



GROUNDWATER SUSTAINABILITY AGENCY FREQUENTLY ASKED QUESTIONS

The 2014 Sustainable Groundwater Management Act (SGMA) requires the formation of groundwater sustainability agencies (GSAs) in high- and medium-priority groundwater basins and subbasins (basins) by June 30, 2017, in order to meet California Water Code requirements. The following responses to select frequently asked questions are intended to provide general guidance on GSA formation and are subject to change. This information incorporates the 2015 legislative changes to SGMA made by Senate Bill 13 and Assembly Bill 617. As discussed in this document, formation of a GSA is not necessary if a local agency plans to submit an Alternative Plan for an entire basin by January 1, 2017. Additional information about GSAs and the requirement to develop groundwater sustainability plans (GSPs) by 2020 or 2022, or Alternative Plans by 2017, is available on DWR's Sustainable Groundwater Management website included here: <http://water.ca.gov/groundwater/sgm/index.cfm>.

1. Are low- and very-low priority basins subject to the same GSA requirements and SGMA timelines as high- and medium-priority basins?

No. Low- and very-low priority basins are not required to form GSAs and develop GSPs, but local agencies in those basins are encouraged and authorized to do so, especially if they are highly-dependent upon groundwater. Intervention by the State Water Resources Control Board (State Board) does not apply to a basin designated as low- or very-low priority. Local agencies in low- and very-low priority basins can form GSAs and develop GSPs on their own schedule or can update existing (or prepare new) groundwater management plans. A map showing the priority ranking of California's 515 groundwater basins and subbasins is included as Figure 1. *Water Code References: §10720.7, §10723 et seq., §10750 et seq.*

2. Which local agencies are eligible to be GSAs?

Any local public agency that has water supply, water management, or land use responsibilities in a basin can decide to become a GSA. A single local agency can decide to become a GSA, or a combination of local agencies can decide to form a GSA by using either a joint powers authority (JPA), a memorandum of agreement (MOA), or other legal agreement. As discussed in this document, a local agency that submits a GSA formation notice to DWR will not become an exclusive GSA for the portion of a basin within its service area until the conditions of the Water Code are met. *Water Code References: §10721, §10723, §10723.6, §10723.8, §10726.8*

3. Upon deciding to become or form a GSA, what information must a local agency submit in order to have a complete GSA formation notice?

Within 30 days of deciding to become or form a GSA, the local agency or combination of local agencies shall inform DWR of its decision and its intent to undertake sustainable groundwater management. The notification shall contain all the information provided in Water Code §10723.8(a), which includes a description of the portion of the basin the local agency(s) intends to manage. The GSA formation notice will be reviewed for completeness by DWR staff and, if complete, will be posted on DWR's GSA

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Formation Table and included on DWR's GSA Interactive Map. Local agencies will have an opportunity to provide additional information, if applicable, to make a GSA formation notice complete. Additional information about GSAs and what constitutes a completeness review is available on DWR's GSA website: <http://water.ca.gov/groundwater/sgm/gsa.cfm>. *Water Code References: §10721, §10723 et seq.*

4. When does the decision to become a GSA take effect?

The decision to become a GSA will take effect if no other local agency has filed a GSA formation notice for all or a portion of the same area of a basin within 90-days of the initial posted notice, or if existing GSA overlap has been resolved and all applicable Water Code requirements have been met. Once these conditions have been met, the local agency, which has decided to become a GSA, will be identified by DWR as the exclusive GSA for the area described in its notice. DWR will be tracking GSA formation overlap and will recognize exclusive GSAs on its GSA Formation Table. Multiple local agencies or GSAs may, through a JPA or other legal agreement, combine their overlapping service areas to form a single GSA area – the roles and responsibilities of each local agency within the GSA area would be defined in the legal agreement. *Water Code References: §10723(c), §10723(d), §10723.8, §10726.8(b)*

5. What is an exclusive GSA?

An exclusive GSA is a local agency that has submitted its GSA formation notice to DWR and has not incurred, or has resolved, any service area overlap with another local agency that also intends to be a GSA. Only exclusive GSAs can coordinate to develop a GSP for a groundwater basin and submit that GSP to DWR for review. *Water Code References: §10723(c), §10723(d), §10723.8, §10726.8(b)*

6. What is GSA service area overlap and how is it created?

Service area overlap occurs when two or more local agencies decide to claim the same area of a basin (within 90 days of the initial posted notice) for the purposes of forming a GSA. GSA service area overlap may present as jurisdictional boundaries that do not align like adjoining puzzle pieces or service areas that are completely embedded, one within another (see Figure 2). If two or more local agencies separately decide to become GSAs in all or a portion of the same area of a basin (within an active 90-day period) then no exclusive GSA for that area will be designated by DWR until the overlap is resolved. Local agencies are strongly encouraged to collaborate and coordinate their GSA formation efforts prior to submitting a notice to DWR.

As shown on Figure 2, one instance of overlapping GSA service areas might include the jurisdictional boundaries of a city (GSA-1) and an irrigation district (GSA-2) – each local agency has its own legal boundaries within a basin, but some portions of those boundaries may not align seamlessly. A case of embedded service areas could include the jurisdictional boundaries of a county (GSA-1) and an irrigation district (GSA-2) – the county might have land use authority over the entire basin, but an irrigation district could have jurisdiction within the basin, too. As stated in Water Code §10723.8(c), where there is overlap in areas proposed to be managed by local agencies, *the local agencies shall seek to reach agreement to resolve the overlap to allow prompt designation of a GSA*. *Water Code References: §10723 et seq.*

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7. How is GSA overlap resolved?

GSA overlap can be resolved by withdrawal or modification of a posted GSA formation notice(s) to eliminate any overlap in the area(s) proposed to be managed. A GSA may withdraw from managing a basin by notifying DWR in writing of its intent to withdraw. According to Water Code §10723.8(c), *if agreement is reached involving a material change from the information in the posted notice, a new notification shall be submitted*. Material changes include, but are not limited to, significant GSA boundary changes made by a single local agency, and coordination by legal agreement to combine the boundaries of multiple local agencies or GSAs to form a common GSA area. In such cases, a public hearing and the process of filing a new GSA formation notice with DWR is again required, which will trigger a new 90-day period for that modified portion of the basin described in the notice. A GSA will not be recognized by DWR as an exclusive GSA until overlap in a basin is resolved. *Water Code References: §10723 et seq.*

8. Must the exclusive local agencies listed in Water Code §10723(c) file a GSA formation notice?

Yes. SGMA identifies 15 exclusive local agencies created by statute to manage groundwater within their respective statutory boundaries; however, these exclusive local agencies must still decide to become GSAs. The exclusive local agencies must follow the same public notification process as all other local agencies, although the decision to become a GSA will take effect immediately, as no other local agency can decide to become a GSA in those areas unless one of the exclusive local agencies opts out of its presumed role. *Water Code References: §10723(c), §10723.8*

9. Can a local agency form a GSA for a portion of a basin located outside its service area boundaries?

A local agency may make the decision to become a GSA for an entire basin, but that agency would not be the “exclusive” GSA for any portion of the basin beyond its service area boundaries. Furthermore, a local agency is not authorized to impose fees or regulatory requirements on activities outside the boundaries of the local agency. This regulatory limitation could make implementation of a basin’s groundwater sustainability program problematic and achievement of a basin’s sustainability goal unattainable. Because service area is not defined in SGMA, DWR will rely upon a local agency to define its service area in its GSA formation notice, which is part of Water Code §10723.8(a). *Water Code References: §10723 et seq., §10726.8*

10. If GSA overlap has not been resolved by June 30, 2017, will the county be presumed to be the GSA in the disputed area?

No. Water Code §10724(a) states, *in the event that there is an area within a high- or medium-priority basin that is not within the management area of a GSA, the county within which that unmanaged area lies will be presumed to be the GSA for that area*. An “unmanaged area” as used in Water Code §10724(a) is an area of a basin that has not yet had (or will not have) a local agency file a GSA formation notice with DWR – or, it is an area of a basin that is not within the service area of another GSA-eligible local agency. Water Code §10724 does not give the county exclusive authority to be the GSA in a basin if

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other local agencies (possibly including the county) have also declared their intent to sustainably manage groundwater but have not yet resolved their service area overlap.

In the unmanaged areas where the county is presumed to be the GSA because no other local agency has formed a GSA, the county must still follow the same public notification procedures described in §10723(b) and submit to DWR, prior to June 30, 2017, the information listed in §10723.8(a).

Alternatively, the county can notify DWR in writing that it will not be the GSA for those unmanaged areas and those unmanaged areas shall be subject to groundwater extraction reporting on July 1, 2017, in accordance with Part 5.2 of Division 2 of the Water Code, and could be subject to State Board intervention. *Water Code References: §1529.5, §5200 et seq., §10723 et seq., §10724 et seq., §10735.2*

11. What happens if an entire basin is not covered by an exclusive GSA(s) by June 30, 2017?

Water Code §10735.2(a) says the State Board, after notice and a public hearing, may designate a high- or medium-priority basin as a probationary basin after June 30, 2017, if a local agency or a collection of local agencies has not decided to become a GSA(s) and develop a GSP(s) for the entire basin – or if a local agency has not submitted an Alternative Plan for the entire basin. If multiple local agencies have decided to become GSAs in a basin, but those decisions *have not taken effect* due to unresolved service area overlap, then those disputed areas would be considered unmanaged areas for the purposes of groundwater extraction reporting, as no exclusive GSA(s) for the entire basin has been established. The local agencies involved in the GSA formation dispute *shall seek to reach agreement to allow prompt designation of a GSA*, and the State Board could intervene if necessary. The groundwater extraction reporting requirements for unmanaged areas of a basin begin on July 1, 2017, and are described in Part 5.2 of Division 2 of the Water Code, commencing with §5200. The State Board’s schedule of fees to recover costs associated with its intervention role is described in Water Code §1529.5. *Water Code References: §1529.5, §5200 et seq., §10723 et seq., §10724*

12. Can GSAs in a basin change or restructure after June 30, 2017?

Yes. While this scenario is not specifically addressed in SGMA, there is no reason why a basin’s governance structure cannot adapt to either changing conditions or changing roles and responsibilities when developing and implementing a GSP. A clear and legally-concise explanation of a basin’s GSA governance structure will be required as part of the GSP in order to determine if the basin’s sustainability goal can be reached and its groundwater sustainability program can be implemented. If the governance structure in a basin needs to be modified, then a GSA would need to withdraw from managing its portion of a basin by notifying DWR in writing. As part of the annual reporting requirements for GSAs, the modified GSA governance structure would need to be explained and the legal agreement that coordinates GSAs in a basin would need to be updated, if necessary. In high- and medium-priority basins, if an exclusive GSA opted out of its management role and no other local agency was able to take its place following the GSA formation process, the basin could be subject to intervention by the State Board. *Water Code References: §10723 et seq., §10728, §10728.2, §10733 et seq., §10735.2*

13. Must a GSA be formed if a local agency wants to prepare and submit an Alternative Plan, as described in Water Code §10733.6?

No, but a local agency, including the exclusive local agencies identified in SGMA, must be able to prepare an Alternative Plan for the *entire* basin and submit that Alternative Plan to DWR for review by January 1, 2017. Conversely, if so desired, a GSA can be formed in a basin and that GSA can submit an Alternative Plan rather than a GSP. *Water Code References: §10723(c), §10733.6*

14. What happens if the boundaries of my basin are modified and my basin is reprioritized as a medium- or high-priority basin?

If the priority of a basin changes from low or very-low to medium or high then a local agency(s) shall have two years from the date of reprioritization to either establish an exclusive GSA(s) or submit an Alternative Plan. An exclusive GSA(s) shall have five years from the date of reprioritization to develop and submit a GSP(s) to DWR for review. Revised basin boundaries will be published in DWR's Bulletin 118 in January 2017 and reprioritization of those new basins will be completed soon after. *Water Code References: §10722 et seq., §10933, §12924*

15. Must a GSA be formed if portions of a basin are not adjudicated?

Yes. If there are areas of a high- or medium-priority basin that are not part of an adjudicated action listed Water Code §10720.8, then a GSA should be formed in those areas by June 30, 2017. The response to this question does not address Alternative Plans where management pursuant to an adjudicated action could be used as an Alternative Plan submittal. The GSP emergency regulations will be adopted by June 1, 2016, which will provide additional GSP and Alternative Plan details. *Water Code References: §10720.8, §10721, §10727 et seq., §10733.2, §10733.6, §10735 et seq.*

16. Must a local agency exclude federal and tribal lands from its service area when forming a GSA?

No, federal lands and tribal lands need not be excluded from a local agency's GSA area if a local agency has jurisdiction in those areas; however, those areas are not subject to SGMA. But, a local agency in its GSA formation notice shall explain how it will consider the interests of the federal government and California Native American tribes when forming a GSA and developing a GSP. DWR strongly recommends that local agencies communicate with federal and tribal representatives prior to deciding to become a GSA. As stated in Water Code §10720.3, *the federal government or any federally recognized Indian tribe, appreciating the shared interest in assuring the sustainability of groundwater resources, may voluntarily agree to participate in the preparation or administration of a GSP or groundwater management plan through a JPA or other agreement with local agencies in the basin.* *Water Code References: §10720.3, §10723.2, §10723.8*

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17. What are the stakeholder outreach responsibilities for local agencies and GSAs?

Some public outreach requirements in SGMA are prescriptive but others are left to the discretion of the exclusive GSAs recognized in a basin. DWR strongly recommends that GSAs engage a broad range of stakeholders, both within a basin and from the larger hydrologic region if necessary, prior to making local decisions to help build trust and promote public acceptance and support. At a minimum, before deciding to become a GSA and after publication of notice pursuant to Government Code §6066, the local agency or agencies shall hold a public hearing in the county or counties overlying the basin. In its GSA formation notification to DWR, the local agency(s) shall include a list of interested parties developed pursuant to Water Code §10723.2, identify the beneficial uses and users of groundwater within a basin, and provide an explanation of how their interests will be considered in the development, operation, and implementation of the GSA and GSP. GSAs are encouraged to appoint and consult with an advisory committee consisting of interested parties and to facilitate the active involvement of diverse social, cultural, and economic elements of the population within the basin prior to and during the development and implementation of a GSP. *Water Code References: §10723 et seq., §10727.8, §10728.4, §10733 et seq.*

18. How can private entities participate in a GSA and help develop and implement a GSP?

Only local agencies can become or form a GSA, but a water corporation or a mutual water company may participate in a GSA through a MOA or other legal agreement – how the legal agreement is structured to allow participation by private water entities is left up to the GSA to determine. However, as stated in Water Code §10723.6(b), the authority provided to a private water entity through such a legal agreement does not confer any additional powers to that nongovernmental entity. A private water entity could be part of a GSA, but it would not receive any of the powers provided to a GSA. Also, as described in Water Code §10726.5, a GSA may enter into written agreements and funding arrangements with a private party to assist in, or facilitate the implementation of, a GSP or any elements of the plan. *Water Code References: §10723.6, §10725 et seq., §10726.5*

19. When does a GSA get the powers and authorities defined in SGMA?

An exclusive GSA will receive the powers and authorities defined in SGMA when it submits an adopted GSP or Alternative Plan to DWR. As stated in Water Code §10725, a GSA may exercise any of the powers described in Chapter 5, in addition to, and not as a limitation on, any existing authority, if the GSA adopts and submits to DWR a GSP or an Alternative Plan. If GSAs develop multiple GSPs for a basin, the submission to DWR shall not occur until the entire basin is covered by GSPs. When the entire basin is covered by GSPs, the GSAs shall jointly submit the following: the GSPs; an explanation of how the GSPs implemented together satisfy Sections 10727.2, 10727.4, and 10727.6 for the entire basin; and a copy of the coordination agreement between the GSAs that implements the GSPs for the entire basin. *Water Code References: §10725 et seq., §10733.4, §10733.6*

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To learn more about GSA formation and for water management planning tools, please visit DWR's GSA website: <http://water.ca.gov/groundwater/sgm/gsa.cfm>. Additional questions related to GSAs and DWR's role in posting complete GSA formation notices may be directed to Mark Nordberg at (916) 651-9673 or Mark.Nordberg@water.ca.gov, or by contacting one of DWR's Region Offices at http://water.ca.gov/irwm/resources/rc_finder.cfm.



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FIGURE 1: GROUNDWATER BASIN PRIORITY RANKING

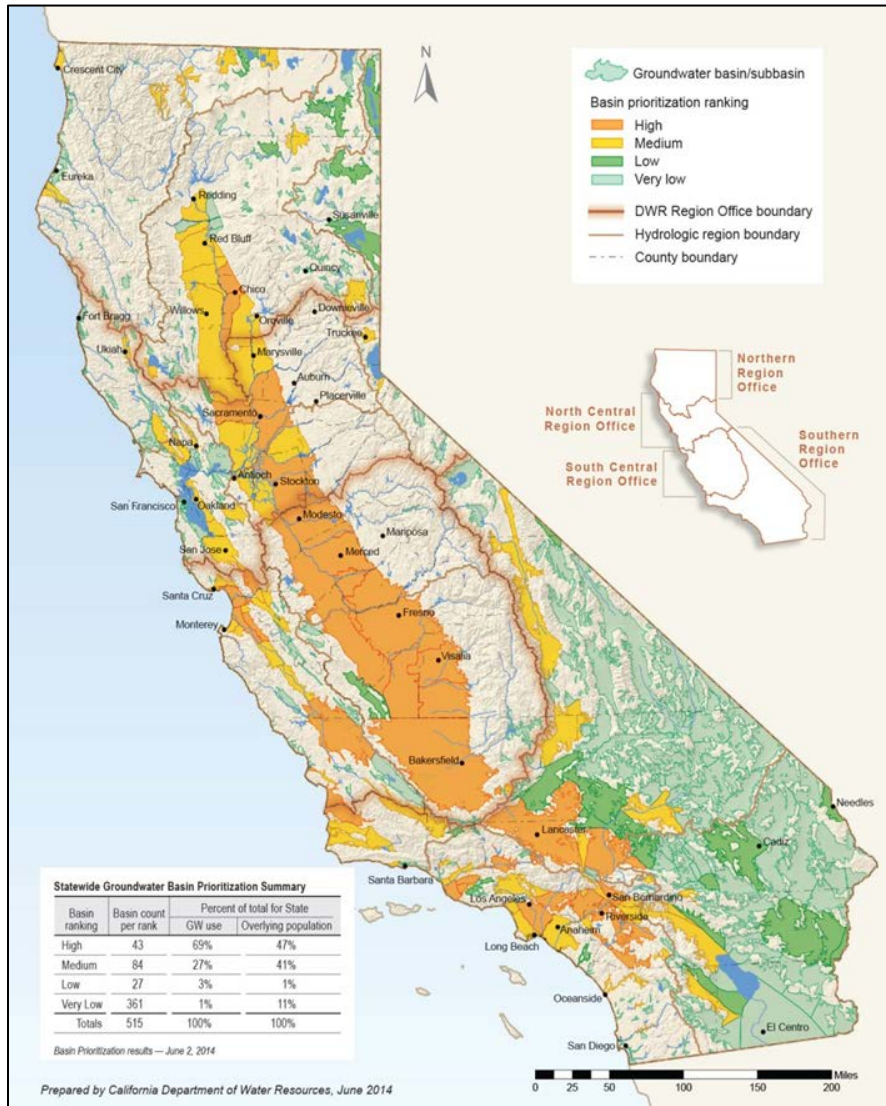


FIGURE 2: EXAMPLES OF GSA FORMATION OVERLAP

