

# Groundwater Sustainability Agency Governance

**Coordinated-Synergistic Management**

# Sustained Groundwater Management Act ( $\Sigma$ )

- The California legislature passed the Sustainable Groundwater Management Act (SGMA) in August 2014, which was signed into law in September.
- The Act is the first comprehensive legislation that will allow statewide regulation of groundwater.
- There are over 500 groundwater basins in the state, and 127 of these designated high or medium priority will be required to comply with the Act.
- The goal is to provide sustainability at the basin and sub-basin level. Sustainability is defined as the absence of "undesirable results" to supply reliability, land subsidence, water quality, the environment, or streamflow depletion.

# Purpose of GSA's

- New Groundwater Sustainability Agencies (GSA's) will be formed to develop Groundwater Sustainability Plans (GSP's). The GSA's can be formed with a wide variety of powers including metering, pumping restriction, voluntary fallowing, well spacing requirements, and imposition of fees. The legislation does not establish groundwater rights, but rather regulates the exercise of those rights.
- Basins or sub-basins can be covered by one or more local agencies; the county is the assumed entity for areas not otherwise covered by a local water agency unless a new local agency is created for water management purposes. Basins or sub-basins covered by multiple agencies will have to coordinate their plans or combine under a new governance structure.

# GSA Governance Guidelines

- For basins or sub-basins in which regulation is mandatory, deadlines will be established for local agencies to assume the groundwater regulation role (July 1, 2017) and to adopt a GSP (January 31, 2020 for some, January 31, 2022 for others).
- If those deadlines are missed, or if the DWR determines that a plan is not adequate or achieving the sustainability goal, the State Water Resources Control Board ("Board") will have the ability to step in and impose its own "interim" plan until an acceptable local plan is in place.

# GSA Governance Guidelines

- GSP's are to achieve the sustainability goal within 20 years and will be evaluated every five years. The legislation allows, but does not mandate, groundwater pumping restrictions. Similarly, it authorizes, but does not require, the imposition of mandatory metering or groundwater fees. The overall goal of the legislation is to achieve "sustainability," meaning that the affected basin or sub-basin must be brought into balance, and that unacceptable impacts are avoided.

# GSA Governance

- The enabling legislation is very broad in providing local agencies discretion in how the GSA is to be governed and what powers it is to have.
- There may be overlapping jurisdictions and different approaches to groundwater management.
- If groundwater management is not developed appropriately, the presence of multiple jurisdictions can lead to complicated and potentially conflicting groundwater management strategies within a basin.

# GSA Governance

- In California, surface water and groundwater rights have historically been considered separate and distinct. This has had a strong influence on how the resources are governed and managed at the local level. We need to build on the synergies that exist between these two resources.
- The SGMA does not establish groundwater rights or define a governance structure to ensure compliance. By nullifying existing groundwater management plans, which are to be superseded by the new GSA's, the SGMA essentially requires ***coordination amongst all basin management agencies and mutual agreement on a focused management strategy.***

# GSA Governance

- Consideration must be given to the following factors:
  - All basins are different; need flexibility in structures
  - Different levels of formality with regard to involving others
    - What works?
    - Where can we improve?
    - Formal vs. informal?
  - Involvement of elected peoples; contracting; land ownership.
  - **Inclusive**, not exclusive, standard for regional water management group.

# Potential Roles

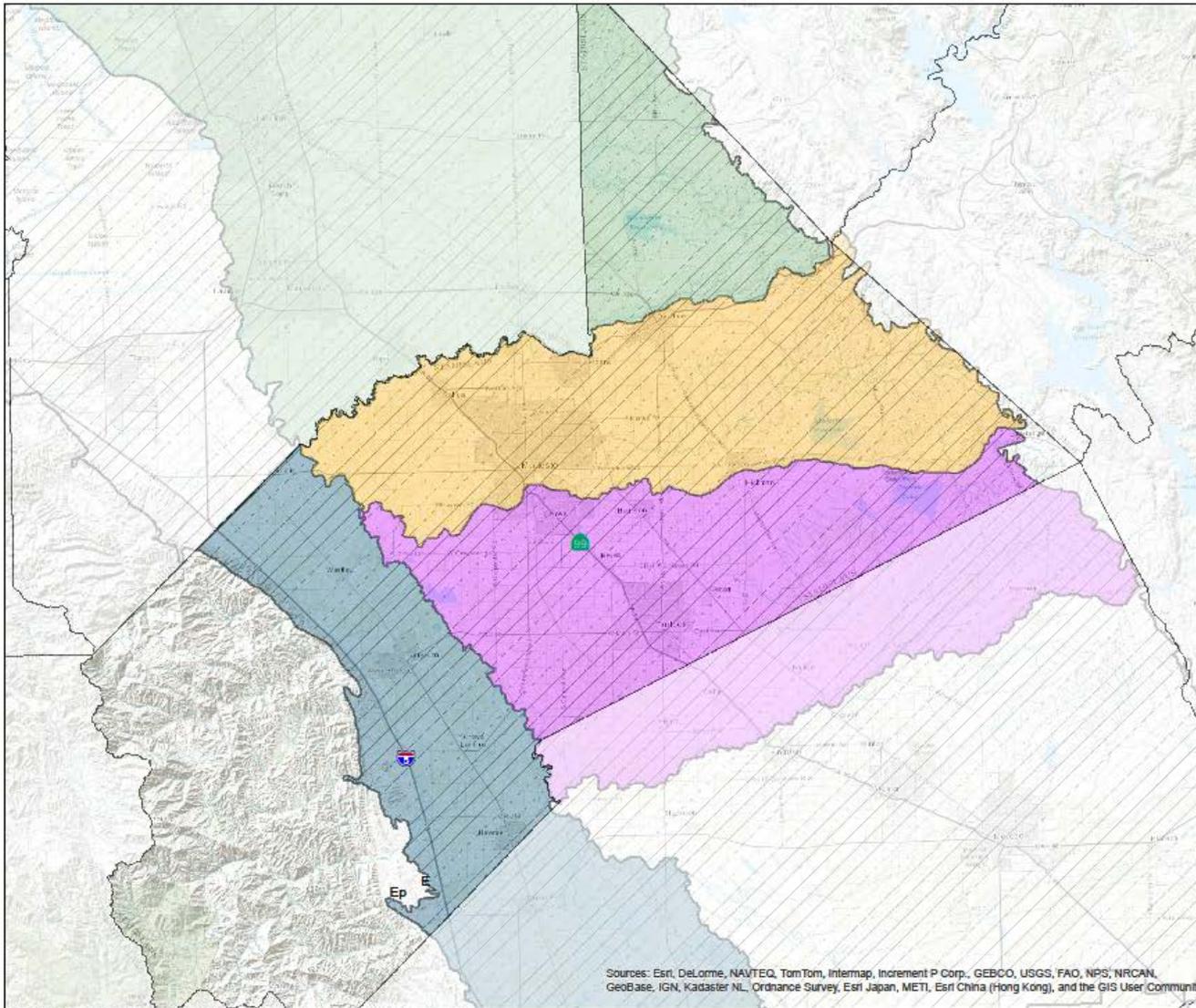
- Provide focused leadership for implementing and updating a GSP
- Serve as contracting agency for state or federal grant funds related to implementation of GSP programs, policies, and projects
- Track and report performance related to GSP goals
- Focus efforts to identify potential sources of outside funding, and assist local entities to compete for those funds

# Potential Roles

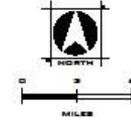
- Provide leadership to focus cooperative efforts for broad regional planning and implementation efforts such as:
  - Water import/export project implementation
  - Regional or interregional groundwater banking
  - Water Rights Protection
  - Internal water transfers
  - Regional water recycling
  - Regional water quality management
  - Regional water conservation programs
  - Regional storm water management

# Potential Roles

- Provide leadership to focus cooperative efforts for broad regional planning and implementation efforts such as:
  - Regional data and information management
  - Periodic update of objectives, priorities, and performance measures
  - Update and expand membership, including members outside of the County
  - Gather, compile and manage data and information
  - Ability to execute and manage contracts
  - Development of a stable funding source for ongoing GSA efforts
  - Ability to finance project implementation
  - Process facilitation



**GROUNDWATER BASIN AND SUBBASIN MAP  
STANISLAUS COUNTY, CALIFORNIA  
APRIL 2014**



**Groundwater Basin**

 San Joaquin Valley

**Subbasin**

 Eastern San Joaquin

 Modesto

 Turlock

 Delta-Mendota

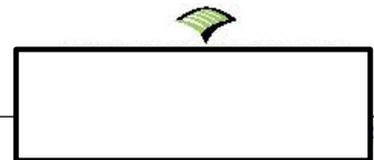
**County**

 Stanislaus County

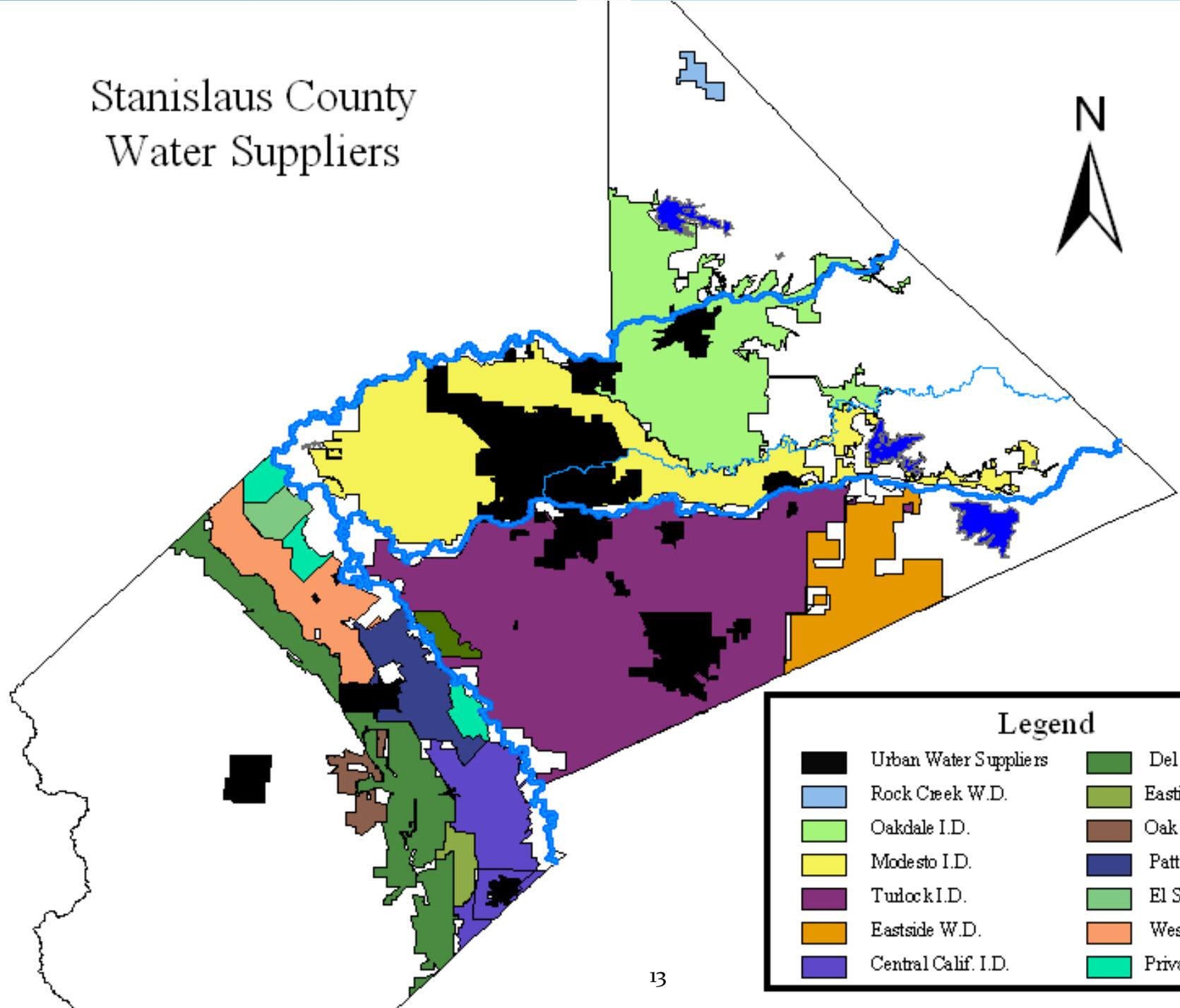
Sources: California Department of Water Resources

Sources: Esri, DeLorme, NAVTEQ, TomTom, Intermap, Incentiv P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), and the GIS User Community

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# Stanislaus County Water Suppliers



	Urban Water Suppliers		Del Puerto W.D.
	Rock Creek W.D.		Eastin W.D.
	Oakdale I.D.		Oak Flat W.D.
	Modesto I.D.		Patterson I.D.
	Tullock I.D.		El Solyo W.D.
	Eastside W.D.		West Stanislaus I.D.
	Central Calif. I.D.		Private W.D.

# DRAFT

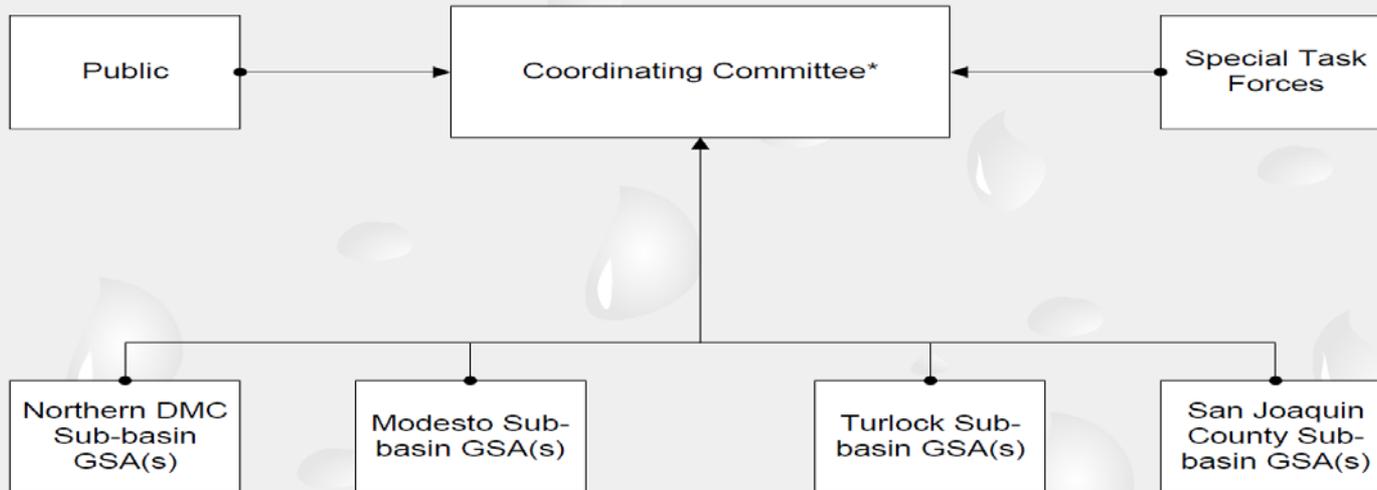
## DRAFT STANCO Governance Structure Option 1



### Notes:

1. This DRAFT structure shall be thoroughly vetted by all impacted. As a result and following general consensus amongst the TAC, it is recommended that any proposed governance structure be subject to a 90 day review by each of the proposed sub-basin governance entities shown above.
2. There is much interpretation of the legislation yet to be completed and thus the DRAFT governance structure shown above is subject to further revision and modification.

## DRAFT STANCO Governance Structure Option 2



### Notes:

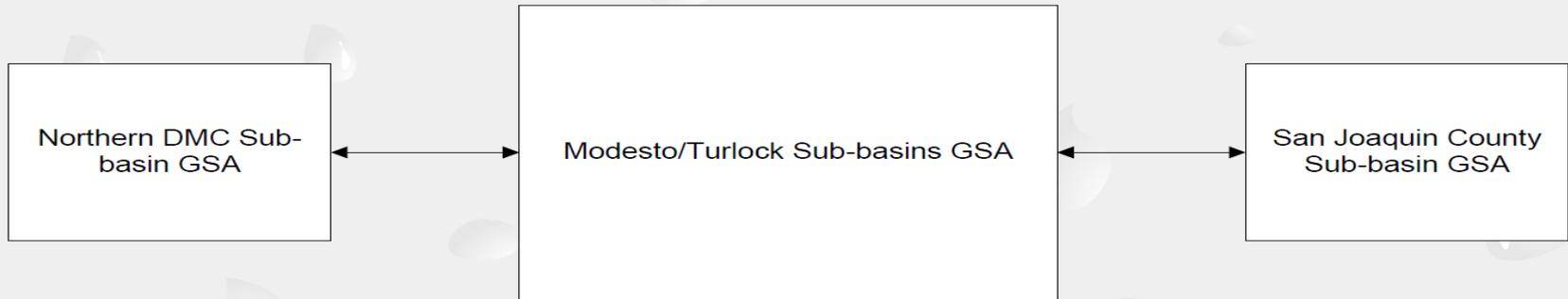
1. Coordinating Committee is a placeholder only, subject to determination of need by the Sub-basin governance entities consistent with that required in the legislation. In no case shall the coordinating committee have any regulatory authority and be anything other than a technical committee for the defined purposes of ensuring consistency in data.

2. This DRAFT structure shall be thoroughly vetted by all impacted. As a result and following general consensus amongst the TAC, it is recommended that any proposed governance structure be subject to a 90 day review by each of the proposed Sub-basin governance entities shown above.

3. Special task forces refer to any variety of project oriented groups that could be formed to tackle coordinated issues. For example, Data management, Funding opportunities, etc.

4. There is much interpretation of the legislation yet to be completed and thus the DRAFT governance structure shown above is subject to further revision and modification.

## DRAFT STANCO Governance Structure Option 3



Notes:

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# DRAFT

## DRAFT STANCO Governance Structure Option 4

Stanislaus County GSA/JPA

**Notes:**

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## DRAFT Governance Structure Option 5

Stanislaus, Merced and San Joaquin  
County GSA/JPA

Notes:

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2. There is much interpretation of the legislation yet to be completed and thus the DRAFT governance structure shown above is subject to further revision and modification.

# Methods of Groundwater Management in California

There are now seven methods of groundwater management in California. They are listed below along with the identification of management authority (*and extent*) in the chronological order in which they have been developed:

1. Overlying Property Rights (*property owner*)
2. Statutory Authority (*legislatively defined local agency or district*)
3. Adjudicated Groundwater Basins (*groundwater basin, water master or court*)
4. Groundwater Management Districts or Agencies (*legislatively defined local agency or district*)
5. Groundwater Management Plan (AB 3030, SB 1938) (*local agency or district*)
6. City and County Ordinances (*city or county*)
7. Groundwater Sustainability Agency (*locally defined scale, one or more per basin, unorganized areas default to county*)

# Sustainable Groundwater Management Act

- Agencies electing to become **GSA's** are given broad powers and authority regarding groundwater management, including:
  - 50 Year Planning Horizon and 20 Year Implementation Period
    - Five year reviews/updates
  - Investigate and determine the sustainable yield of a groundwater basin
  - Collect pertinent groundwater monitoring information
  - Limit groundwater extractions
  - Impose fees for groundwater management
  - Enforcement of the terms of a Groundwater Sustainability Plan

# Governance Options

- This discussion outlines possible governance structures to allow a GSA and its member agencies to implement Groundwater Sustainability Plans, including its projects and programs.
- Consideration should be given to a long-term strategy for governance that should be developed along with a financial plan to meet the GSP goals, while allowing member agencies to meet their individual needs.

# Governance Options

- Governance can follow an individual interest-based model or a mutual interest-based model, or a combination of the two so that the advantages of regional groundwater management are realized without individuals feeling a loss of control over local management.
  - The individual-interest model might be applied where entities do not wish to relinquish control of groundwater management to a basin-wide entity or where individual entities choose to focus on specific projects.
  - A mutual-interest model takes the basin-wide or regional perspective more appropriate to meeting broader goals and achieving economies of scale with the cost of governance and the construction and implementation of larger projects and programs.

# Governance Options

- The GSA will need to achieve a consensus on the approach that should be used to implement the GSP. There are numerous forms of governance that might be applied to a GSA.

# GSA Institutional Frameworks to Consider

- Ad-hoc Special Committee
- Memorandum of Understanding
- Contractual Agreements
- Joint Powers Authority
- Chartered Organization
- The role of LAFCO

# Ad-hoc Special Committee

- This is a common method to organize special or ad-hoc efforts of an existing entity. The committee structure in some organizations may serve this function, as would a task force named by County Supervisors, or a specific organization set up by the highest level governments in the group.
- Such committees are highly varied and specialized in nature. The sponsoring organization can quickly and usually efficiently institute such a task force. They can also be dissolved quickly if support falters.
- Other parties can be brought into the efforts by an advisory or blue ribbon committee of experts or community leaders. These efforts have been successful with some proving durable over many years.

# Ad-hoc Special Committee

- If the convening group is not benevolent, others may not participate. Governance can be complicated by the less standard structure.
- The entity cannot itself hold property nor sign contracts, except by and through its parent organizations. Control of the group typically oscillates with interest and can take on a completely different mission over time.
- Funding can be difficult depending on who receives or controls the funds. An ad-hoc committee might be useful in the initial phases of a GSA formation and scoping of a GSP.

# Ad-hoc Special Committee

## Pros:

- Easy to form to address single purpose or issue, or dissolve if falters. Flexible- can add expertise and leadership as needed. Adequate for planning. No legal standing to sue or be sued. Limited liability for participants.

## Cons:

- Weak governance model with limited authority.
- Active participation may be lacking due to voluntary nature.
- Cannot hold property or sign contracts.

# Memorandum of Understanding

- This is one of the most flexible forms for assembling parties of varying types, and is practical for working purposes. This group can also be formed as an alliance or coalition.
- A MOU is a relatively informal agreement between individual public agencies to pursue a common purpose or goal, and usually works best if formed for a single purpose or limited duration mission. Generally, an MOU does not create any formal powers and cannot enforce regulations. A MOU might be useful for managing basins without significant issues that would not require enforcement or fee structures, but may require some form of benefit-based financial contribution.

# Memorandum of Understanding

- A Memorandum of Understanding:
  - Is relatively easy to assemble or disband
  - May involve multiple agencies and funding sources
  - Is generally governed by unanimous consent, and essentially anyone can stop any effort (veto control)
  - Has no legal standing to sue or be sued, and liability is only to individual participation
  - Organization cannot easily transact business, fund projects or hire staff
  - Has no contractual relationship between participants
  - Relies on individual agencies to implement projects
  - Is generally not an adequate structure for project implementation without firm and binding agreements in the MOU, or side agreements and contracts for project implementation.

# Memorandum of Understanding

## Pros:

- More formal than a special committee since a MOU is adopted and signed by participants.
- MOU's provide a flexible method to assemble agencies and stakeholders.

## Cons:

- No contractual relationship between participants. The underlying MOU goals are reliant on the individual agencies to implement projects.
- A MOU is not an adequate structure for project implementation without firm and binding agreements written into the MOU, or side agreements and contracts for projects.
- MOU governance typically includes a single fiscal agent and contracting entity, and the same agency assumes liability for implementation of grant programs.

# Contractual Agreements

Contractual agreements are typically used as an adjunct to a MOU for implementation grants or other special purposes.

- Specific and legally binding agreements among entities for specific purposes or projects
- Define contractual relationships, liabilities, responsibilities, funding, etc.
- May include powers for hiring staff, joint project funding, etc.

# Contractual Agreements

## Pros:

- Very specific and binding. Defines contractual relationships, liabilities, responsibilities, funding, voting, decision making, membership, terms, etc.

## Cons:

- May be complicated to administer for multiple projects with multiple project contracting entities operating with grant funds under a DWR contract.

# Joint Powers Authority

- A Joint Powers Authority (JPA) is an entity permitted in California and elsewhere whereby two or more public authorities may jointly exercise any power common to all of them.
- Joint Powers Authorities may be used where an activity extends beyond the boundaries of existing public authorities or where economies of scale might be achieved.
- A joint powers authority is distinct from the member authorities; they have separate operating boards of directors. These boards can be given any of the powers inherent in all of the participating agencies.
- The authorizing agreement states the powers the new authority will be allowed to exercise. The joint authority may employ staff and establish policies independently of the constituent authorities.

# Joint Powers Agreements used for regional water management generally include the following elements:

- Mission Statement
- Goals & Objectives
- Principles & Purpose
- Boundaries
- Powers and Limitations
- Board of Directors/Governing Board/Commission
- Voting
- Executive Director
- Committee Formation
- Meeting/Quorum Rules (Brown Act)
- New Member Guidelines
- Procedures for Projects to be undertaken
- Budgets and Payments
- Financing
- Accounting/Audits
- Liabilities
- Recession/Termination/Withdrawal/Assignment

# Joint Powers Authority

## Pros:

- Integrates existing agency powers, authorities, and funding mechanisms.
- Formed locally by participating agencies, is shaped to benefit local purposes, and includes an annual budget approved by a Board of Directors.
- Powers of a JPA are established in by the combined powers of the signatory agencies.
- JPA Powers can include borrowing, collecting fees, taxation, condemnation, police powers, etc.

## Cons:

- Limited to powers held In common.
- No membership option for non-government organizations, except as advisory.
- Members are usually appointed rather than directly elected.
- Takes time for adoption by participating agencies.

# Chartered Organization

- This type of entity is chartered for a specific purpose such as Redevelopment Districts, Special Districts and Conservancies.
- The chartering entity must have the authority to charter and empower the entity. This could be the federal or California legislature, the governor, board of supervisors, or other publically elected group.
- The broad powers and ability to incorporate government, corporate and public entities, and advisor members are robust. The governance structure is variable, but can be selected from Corporate to Governmental, or potentially a hybrid.
- Significant benefits can come from these unions of interests and powers and may be useful for regional efforts.

# Chartered Organization

- Chartered organizations:
  - Are generally formed by state statute
  - Have varied governance structures that can include multiple government entities
  - Have statutorily defined powers and authorities targeted to specific purposes or projects
  - Can do business, hire staff, contract for service, enter into agreements
  - Have defined liabilities, and can sue and be sued

# Chartered Organization

- *There are some significant disadvantages to this type of entity. It requires an act of a legislative body capable of creating it. The higher or more powerful the chartering entity, the more difficult it is to get it established. Political interests at the higher level may dominate the entity. Some will dislike another layer of government being created and or fear regulatory standing.*

# Chartered Organization

## Pros:

- Can include non-governmental organizations in voting, and in who sits on the board or council.
- Very specific powers and authorities, decision processes, funding and revenue generation, etc.
- Good for special purpose in a defined geography.
- Can incur debt, and sell bonds.
- Empowered to facilitate state and federal coordination.

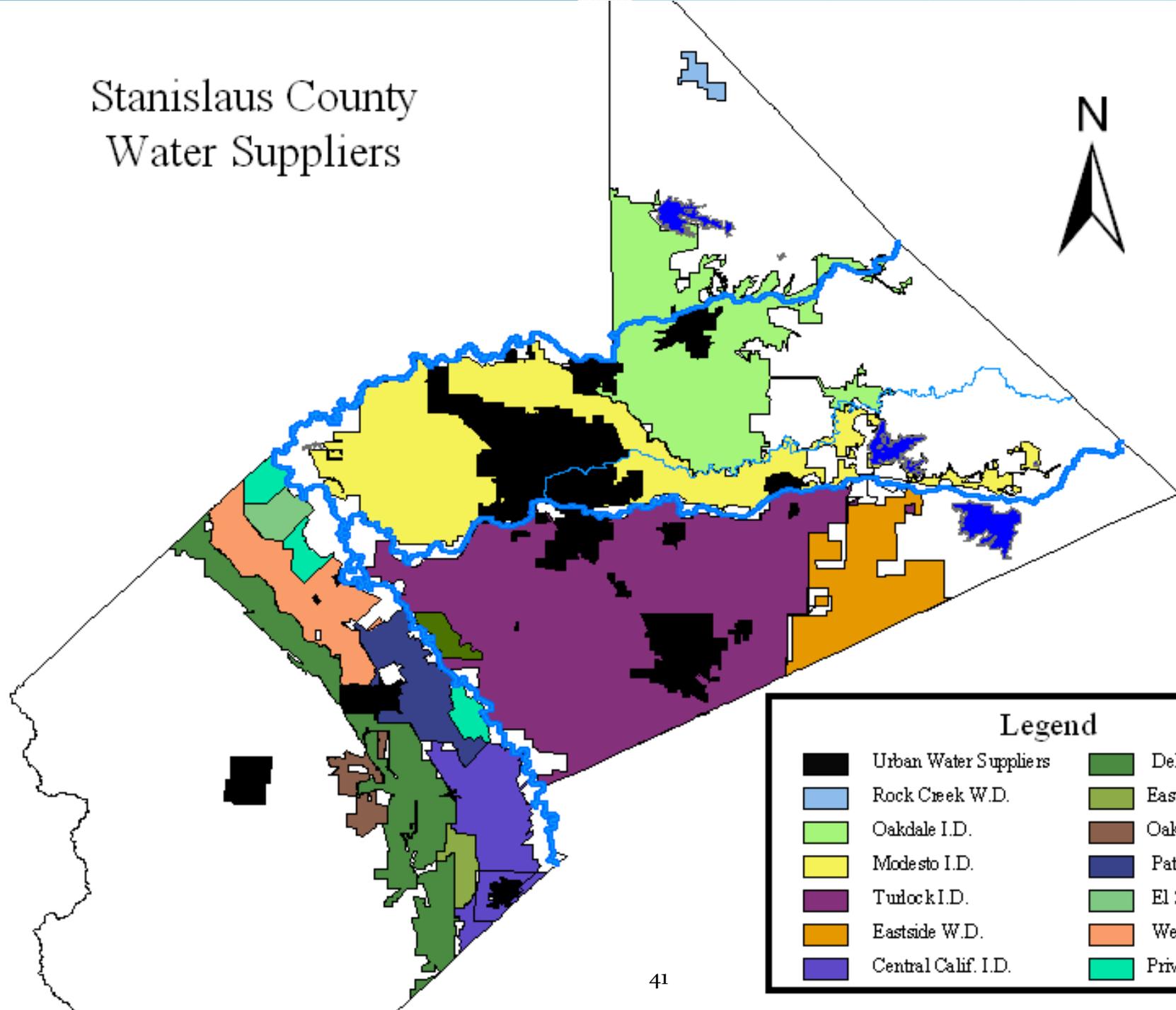
## Cons:

- Takes longer to form new statutorily defined agency.
- Typically more politically challenging than a locally formed JPA.

# The Role of LAFCO

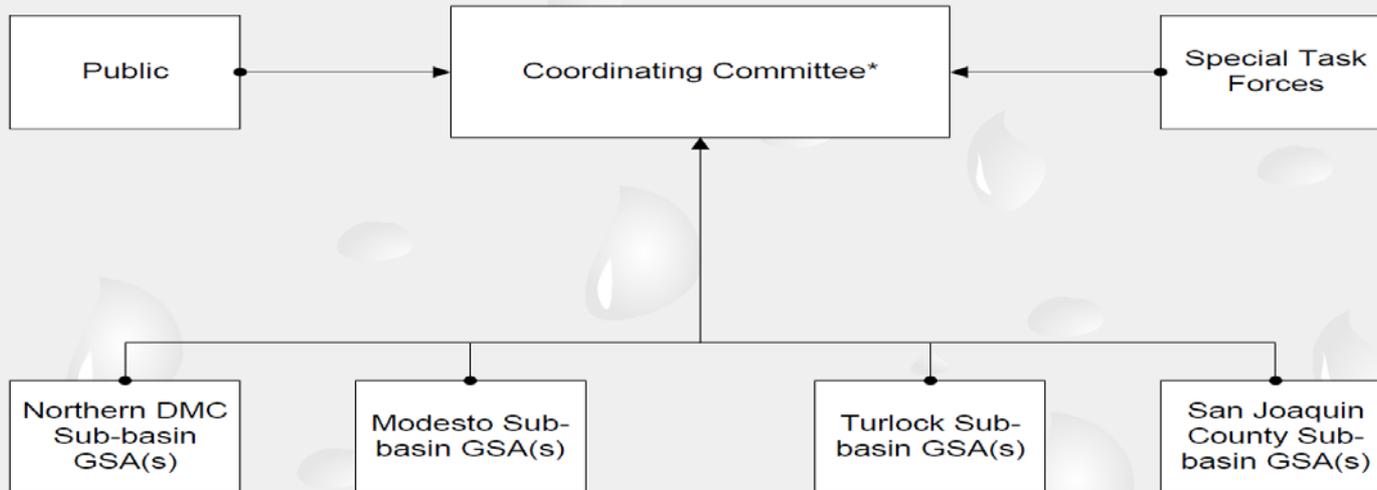
- A Local Agency Formation Commission (LAFCO) is a governmental body that provides regional growth management services in overseeing the formation and development of local governmental agencies, including special districts
- A LAFCO is established for each county
- LAFCO's inform their regulatory duties through a series of planning activities and by determining Spheres of Influence for all cities and special districts under their jurisdiction
- Spheres of Influence (SOI) demark the territory the affected LAFCO independently believes represents the appropriate and probable future jurisdictional boundary and service area of the subject agency
- The SGMA does not specify whether, or under what conditions, LAFCO approval would be required
- GSA formation is exempt from the requirements of the California Environmental Quality Act (CEQA)

# Stanislaus County Water Suppliers



	Urban Water Suppliers		Del Puerto W.D.
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	Tullock I.D.		El Solyo W.D.
	Eastside W.D.		West Stanislaus I.D.
	Central Calif. I.D.		Private W.D.

## DRAFT STANCO Governance Structure Option 2



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# Breakout Questions

1. What are the desired outcomes of forming and administering a GSA?
  - What does your interest group need?
  - What else do you want out of the process?
  - What are the opportunities and benefits?
2. What do you foresee as the hurdles to implementation?
  - What action(s) need to be taken to address these matters?
3. What more do you need to know?
  - What additional information is important to you?
4. What are the next steps?
  - What else needs to be done to move the discussion forward?

# Breakout Question Responses

1. What are the desired outcomes of forming and administering a GSA?
  - Local Control
  - Coordinated data management
  - Balance and transparency
2. What do you foresee as the hurdles to implementation?
  - Self-Interests
  - Data Security/Sharing/Reliability
3. What more do you need to know?
  - Explore other examples; what are others doing?
  - Guidelines from DWR
4. What are the next steps?
  - Public Education/Outreach
  - Governance structure alternatives benefits & risks
  - Explore costs estimates and funding sources

# NEXT STEPS

1. LAFCO Role?
2. Agreement on Model Structure (No. 2)
3. Role & Structure of the Coordinating Committee?
4. Agreement on Institutional Framework
5. Two-Step process? MOU=>JPA
6. Drafting Committee(s) assignments
7. Outreach Strategy with surrounding Counties