

# Topic 4: Alternative Groundwater Sustainability Plan (GSP) Submittals

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*Department of Water Resources - Sustainable Groundwater Management Program*  
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## 1.0 PURPOSE

The purpose of this paper is to provide information to advance the discussion with stakeholders and the public as the Department of Water Resources (DWR) develops emergency regulations as required in the Sustainable Groundwater Management Act (SGMA). DWR identified a series of ten topics related to the development of Groundwater Sustainability Plan (GSP) regulations that were deemed of special interest to further discuss with stakeholders and the public. This paper covers information specific to Topic 4: Alternative GSP Submittals.

The topic of *Alternative GSP Submittals*, and what constitutes an alternative approach to a GSP (Alternative GSP), are identified in California Water Code (Water Code) Section (§) 10733.6. Select provisions of the Water Code related to this topic are provided in Section 3.0 of this document. Should a local agency elect to submit an Alternative GSP, rather than prepare a GSP in accordance with Water Code §10727 et seq., the Alternative GSP must be submitted to DWR no later than January 1, 2017, and every five years thereafter. For reference, a “Regular” GSP is due to be submitted to DWR in January of 2020 or 2022, depending on whether a basin has been determined to be critically overdrafted.

## 2.0 BACKGROUND

In 2014, legislation was passed that provides a statewide framework for sustainable groundwater management in California (Senate Bill [SB] 1168, Assembly Bill [AB] 1739, and SB 1319). This legislation, referred to as the SGMA, is intended to support local groundwater management through the oversight of a Groundwater Sustainability Agency(s) (GSA). Only local agencies can elect to be a GSA. To avoid intervention by the State Water Resources Control Board (SWRCB), the SGMA requires that all area of a basin be covered by one or more GSAs in all high- and medium-priority basins by June 30, 2017. The SGMA then requires GSAs to develop GSPs for their respective groundwater basins by January 2020 or 2022, and to achieve sustainability goals by 2040 or 2042. In addition, the SGMA allows the SWRCB to intervene where GSPs are found to be incomplete or inadequate. The exceptions to these requirements include adjudicated portions of a groundwater basin and local agencies that have already submitted to DWR an Alternative GSP that has been approved or is pending approval.

This document presents preliminary draft information to promote discussion and is subject to revision. Furthermore, because this discussion paper addresses a variety of issues raised by individuals and entities outside of DWR, inclusion of the issues in this document does not constitute an endorsement of

any particular issue. DWR invites comment and input on the preliminary draft information and questions presented in this document. Comments should be submitted to [sgmps@water.ca.gov](mailto:sgmps@water.ca.gov).

### 3.0 SELECT CALIFORNIA WATER CODE SECTIONS RELATED TO ALTERNATIVE GSP SUBMITTALS

This part identifies select sections of the Water Code related to *Alternative GSP Submittals* and includes the relevant text. A summary of issues and challenges, and considerations and questions specific to *Alternative GSP Submittals* is included in Section 4. The following are select Water Code provisions related to the Alternative GSPs.

#### 10750.1. Limitation on Authority to Adopt New Plans

*(a) Beginning January 1, 2015, a new plan shall not be adopted and an existing plan shall not be renewed pursuant to this part, except as provided in subdivision (b). A plan adopted before January 1, 2015, shall remain in effect until a groundwater sustainability plan is adopted pursuant to Part 2.74 (commencing with Section 10720).*

*(b) This section does not apply to a low- or very low priority basin as categorized for the purposes of Part 2.74 (commencing with Section 10720).*

*(c) This section does not apply to a plan submitted as an alternative pursuant to Section 10733.6, unless the department has not determined that the alternative satisfies the objectives of Part 2.74 (commencing with Section 10720) on or before January 31, 2020, or the department later determines that the plan does not satisfy the objectives of that part.*

#### 10733. Department Review of Plans

*(c) The department shall evaluate whether a groundwater sustainability plan adversely affects the ability of an adjacent basin to implement their groundwater sustainability plan or impedes achievement of sustainability goals in an adjacent basin.*

#### 10733.6. Alternative Submittals

*(a) If a local agency believes that an alternative described in subdivision (b) satisfies the objectives of this part, the local agency may submit the alternative to the department for evaluation and assessment of whether the alternative satisfies the objectives of this part for the **basin**.*

*(b) An alternative is any of the following:*

*(1) A plan developed pursuant to Part 2.75 (commencing with Section 10750) or other law authorizing groundwater management.*

*(2) Management pursuant to an adjudication action.*

*(3) An analysis of basin conditions that demonstrates that the basin has operated within its sustainable yield over a period of at least 10 years. The submission of an alternative described by this paragraph shall include a report prepared by a registered professional engineer or geologist who is licensed by the state and submitted under that engineer's or geologist's seal.*

(c) A local agency shall submit an alternative pursuant to this section no later than January 1, 2017, and every five years thereafter.

(d) The assessment required by subdivision (a) shall include an assessment of whether the alternative is within a basin that is in compliance with Part 2.11 (commencing with Section 10920). If the alternative is within a basin that is not in compliance with Part 2.11 (commencing with Section 10920), the department shall find the alternative does not satisfy the objectives of this part.

## 4.0 SUMMARY OF TOPIC ISSUES, IMPLEMENTATION CHALLENGES, AND QUESTIONS

As part of the SGMA outreach effort, DWR continues to meet with various organizations and individual experts to receive input on issues and challenges related to *Alternative GSP Submittals*. The following represents some of the *Alternative GSP Submittals* issues, challenges, and general questions presented by stakeholders and advisory groups to DWR. The information is grouped according to the types of Alternative GSPs identified in Water Code §10733.6 and other potential issues and challenges related to Alternative GSPs.

1. A plan developed pursuant to Part 2.75 (commencing with Section 10750 et seq.) or other law authorizing groundwater management.

- Water Code §10727 says a GSP may incorporate, extend, or be based on a Groundwater Management Plan (GWMP); can an Alternative GSP also be based on a GWMP?
- Prior to the SGMA, GWMPs were generally voluntary, non-regulatory, and often prepared for areas that were much smaller than groundwater basins. How could these GWMPs possibly meet the legislative intent of SGMA?
- Is AB 3030, SB 1938, or AB 359 the GWMP standard?
- Can a local agency in a low- or very-low priority basin update a GWMP and submit that plan as an Alternative GSP? If that basin gets re-prioritized as a medium or high priority basin per Water Code §10722.2, can they continue to use that Alternative GSP for SGMA compliance?

2. Management pursuant to an adjudication action.

- Within a groundwater basin that is mostly covered by an adjudication action, (or multiple adjudications), can a local agency located outside that adjudicated boundary use data and information from the adjudicated part of the basin to comply with SGMA, or does it have to use only data and information collected outside of the adjudicated boundary? In this situation, can the un-adjudicated portion of a basin prepare and submit an Alternative GSP?
- If a basin or subbasin includes multiple adjudications, how should a GSA or local agency prepare a GSP or Alternative GSP (within the same basin but outside of the adjudication boundaries) that considers multiple, potentially conflicting, court orders?
- How should an adjudication action be deemed sustainable per the SGMA?

3. An analysis of basin conditions that demonstrates that the basin has been operated within its sustainable yield over a period of at least 10 years.

- How would a local agency demonstrate 10 years of operating within a basin or subbasin's sustainable yield?
- ~~Would a local agency be able to utilize evidence the basin has operated within its sustainable yield over a period of at least 10 years as an alternative to developing a GSP if the local agency does not cover the entire basin or subbasin, and the adjacent GSA (or GSAs) has not yet formed and developed GSPs?~~
- How can a local agency or GSA demonstrate (i.e. via water budget or other lines of evidence?) that ~~a basin's~~ Alternative GSP does not adversely affect the ability of an adjacent basin to implement ~~their~~-its "Regular" GSP?- This may be especially challenging ~~based on the~~ considering timing ~~of when, where~~ Alternative GSPs are due 3 years to 5 years before ~~the~~ "Regular" GSPs are due.
- If a subbasin only has jurisdictional separation between multiple other subbasins, how can it prove that it has operated within its sustainable yield without considering the assumptions of the adjacent subbasins?
- Should local agencies, or GSAs, in a basin or subbasin located adjacent to an Alternative GSP be required to submit a letter of approval or support for that local agency's Alternative GSP proposal? What happens if a local agency or GSA in the adjacent basin does not agree with the assumptions stated in an Alternative GSP?

4. Timing of Alternative GSPs due in January 2017 related to GSPs due in 2020 or 2022.

- ~~What Water Code §10733.6(c) states that local agencies submitting Alternative GSPs are thenot required to submit annual reports. Should there be~~ annual reporting requirements for local agencies that submit Alternative GSP's to ensure consistency with planning assumptions being implemented in adjacent basins?
- ~~Are GSAs required to coordinate with local agencies in the same basin or subbasin that have submitted Alternative GSPs when preparing a water budget?~~

## CONSIDERATIONS

There are multiple questions related to Alternative GSPs that can be grouped into two main considerations:

- 1) *Timing challenges associated with the submittal of local agency-submitted Alternative GSPs and GSA-submitted "Regular" GSPs.* Alternative GSPs must be submitted by local agencies to DWR no later than January 1, 2017; however, GSAs are not required to submit their GSPs to DWR until January 31, 2020 or January 31, 2022, depending on the determination of overdraft conditions. There are annual progress report considerations related to ~~adjacent and~~ hydraulically-connected basins ~~or and~~ subbasins ~~and annual progress reporting that must be addressed in the emergency regulations.~~

- 2) *The requirements and adequacy of an Alternative GSP.* Adequate technical information will be necessary to justify and support ~~the~~ local agency's claim that an Alternative GSP described in Water Code §10733.6 will satisfy the legislative requirements of the SGMA. -Therefore, the technical information for an Alternative GSP and a "~~Standard~~Regular" GSP may need to ~~be~~adhere to the same standards.

## QUESTIONS

- How could an Alternative GSP meet the legislative intent of SGMA (i.e., statewide sustainable groundwater management) if the technical requirements are not equal to the standards for a GSP?
- How do local agencies plan to coordinate ~~an~~their Alternative GSP's objectives, goals, and/or water budget assumptions with other GSA's GSPs ~~in the same basin or subbasin, or~~ between two adjacent ~~hydraulically and hydrologically~~-connected basins or subbasins?
- Would an Alternative GSP only be considered effective if there were ~~a~~an inter-basin coordination agreement (i.e., related to water budgets and determining specific yield estimates) with ~~other GSPs within the same~~a GSP(s) in a hydrologically-connected basin or subbasin?
- ~~• In a situation where there may be a mixture of Alternative GSPs and GSA-prepared GSPs in the same basin or subbasin, and an Alternative GSP will likely be received by DWR years before other GSA-prepared GSPs, how would a local agency that submitted an Alternative GSP provide information to DWR that shows the assumptions related to sustainable yield, undesirable results, and water budgets are consistent with GSPs that have yet to be submitted for review?~~
- How would a local agency illustrate that an Alternative GSP (specifically an existing GWMP or plan developed pursuant to other law authorizing groundwater management) has been used and can continue to be used to adequately sustainably manage groundwater without detailed water budget information and sufficient data to illustrate a history of operating within a sustainable yield (i.e. without causing undesirable results)?