

**AGREEMENT BETWEEN THE OWENS VALLEY GROUNDWATER AUTHORITY
AND THE [_____ INSERT NAME OF MEMBER AGENCY _____] FOR CONTRIBUTION
OF FUNDING TOWARD THE GSP DEVELOPMENT BUDGET**

Whereas, the Owens Valley Groundwater Authority (“OVGA”) is a joint powers authority duly formed under the laws of the State of California for the purpose of implementing the Sustainable Groundwater Management Act, Part 2.74 (commencing with Section 10720) of Division 6 of the California Water Code, in the Owens Valley Groundwater Basin; and

Whereas, [_____ INSERT NAME OF MEMBER AGENCY _____], a _____ (“Member Agency”), is a forming Member of the OVGA and party to the OVGA Joint Powers Agreement (OVGA-JPA); and

Whereas, Article II Section 4 of the OVGA-JPA sets forth the requirement that the OVGA adopt a GSP Development Budget; and

Whereas, on October 26, 2017, the OVGA Board of Directors adopted a final GSP Development Budget, attached herewith as Exhibit A, in the total amount of \$747,585 for a three-year period (or \$249,193 per year); and

Whereas, Article IV Section 1 of the OVGA-JPA sets forth the method by which OVGA Members shall fund the GSP Development Budget, specifically requiring that “[e]ach Member shall make a legally binding commitment of its financial contribution toward the multi-year GSP Development Budget,” and that such commitment “shall set the Member’s maximum financial contribution to the GSP Development Budget”; and

Whereas, each Member’s contribution will directly affect and result in the Member’s voting share as set forth in Article IV Section 2 of the OVGA-JPA, with a contribution of approximately \$22,654 per year required to establish a Member as a “Funding Member” and entitle such Member to four (4) votes; and

Whereas, the OVGA and the Member Agency (sometimes referred to herein individually as a “Party” and collectively as the “Parties”) desire to enter into this Agreement to satisfy the OVGA-JPA’s requirement for the Member Agency to make a legally binding commitment of its financial contribution toward the GSP Development Budget; and

Whereas, the Member Agency authorized its Primary or Alternate Director appointed to the OVGA Board of Directors to enter into this Agreement on its behalf at its meeting held on _____.

Now, therefore, the OVGA and the Member Agency agree as follows:

1. Effective _____, and continuing until this Agreement is terminated, the

Member Agency shall make an annual contribution toward the GSP Development Budget of _____ dollars (\$_____) (“Contribution Amount”). For purposes of the Member Agency’s first Contribution Amount, the Member Agency shall pay one third of its first Contribution Amount within 30 days after receiving an invoice from the OVGA and shall pay the remainder on or before July 2, 2018. After the OVGA’s annual review and adjustment of the GSP Development Budget in subsequent years, the OVGA shall send the Member Agency an invoice for that year’s specific Contribution Amount. Within 30 days after the invoice is sent, the Member Agency shall make payment in the full amount of the invoice to the OVGA, in care of its treasurer and fiscal agent. ~~A failure to make said payment shall subject the Member Agency to an interest penalty of _____%.~~

2. Pursuant to Article IV Section 2 of the OVGA-JPA, the Member Agency’s commitment to make the Contribution Amount shall provide the Member Agency with # votes (2 +); provided, that the additional votes beyond the first two shall not be acquired if the Member Agency fails to pay the full amount of the invoice as required by this Agreement unless and until such payment is made; provided further, that the number of additional votes beyond the first two provided to the Member Agency shall be adjusted upon modification of the GSP Development Budget as set forth in Article IV Section 1.1 of the OVGA-JPA.

3. This Agreement shall terminate after the GSP has been developed and in a manner consistent with the OVGA’s adoption of its subsequent annual budget pursuant to Article IV of the OVGA-JPA. Otherwise, it may only be terminated upon the express agreement of the Parties or upon the OVGA’s termination for cause of the Member Agency’s participation in the OVGA as provided in Article VI Section 1 of the OVGA-JPA.

4. This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the Parties, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

5. Any notice, communication, amendment, addition, or deletion to this Agreement, including any change of address of either Party during the term of this Agreement, which the Parties shall be required or may desire to make, shall be in writing and may be personally served or sent by prepaid first-class mail to the respective Party as follows:

OVGA:

Member Agency:

6. This Agreement is the joint product of the OVGA and the Member Agency and each provision hereof has been subject to the mutual consultation, negotiation, and agreement of the Parties and shall not be construed for or against any Party.

This Agreement is entered into this _____ day of _____ by:

Owens Valley Groundwater Authority

Fred Stump, Chairman

[insert agency name]

[name][title]

DRAFT



Sustainable Groundwater Management Act **PROPOSED BASIN BOUNDARY EMERGENCY REGULATIONS** California Department of Water Resources http://water.ca.gov/groundwater/sgm/basin_boundaries.cfm

In September 2014, the Governor signed into law the Sustainable Groundwater Management Act (SGMA). The Department has developed a program and is currently implementing new and expanded responsibilities identified in SGMA. One of these responsibilities is developing emergency regulations to modify groundwater basin boundaries. SGMA established a process for local agencies to request that DWR revise the boundaries of a groundwater basin or subbasin, including the creation of new subbasins. California's existing groundwater basins and subbasins are described and delineated in [DWR's Bulletin 118-Update 2003](#); – and the key definitions of basin, subbasin, and aquifer used in the emergency regulation are as follows:

- A **basin** refers to an area specifically defined as a basin or “groundwater basin” in Bulletin 118, and shall refer generally to an aquifer or stacked series of aquifers with reasonably well-defined boundaries in a lateral direction, based on features that significantly impede groundwater flow, and a definable bottom, as further defined or characterized in Bulletin 118
- A **subbasin** refers to an area specifically defined as a subbasin or “groundwater subbasin” in Bulletin 118, and shall refer generally to any subdivision of a basin based on geologic and hydrologic barriers or institutional boundaries, as further described or defined in Bulletin 118.
- An **Aquifer** refers to a three-dimensional body of porous and permeable sediment or sedimentary rock that contains sufficient saturated material to yield significant quantities of groundwater to wells and springs, as further defined or characterized in Bulletin 118.

By January 1, 2016, DWR is required to adopt emergency regulations that specify the information required to comply with Water Code §10722.2, which outlines the process that local agencies shall follow when requesting modifications to existing boundaries of groundwater basins and subbasins or the creation of new subbasins. The emergency regulations also identify the methodology and criteria that will be applied by DWR when evaluating modification requests. In general, DWR will apply the following criteria when evaluating boundary modification requests.

- How to assess the likelihood that the proposed basin can be sustainably managed.
- How to assess whether the proposed basin would limit the sustainable management of adjacent basins.
- How to assess whether there is a history of sustainable management of groundwater levels in the proposed basin.

Existing groundwater basin and subbasin boundaries have been defined and revised based on the best available information during each past update of Bulletin 118. The emergency regulations create a process that builds off this historical knowledge and provides a mechanism to modify basin and subbasin boundaries or create new subbasins based on new scientific information and local groundwater management knowledge to improve coordination and promote statewide sustainable groundwater management.

The emergency regulations have been organized in a manner to encompass the variety of modifications that may be requested by a local agency (Requesting Agency). The requirements for each boundary modification vary according to the type of modification requested. Requesting Agencies are required to the greatest extent practicable, combine all boundary modification requests that affect the same basin or subbasin and coordinate with other affected local agencies and affected public water systems, as necessary, to present the information as a single request.

SUMMARY OF REGULATION ARTICLES

The emergency regulations will be part of the California Code of Regulations Title 23 - Waters, Division 2 - Department of Water Resources, Chapter 1.5 – Groundwater Management, Subchapter 1 – Groundwater Basin Boundaries, and are arranged into seven articles. The following is a brief summary of each article:

1. **Introductory Provisions:** Provides the authority and intent of the subchapter.
2. **Definitions:** Provides definitions to key terms used in the regulations.
3. **Boundary Modification Categories:** Provides a description for characterizing the type of modification being requested.
4. **Procedures for Modification Request and Public Input:** Describes procedural requirements related to boundary modification requests and public input to those requests.
5. **Supporting Information:** Description of the required information to support the proposed basin modification.
6. **Methodology and Criteria for Evaluation:** Description of the criteria by which information provided in Article 5 will be evaluated.
7. **Adoption of Boundary Modification:** Procedure for the adoption of boundary modifications by DWR.

MODIFICATION TYPES

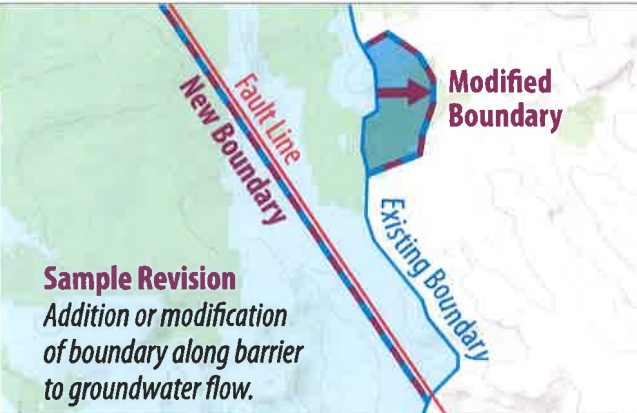
There are two types of basin modifications, scientific and jurisdictional, each with specific requirements to justify the modification request. The following is a description and graphical representation of the types of basin or subbasin modifications:

Scientific	Hydrogeologic
Jurisdictional	Internal
	Consolidation
	Subdivision

Scientific Modifications: A scientific modification to a basin or subbasin boundary involves the addition, deletion, or relocation of a boundary based on the geologic or hydrologic conditions that define a groundwater basin or subbasin.

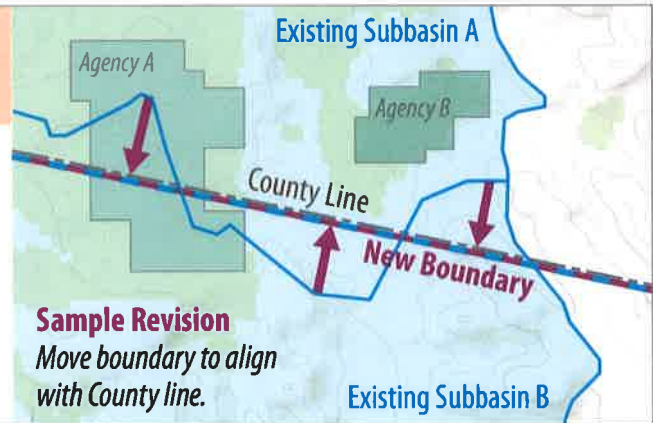
Jurisdictional Modifications: A jurisdictional modification involves the addition, deletion, or relocation of a basin or subbasin boundary that is not a scientific modification but promotes sustainable groundwater management.

Examples of Modification Types

<h2>SCIENTIFIC</h2> <p>A scientific revision to a basin boundary consists of the addition, deletion, or relocation of a boundary based on the geologic or hydrologic conditions that define that basin.</p>	
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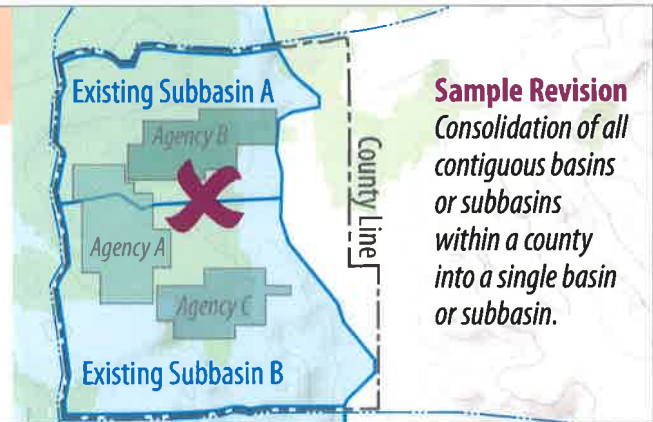
INTERNAL (Jurisdictional)

Internal Boundary Revision refers to any boundary modification that would adjust the location of a boundary between subbasins, within a basin, or the shared boundary between adjacent basins.



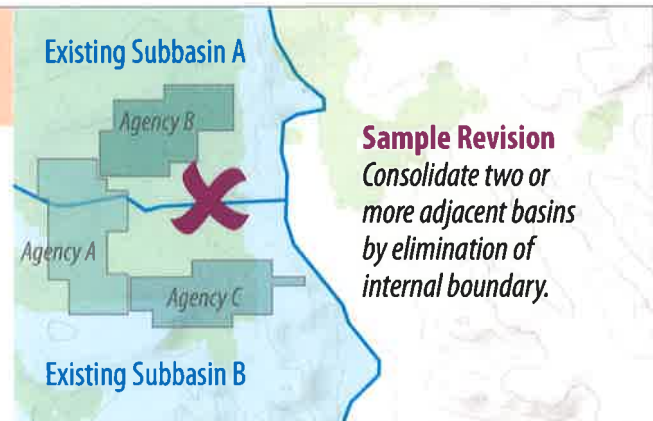
COUNTY BASIN CONSOLIDATION (Jurisdictional)

County Basin Consolidation means the consolidation of all contiguous basins or subbasins within a county into a single basin or subbasin whose boundaries do not extend beyond those of the county.



BASIN CONSOLIDATION (Jurisdictional)

Basin Consolidation refers to any boundary modification that would reduce the number of subbasins within a basin, or merge two or more adjacent basins, but would change only shared boundaries and would not change the external boundary of any basin or subbasin.



BASIN SUBDIVISION (Jurisdictional)

Basin Subdivision refers to any boundary modification that would increase the number of subbasins within a basin or subbasin.



REQUIRED COMPONENTS OF BOUNDARY MODIFICATION

The information submitted by a Requesting Agency to justify a boundary modification will be evaluated using the criteria described in SGMA (Water Code § 10722.2(c)(1)-(3)). The criteria are general, as described below, but provide a context in which to present information to support the boundary modification request.

- How to assess the likelihood that the proposed basin can be sustainably managed.
- How to assess whether the proposed basin would limit the sustainable management of adjacent basins.
- How to assess whether there is a history of sustainable management of groundwater levels in the proposed basin.

All of the following three components are required for boundary modifications relate to Water Code §10722.2(a):

Component 1 – General Information

A Requesting Agency will be required to provide general information including: contact information, evidence of statutory or other legal authority of the agency, a narrative description of the proposed boundary modification and a copy of an adopted board resolution initiating the boundary modification request. This information is important as it provides the opportunity to explain what type of boundary modification is being proposed and an explanation of how the boundary modification will promote sustainable groundwater management in the proposed basin or subbasin. It also provides for the evaluation of eligibility as a local agency and provides contact information to assure that the boundary modification request is coordinated properly.

Component 2 – Notification, Consultation, and Public and Local Agency Input

A Requesting Agency will need to demonstrate evidence of notification and consultation with local agencies and public water systems and, along with DWR, provide opportunities for public input. The purpose of these requirements are to establish communication and coordination between local agencies, public water systems, and the public on each boundary modification. This will allow DWR to receive and evaluate relevant comments, both for and against a boundary modification, from as any entities and individuals as possible in order to make the most informed decision when approving boundary modification requests. Key requirements for notification, consultation, and local agency and public input are described below and in more detail in Article 4 and 5 of the regulations:

Public Input (§343.12) - Any person may provide information to support or oppose a proposed boundary modification request and DWR will consider such comments as part of its evaluation of a boundary modification request.

Local Agency Input (§344.8) - All requests are required to include the following (Article 5):

- Evidence that the requesting agency provided information to affected local agencies and affected public water systems regarding the proposed boundary modification as required by Section 344.4 and provided those affected local agencies and affected public water systems an opportunity to comment in support or opposition.
- Copies of all comments and documents from affected local agencies and affected public water systems in support of or opposition to the proposed modification.
- Any evidence the Requesting Agency believes will rebut any opposition to the proposed boundary modification or otherwise assist the Department in its evaluation.

Any affected local agency or affected public water system that elects to support or oppose the proposed boundary modification is required to provide the requesting agency with one of the following:

- A copy of a resolution formally adopted by the decision-making body of the affected local agency or affected public water system.
- A letter signed by an executive officer or other official with appropriate delegated authority who represents the affected local agency or affected public water system.

A request that involves basin subdivision pursuant to Section 342.4(c) shall provide information demonstrating that the proposed boundary modification is supported by at least three-fourths of the local agencies and public water systems in the affected basins.

The level of detail provided by public input and by an affected local agency or affected public water system in support or opposition to a proposed boundary modification need not be as comprehensive as that contained in the request, but the support or opposition must rely on similar scientific and technical information as the particular boundary modification request to which it is addressed, and will be evaluated by the Department using the same criteria.

Component 3 – Technical Information

Technical information describing and supporting the three criteria identified in Water Code § 10722.2(c) is required for boundary modification. Requesting Agencies are required to provide evidence to justify the modification of a basin boundary and show compliance with the legislative intent of the SGMA. The technical supporting information required for each modification types are illustrated in the boundary modification process graphic below and described in detail in Article 5.

STAKEHOLDER INPUT OPPORTUNITIES

Local agencies, as defined in the SGMA, are eligible to request boundary modifications. The emergency regulations have been established to provide multiple opportunities for stakeholder input and notification of basin modification requests. The initial opportunity is direct communication with the Requesting Agency or an affected local agency through typical hearing processes at the local level. The notice, consultation, and public and local agency input components require at least one public meeting to occur prior to all boundary modification requests.

The emergency regulations includes a Public Input provision (§343.12), which defines a process for any person to provide information to support or oppose a proposed boundary modification request after a request is officially submitted to the DWR.

After DWR evaluates all boundary modification requests, DWR will make a draft list of approved boundary modifications available on its website and will hold at least one public meeting to present and discuss the proposed boundary modifications. Another opportunity to provide input is when DWR presents the draft list of approved boundary modifications to the California Water Commission (CWC) for hearing and comment.

NEXT STEPS FOR ADOPTING REGULATIONS

The following are the anticipated next steps for adopting the emergency regulations:

October 21, 2015 – Presentation of proposed emergency regulations to CWC for adoption.

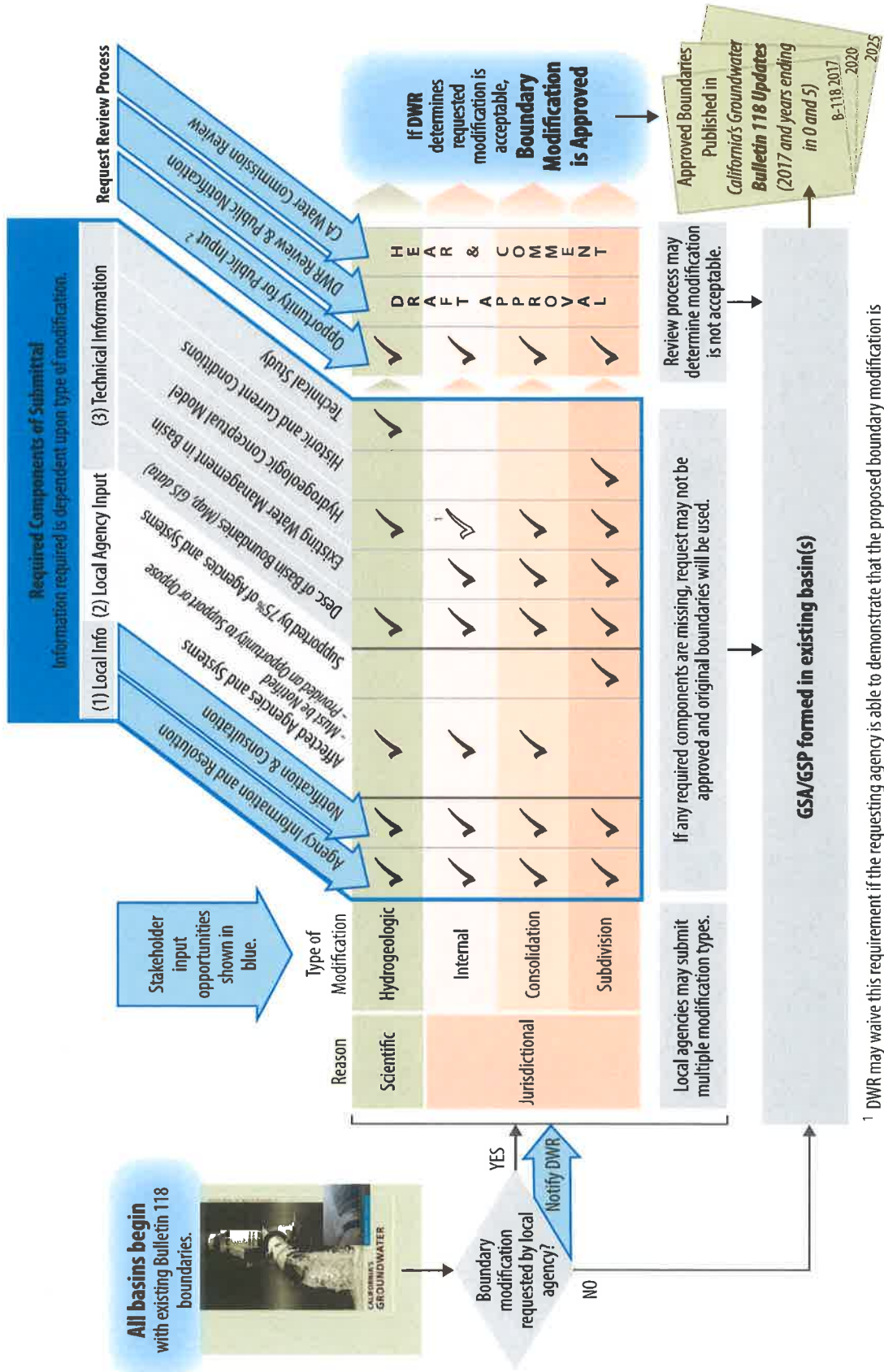
October – November, 2015 – Formal Notice of Proposed Rulemaking and supporting information.

October – November, 2015 – Submission of adopted emergency regulations to Office of Administrative Law.

January 1, 2016 – Boundary modification requests accepted by DWR within 90 day period.

*All dates are subject to change

Basin Boundary Modification Process



¹ DWR may waive this requirement if the requesting agency is able to demonstrate that the proposed boundary modification is unlikely to affect sustainable groundwater management.

² Public input submittal must rely on similar scientific and technical information as the request to which it is addressed.