

# Frequently Asked Questions Document

## Executive Order N-7-22 Action 9:

### Drought Well Permitting Requirements



#### Purpose:

This document is intended to help clarify [Executive Order N-7-22](#) Action 9, which requires additional considerations before the approval and issuance of a well permit due to the increasing severity of the current drought conditions.

#### Frequent Asked Questions and Answers:

##### APPLICABILITY

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##### **Who is responsible for carrying out Action 9?**

This Executive Order Action 9 applies to local well permitting agencies, such as cities, counties, or water agencies, who have the authority to adopt a local well ordinance and issue or approve well permits.

Both Action 9a and 9b are applicable for proposed wells located in a medium- or high-priority basin that have Groundwater Sustainability Agencies (GSAs). DWR has a [Basin Prioritization Dashboard](#).

Action 9b is applicable for proposed wells located in areas outside of a basin without an established Groundwater Sustainability Agency (GSA).

##### **How should local well permitting agencies proceed with issuing well permits based on Action 9?**

Local well permitting agencies retain existing well permitting authorities, including reviewing and administering well permits under Action 9. Local well permitting agencies must take the following steps during the well permitting process for wells intending to extract groundwater:

1. Consultation with the GSA – If the proposed well location is in a high or medium priority groundwater basin, the well permitting agency must consult with the GSA and receive written verification from the GSA that the proposed well location is generally consistent (not inconsistent) with the applicable Groundwater Sustainability Plan (GSP) and will not decrease the

##### **Excerpt of Action 9 from the Executive Order N-7-22 are as stated:**

**9.** To protect health, safety, and the environment during this drought emergency, a county, city, or other public agency shall not:

**a.** Approve a permit for a new groundwater well or for alteration of an existing well in a basin subject to the Sustainable Groundwater Management Act and classified as medium- or high-priority without first obtaining written verification from a Groundwater Sustainability Agency managing the basin or area of the basin where the well is proposed to be located that groundwater extraction by the proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable Groundwater Sustainability Plan adopted by that Groundwater Sustainability Agency and would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan;

or

**b.** Issue a permit for a new groundwater well or for alteration of an existing well without first determining that extraction of groundwater from the proposed well is (1) not likely to interfere with the production and functioning of existing nearby wells, and (2) not likely to cause subsidence that would adversely impact or damage nearby infrastructure.

*This paragraph shall not apply to permits for wells that will provide less than two acre-feet per year of groundwater for individual domestic users, or that will exclusively provide groundwater to public water supply systems as defined in section 116275 of the Health and Safety Code.*

likelihood of achieving the sustainability goals that the GSAs have developed under the Sustainable Groundwater Management Act (SGMA).

2. Permit Evaluation – For every well permit application, the local well permitting agency must determine before issuing a well permit that extraction of groundwater from the proposed well is not likely to interfere with the production and functioning of existing nearby wells and is not likely to cause subsidence that would adversely impact or damage nearby infrastructure.

## ACTION 9 EXEMPTIONS

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### ***Is the intent of the exemption language to exclude household wells that use groundwater as their drinking water source from the requirements of Action 9?***

The exemption language is intended to exempt groundwater users that use less than 2 acre-feet per year, which typically includes domestic wells users, and public water systems from Action 9.

“Public water system” as defined in section 116275 of the Health and Safety Code means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

## TIMING

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### ***When did the Executive Order become effective? Does it apply to well permits that are pending?***

The Executive Order was issued on March 28, 2022, and became effective immediately. Well permit applications submitted on or after March 28, 2022, are subject to Action 9 requirements.

This Executive Order Action 9 does not apply to well permits that were approved prior to March 28, 2022, including those that were approved but construction of the well has not begun.

The Executive Order Action 9 is applicable to pending well permits that were not yet approved as of March 28, 2022.

### ***Is this Executive Order Action 9 temporary or permanent?***

Action 9 is a temporary measure, as part of the Executive Order, that was issued due to continuing severe drought conditions. It will likely remain in effect the rest of this water year and will be rescinded by the Governor, which typically occurs when drought conditions have subsided. DWR has developed an interactive tool to help convey the many contributing factors of the drought in California, which includes data for local water supply, environment, and climate. Please visit [California Water Watch](#) for more information.

## DECISION-MAKING

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### ***Can a well permit be approved based on Action 9a but not 9b, or vice versa?***

For proposed wells located in medium- and high-priority basins, both Action 9a and 9b are applicable and must be satisfied before a well permit is issued. For proposed wells located in basins that do not have a GSA, only Action 9b is applicable. Action 9b is applicable for every well permit application.

***Could a third-party, certified hydrogeologist perform the analysis required in Action 9b for the local well permitting agencies?***

The local well permitting agency can choose how they would like to proceed in addressing the requirements of Action 9, which could include using a third-party, certified hydrogeologists or other consultants to perform the analysis required in Action 9b. However, Action 9b does not require a hydrogeologist or other expert to evaluate the permit.

## LAND SUBSIDENCE

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***What resources are available for local agencies to monitor land subsidence?***

DWR is currently collecting statewide land subsidence interferometric synthetic aperture radar (InSAR) data on a quarterly basis. Land subsidence InSAR data can be viewed on the [California's Groundwater Live](#) platform.

***In areas where land subsidence has recently occurred, does the Executive Order Action 9 prohibit new wells from being permitted in those areas?***

Local well permitting agencies will need to determine whether extraction of groundwater from the proposed well is not likely to cause subsidence that would adversely impact or damage nearby infrastructure, as required by Executive Order Action 9b. In areas where land subsidence has recently occurred, the well permitting agency should assume that issuance of well permit would increase the likelihood of land subsidence unless compelling information indicates otherwise.

## WELL ALTERATIONS OR REPLACEMENTS

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***Is the replacement of an existing well automatically consistent with a GSP?***

A replacement well is not necessarily automatically consistent with a GSP. The local well permitting agency will need to make this decision based on the established procedures in their local ordinances. If the issuance of a well permit is required for a replacement well or well alterations, then the provisions in the Executive Order Action 9 are applicable, including receiving written verification from the GSAs that the proposed well extraction is not inconsistent with the GSP.

***Does the Executive Order Action 9 apply to well destructions?***

No. Executive Order Action 9 applies to the issuance of well permits and considerations of the proposed groundwater extractions of new wells or well alterations.

## WELL DISTANCE

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***Are there minimum horizontal distance standards for drilling a new well in proximity to a nearby well?***

There are not statewide well spacing standards related to nearby wells and available water supplies.

## CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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### ***Will Executive Order Action 9 require CEQA for the issuance of well permits?***

Local well permitting agencies should consult with their legal staff or county counsel if CEQA would apply in complying with Executive Order Action 9.

## GSP APPROVAL

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### ***How does a GSA verify that permitting is consistent with the GSP if DWR hasn't approved the GSP yet?***

SGMA specifies that once a GSA adopts a GSP, the GSP can be implemented. The requirements of Executive Order Action 9 are not reliant upon DWR's approval of a GSP. GSA should rely on their adopted GSPs and the latest groundwater condition information to conduct the written verification.

## GSA WRITTEN VERIFICATION

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### ***What does written verification by the GSA mean or look like?***

Verification by the GSA is a qualitative review that the proposed well is not inconsistent with the GSP. Consultation with the local counsel is encouraged for determining what written verification is needed. One example is that written verification could be as simple as an email from the GSA to the local well permitting agencies.

## MONITORING OR ENVIRONMENTAL WELLS

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### ***Does the Executive Order Action 9 apply to wells for environmental purposes?***

Typically, monitoring wells and other environmental wells do not extract groundwater, or do not extract more than 2-acre feet per year. However, this determination will need to be made by the local permitting agency in accordance with the well permitting procedures in their local ordinances for issuing or approving well permits. Local permitting agencies should verify GSP consistency with the local GSA (if applicable).

## PENALTIES OR ENFORCEMENT

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### ***Are there enforcement measures or penalties for local well permitting agencies that do not comply with the Executive Order Action 9?***

There are no enforcement provisions in the Executive Order Action 9. The local well permitting agencies should work through potential issues that arise.

### ***Will verification by the State occur for compliance with Executive Order Action 9?***

There is no State enforcement nor is there a State verification process in place for Executive Order Action 9 at this time.

### ***Is there going to be a limit placed on the amount of groundwater that can be extracted for each proposed well?***

There is currently no limitation on groundwater extraction under Executive Order Action 9. GSAs may have imposed groundwater pumping limits as part of their GSP implementation. The collaboration

between the agencies under Action 9a will help clarify this issue. Local permitting agencies need to pause and make considerations, as outlined in Action 9, before issuing well permits in this severe drought.

## FUNDING

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### ***Is there any funding available for local permitting agencies or GSAs to support the Executive Order Action 9 requirements?***

The State does not currently have local assistance funding related to Executive Order Action 9. Local agencies and GSAs can exercise local fee authority. Local well permitting agencies can exercise fee authority for the well permitting process. SGMA also granted GSAs fee authority to raise revenue to support administrative costs.

## EMERGENCY WELL NEEDS

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### ***What if wells have already gone dry, how should households get access to tanked or interim water supply sources?***

If a well has gone dry, please visit DWR's MyDryWell Reporting System website and report the dry well: <https://mydrywell.water.ca.gov/>. Additionally, contact the local county Office of Emergency Services for immediate assistance and emergency response to urgent drinking water needs.

For counties seeking drought assistance, please visit the State's Drought Assistance website to find Drought Funding Programs available: <https://drought.ca.gov/drought-assistance/>.

### ***Does the State anticipate a supply issue for water storage tanks?***

At this time, the State does not currently anticipate a supply issue for water storage tanks.

## RESOURCES

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### ***Are there State resources to help make these considerations when issuing well permits required by the Executive Order Action 9?***

DWR provides technical and other support services for local agencies to use for decision-making. The following resources are available to help local agencies navigate the well permitting requirements in Executive Order Action 9:

- To find the **groundwater basins subject to SGMA** and classified as medium or high priority: [Basin Prioritization Dashboard](#)
- To find the **Groundwater Sustainability Agency** managing the applicable basin or area of the basin: [GSA Map Viewer](#)
- To find the **Groundwater Sustainability Plan** adopted by the local Groundwater Sustainability Agency: [GSA Map Viewer](#)
- To view **existing nearby wells** (domestic, irrigation, public supply and reported dry wells): [California's Groundwater Live – Well Infrastructure](#)
- To view **groundwater levels and trends**: [California's Groundwater Live – Groundwater Levels](#)
- To view **subsidence data**: [California's Groundwater Live – Subsidence Data](#)

For more information or questions about these resources, please contact DWR's Sustainable Groundwater Management Office at: [SGMPS@water.ca.gov](mailto:SGMPS@water.ca.gov).