network of sites that typifies one or more conditions within the basin or an area of the basin.
14. **“Sustainability Indicator”** shall mean any of the effects caused by groundwater conditions occurring throughout the basin that, when significant and unreasonable, cause undesirable results.
15. **“Water Source Type”** shall mean the source from which water is derived to meet the applied beneficial uses, including groundwater, precipitation, recycled water, reused water, and surface water sources.
16. **“Water Use Sector”** shall mean categories of water demand based on the general land uses to which the water is applied, including urban, industrial, agricultural, managed wetlands, managed recharge, and native vegetation.