

10/27/2016 DRAFT

**MEMORANDUM OF AGREEMENT
FOR FORMATION OF A GROUNDWATER SUSTAINABILITY AGENCY FOR THE
CENTRAL MANAGEMENT AREA
IN THE SANTA YNEZ RIVER VALLEY GROUNDWATER BASIN UNDER THE
SUSTAINABLE GROUNDWATER MANAGEMENT ACT**

THIS MEMORANDUM OF AGREEMENT (“MOA”) is made and effective as of _____, 2016, by and between the Parties executing the MOA below, each a “Party” and collectively the “Parties,” with reference to the following facts:

A. In 2014, the State of California enacted the Sustainable Groundwater Management Act (Water Code Sections 10720 et seq.), referred to in this MOA as the “SGMA” or “Act,” as subsequently amended, pursuant to which certain public agencies may become “Groundwater Sustainability Agencies” (GSA) and adopt “Groundwater Sustainability Plans” (GSP) in order to manage and regulate groundwater in underlying groundwater basins. The Act defines “basin” as a basin or sub-basin identified and defined in California Department of Water Resources (DWR) Bulletin 118. Each Party is a local public agency located within the Santa Ynez River Valley Groundwater Basin (Bulletin 118, Basin No. 3-15, “Basin”) and is qualified to become a GSA and adopt a GSP under the Act for all or a portion of the Basin.

B. Bulletin 118 describes the Basin as being in three portions, that being Eastern, Central and Western. It further describes the Western Portion as consisting of the Lompoc Plain, Lompoc Terrace and Lompoc Uplands; the Central Portion as the Buellton Uplands and the Eastern Portion as the Santa Ynez Uplands. For purposes of administrating its groundwater usage program and other water management functions, the Santa Ynez River Water Conservation District (District) also generally recognizes these various hydro-geologic units. For the purpose of implementing SGMA, each portion of the Basin as described by DWR and recognized by the District, is designated as a groundwater “Management Area” as defined by the Act.

C. The Parties are the agencies qualified to be a GSA under the Act for the Central (Buellton Uplands) Management Area of the Basin, as that Area is recognized by Bulletin 118 and the District. The map attached hereto as Exhibit A designates the boundaries of the Central Management Area (CMA) and the other Management Areas of the Basin.

D. It was determined that separate GSAs for each of the three Management Areas would be most efficient to implement SGMA in the Basin. The three GSAs will be managed by an Intra-Basin Coordination Agreement, with the District as the point of contact with DWR, pursuant to §10727.6 of the Act and California Code of Regulations, Title 23, §357.4. On May 23, 2016, the Parties, along with the other agencies qualified to be a GSA within the Basin, entered into a MOU (SGMA Implementation MOU) which recognized the three Management Areas of the Basin which correspond to DWR’s three portions, and outlined the process for formation of GSAs and development of GSPs for the Basin. These three Management Areas cover the entire Basin that is subject to SGMA. Attached as Exhibit B is a chart of the anticipated organization of the three GSAs.

E. For the purpose of SGMA, there are two exclusions from the Act including “de minimis” produced water (two or less acre-feet/year) and water extracted from river alluvium. Bedrock wells in the CMA generally produce two acre-feet/year or less which is considered “de minimis” by SGMA and therefore not generally subject to the Act. The Santa Ynez River Alluvium zone is generally recognized as constituting “under flow” of the Santa Ynez River, and thereby not “groundwater” for purposes of SGMA and not regulated by the Act. The water produced in river alluvium falls under the jurisdiction of the State Water Resources Control Board (SWRCB), to the extent applicable.

F. The Parties wish to provide a framework to form a GSA and to implement SGMA in the CMA, such that the implementation is through local control and management and is implemented effectively, efficiently, fairly and at a reasonable cost.

THEREFORE, in consideration of the mutual promises set forth below and to implement the goals described above, the Parties agree as follows:

1. Formation of the Central Management Area GSA for the Buellton Uplands (CMA). The purpose of this MOA is to form a GSA for the CMA prior to June 30, 2017, and to facilitate a cooperative and ongoing working relationship between the Parties that will allow them to explore, study, evaluate, develop and implement mutually beneficial approaches and strategies for development of a GSP for the CMA. By execution of this MOA, the Parties collectively determine and elect to be the GSA for the Central (Buellton Uplands) Management Area of the Basin. It is presumed the CMA GSA will be the sole GSA for this portion of the Basin.

2. Organization of the Management Area. The District covers approximately 99.95% of the CMA including the City of Buellton and the Bobcat Springs Mutual Water Company. The Santa Barbara County Water Agency (“County Water Agency”) covers the remaining 0.05% of the CMA that is not within the District. The City of Buellton, the District and the County Water Agency represent all of the public agencies (as defined by the Act) that are eligible to form a GSA in the CMA. The formation of the CMA GSA is supported by the following:

- a. The District has monitored groundwater production and groundwater storage in the Basin, including the CMA, since 1979.
- b. The District and the City of Buellton prepared a Groundwater Basin Management Plan for the CMA in October 1995. The plan was approved under AB 3030.
- c. Buellton practices conjunctive use during wet and dry periods between the Santa Ynez river channel and the CMA in coordination with the Districts’ water rights releases under SWRCB Order 89-18.
- d. Areas of the CMA represented by the County Water Agency have “de minimis” groundwater production, if any, and represent less than 0.05% of the total Management Area. Therefore, the County Water Agency will not be a voting Committee member of the CMA GSA nor will it have any financial responsibility for funding the GSA or GSP activities for the CMA, except for the cost of its staff participation in meetings.

- e. In addition to the consideration of the interests of groundwater users in the CMA GSA, the Santa Barbara County Planning and Development Department, Bob Cat Springs Mutual Water Company, and members of the agricultural community, will be invited to participate on the GSA's Advisory Committee.

3. Development of Groundwater Sustainability Plans ("GSPs"). Separate GSPs will be developed for each of the three Management Areas, including the CMA. The GSPs will be prepared incorporating the Coordination Agreement for the Basin, as provided for in Section §10727.6 of the Act. The District will coordinate efforts of the Parties and be the point of contact with DWR, as defined by the Act, to meet and cooperatively develop the GSP for the CMA. In developing the GSP this GSA shall consider all beneficial uses and users of groundwater in the CMA, including the interests listed at Section §10723.2 of the Act.

4. GSA Governing Body. There is hereby established a GSA Committee for the CMA which shall be subject to the following:

- a. The District and the City of Buellton shall each have one vote in the CMA GSA and will be represented by a person or persons from their respective entities. The County Water Agency will be an ex-officio member and will have non-voting status as a member of the GSA. The County Water Agency will be represented by one person or persons as appointed by the County Water Agency Board of Directors.
- b. The GSA Committee may adopt resolutions, bylaws and policies to provide further details for conducting its affairs consistent with this MOA and applicable law and amend same from time to time. Meetings of the GSA Committee shall be called, noticed and conducted subject to the provisions of the Ralph M Brown Act (Govt. Code sections 54950 et seq.)
- c. A quorum of the GSA Committee to transact business shall be both voting members. Since there are only two voting members of the CMA, in order to pass any proposition or resolution, a unanimous vote will be required.
- d. The composition, voting procedures and powers of the GSA Committee shall be reviewed and reaffirmed or modified as part of the process to adopt a GSP, which is due no later than January 30, 2022.

5. Powers/Development of GSP. The GSA Committee shall have all the powers that a GSA is authorized to exercise as provided by the Act, including developing a GSP consistent with the Act and DWR's regulations and imposing fees to pay for GSA and GSP activities. The GSA Committee shall proceed in a timely fashion to develop a GSP for the CMA, including considering the interests of all beneficial users of groundwater within the CMA as prescribed by Section §10723.2 of the Act, as well as the requirements set forth in the Coordination Agreement for the Basin.

6. Costs. The voting Parties each shall bear the costs incurred with respect to activities under this MOA to participate on the GSA Committee and its proceedings and related matters. Costs incurred to retain consultants to assist with development of the GSP and perform related studies as approved by the GSA Committee and to implement the GSP shall be borne by the voting

Parties in equal portions, unless otherwise agreed to by the voting Parties. The Parties may consider levying a charge pursuant to the Act. There are several vehicles to capture costs for implementing SGMA pursuant to §10730 et seq. of the Act. The County Water Agency, as an ex-officio member, is only responsible for its own costs to attend and participate on the GSA Committee and is not responsible for any other costs contemplated in this MOA or related to the CMA GSA or GSP.

7. Staff. Each Party shall designate a principal contact person, if other than the designated GSA Committee member, and other appropriate staff members and consultants to participate on such Party's behalf in activities undertaken pursuant to this MOA. The District shall be responsible for meetings and other activities under this MOA with the GSA Committee and principal contact persons for the other Parties, and shall be the point of contact with DWR. Informal staff meetings may occur as needed.

8. Ongoing Cooperation. The Parties acknowledge that activities under this MOA will require the frequent interaction between them in order to pursue opportunities and resolve issues that arise. The Parties shall work cooperatively and in good faith. The goal of the Parties shall be to preserve flexibility with respect to the implementation of the Act and consistency with the other GSAs in the Basin, as per the Coordinating Agreement.

9. Notices. Any formal notice or other formal communication given under the terms of this MOA shall be in writing and shall be given personally, by facsimile, by electronic mail (email), or by certified mail, postage prepaid and return receipt requested. Any notice shall be delivered or addressed to the Parties at the addressees' facsimile numbers or email addresses set forth below under each signature and at such other address, facsimile number or email address as shall be designated by notice in writing in accordance with the terms of this Agreement. The date of receipt of the notice shall be the date of actual personal service, confirmed facsimile transmission or email, or three days after the postmark on certified mail.

10. Entire Agreement/Amendments/Counterparts. This MOA incorporates the entire and exclusive agreement of the Parties with respect to the matters described herein and supersedes all prior negotiations and agreements (written, oral, or otherwise) related thereto. This MOA may be amended only in a writing executed by all of the voting Parties. This MOA may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11. Termination/Withdrawal. This MOA shall remain in effect unless terminated by the unanimous consent of the voting Parties. Upon 60 days written notice, any of the Parties may withdraw from this MOA and the MOA shall remain in effect for the remaining Parties. A withdrawing voting Party shall be liable for expenses incurred through the effective date of the withdrawal and for its share of any contractual obligations incurred by the CMA GSA while the withdrawing voting Party was a party to this Agreement.

12. Assignment. No rights or duties of any of the Parties under this MOA may be assigned or delegated without the express prior written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties without such written consent shall be null and void.

13. Indemnification. In lieu of and notwithstanding any provision of law, including, but not limited to, California Government Code § 895 *et seq.*, the Parties agree to indemnify, defend (with counsel reasonably approved by the County Water Agency) and hold harmless the County Water Agency and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments, and/or liabilities arising out of this MOA from any cause whatsoever, including the acts, errors or omission of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by the County Water Agency on account of any claim except where such indemnification is caused by the sole negligence or willful misconduct of the County Water Agency.

IN WITNESS WHEREOF, the Parties have executed this MOA as of the date first above written.

CITY OF BUELLTON

By: _____

Address: _____

Email _____

Facsimile _____

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT

By: _____

Address: _____

Email _____

Facsimile _____

SANTA BARBARA COUNTY WATER AGENCY

By: _____ (Signature on following page)

Address: _____

Email _____

Facsimile _____

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board, Ex Officio Clerk of the
Santa Barbara County Water Agency

By: _____
Deputy Clerk

**SANTA BARBARA COUNTY WATER
AGENCY:**

By: _____
Chair, Board of Directors

Date:

RECOMMENDED FOR APPROVAL:

Santa Barbara County Water Agency

By: 
Department Head

APPROVED AS TO FORM:

Risk Management

By: 
Risk Management

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: 
Deputy County Counsel

**APPROVED AS TO ACCOUNTING
FORM:**

Theodore A. Fallati, CPA
Auditor-Controller

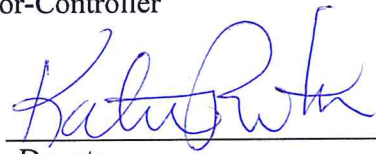
By: 
Deputy

EXHIBIT A

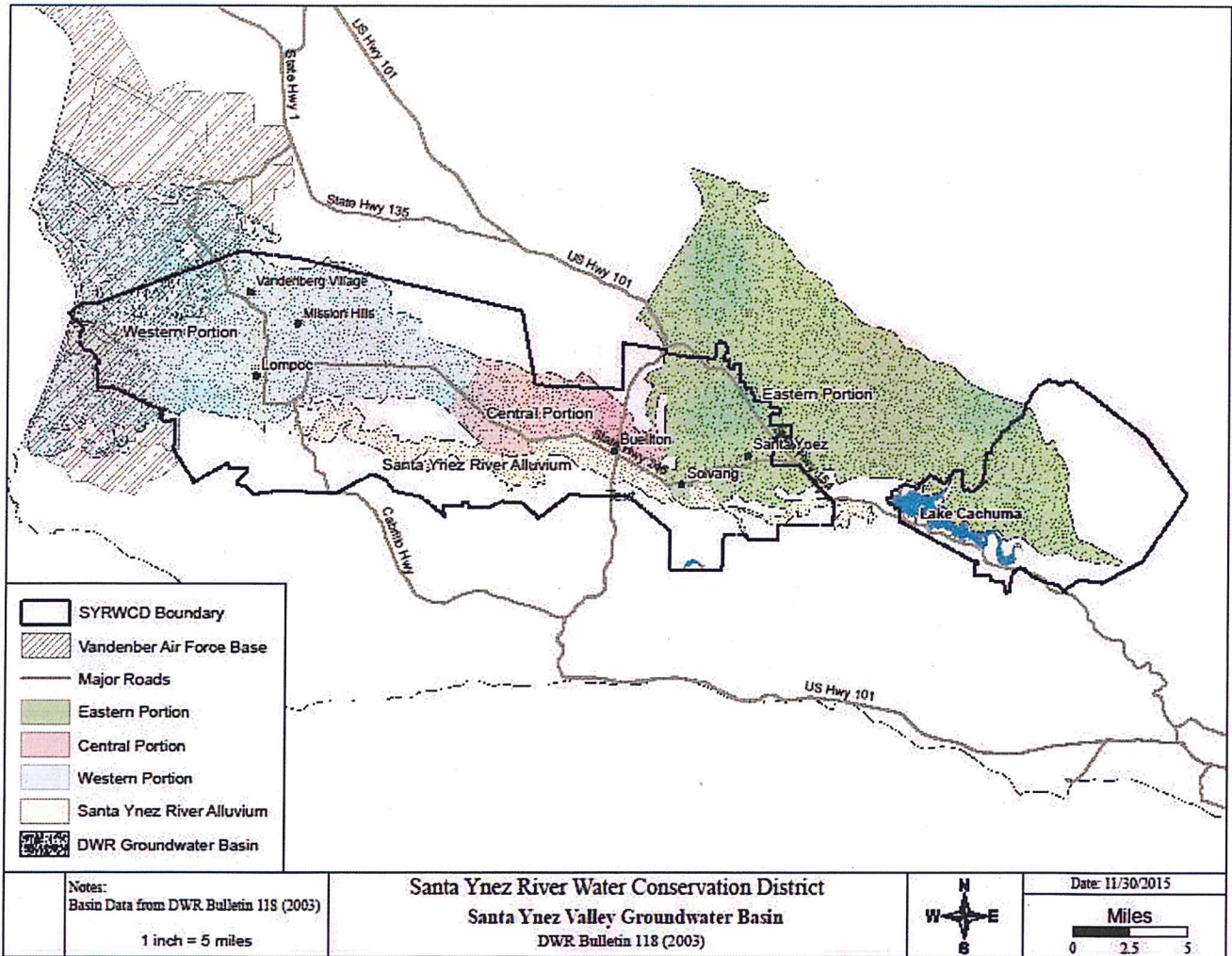


EXHIBIT B
Santa Ynez River Valley Basin
GSA Organization

