



## ACTIONS FOR LOCAL AGENCIES TO FOLLOW WHEN DECIDING TO BECOME OR FORM A GROUNDWATER SUSTAINABILITY AGENCY (GSA)

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### INTRODUCTION

The Sustainable Groundwater Management Act (SGMA), which became effective January 1, 2015, established a framework of priorities and requirements to help local agencies sustainably manage groundwater within a basin or subbasin (basin). The information in this document highlights the requirements that should be followed by a local agency in order to become or form a groundwater sustainability agency (GSA) and to be identified as an exclusive GSA by the Department of Water Resources (DWR or department). The GSA formation requirements are located in Division 6 of the Water Code, Part 2.74, Chapter 4, Section (§) 10723 *et seq.* and this document incorporates the amendments made to SGMA by Senate Bill (SB) 13 in September 2015. For reference, the definitions for GSA and local agency as defined in Water Code §10721 are as follows:

*“Groundwater sustainability agency” means one or more local agencies that implement the provisions of this part [Part 2.74]. For purposes of imposing fees pursuant to Chapter 8 (commencing with [Water Code] Section 10730) or taking action to enforce a groundwater sustainability plan, “groundwater sustainability agency” also means each local agency comprising the groundwater sustainability agency if the plan authorizes separate agency action.*

*“Local agency” means a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin.*

One 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. However, a local agency will only be presumed to be the exclusive GSA within their respective service area or combined service areas. A local agency must define its service area as part of its GSA formation process.

### SUMMARY OF INFORMATION REQUIRED TO BE FILED WITH DWR

A local agency is required to file the following information with DWR in order to complete the GSA formation notification requirements of Water Code §10723.8(a). Effective January 1, 2016, a notice of GSA formation will not be determined complete until all applicable information is submitted – please see **Attachment A**.

- Information that clearly shows the GSA formation notice was submitted to DWR within 30 days of the decision to become or form a GSA – the decision date is generally the date the local agency signed the resolution or legal agreement that formed the GSA.
- A map and accompanying narrative indicating: (1) the local agency’s service area boundaries; (2) the boundaries of the basin or portion of the basin the agency intends to manage; and (3) any other agencies managing or proposing to manage groundwater within the basin.
  - Please include a hard-copy map and GIS shape files. The area of a basin claimed by a local agency in the GSA formation notice should match the area provided in the GIS shape files. DWR’s Region Office staff will contact local agencies if those areas do not match.
- A copy of the resolution or legal agreement forming the new agency.
- A copy of any new bylaws, ordinances, or new authorities developed by the local agency.
- A list of interested parties developed pursuant to Water Code §10723.2 and an explanation of how their interests will be considered in the development and operation of the GSA and the development and implementation of the GSA’s sustainability plan.

## GSA FORMATION NOTIFICATION GUIDELINES FOR LOCAL AGENCIES

A representative of the local agency deciding to become a GSA, or a designated representative from the group of local agencies deciding to form a GSA, should include a statement in its notification that all applicable information listed in Water Code §10723.8(a) has been provided.

DWR recommends that the local agency submitting the GSA formation notice include a copy of its Government Code §6066 notice, as well as evidence demonstrating that a public hearing in accordance with Water Code §10723(b) was held in the county or counties overlying the basin.

Additional information related to a local agency's decision to be a GSA is welcomed and will help demonstrate to DWR, the State Water Resources Control Board (SWRCB), and other local agencies that a proposed GSA has the long-term technical, managerial, and financial capabilities to sustainably manage basin-wide groundwater resources and prepare a groundwater sustainability plan (GSP) or coordinated GSP for an entire groundwater basin.

### FORMING A GSA AND PUBLIC NOTIFICATION REQUIREMENTS

The following summarizes the public notification and GSA formation requirements identified in SGMA. Relevant Water Code sections are excerpted for reference.

#### Step 1: Decision to Form a GSA

The first step in the GSA formation process is public notification that a local agency is either (1) deciding to become a GSA or (2) deciding to form a GSA together with other local agencies. Water Code §10723(b) requires that a local agency or group of local agencies hold a public hearing(s) in the county or counties overlying the groundwater basin.

SGMA identifies 15 exclusive local agencies created by statute to manage groundwater within their respective statutory boundaries; however, the 15 exclusive local agencies must still decide to become GSAs and follow the same public notification process as all other local agencies. The 90-day period described in Water Code §10723.8(c) does not apply to the 15 exclusive agencies, and no other local agency can decide to be a GSA in those areas unless one of the exclusive agencies opts out of its presumed role. The relevant Water Code sections are excerpted below.

#### WATER CODE §10723

- (a) *Except as provided in subdivision (c), any local agency or combination of local agencies overlying a groundwater basin may decide to become a GSA for that basin.*
- (b) *Before deciding to become a GSA, and after publication of notice pursuant to Section 6066 of the Government Code, the local agency or agencies shall hold a public hearing in the county or counties overlying the basin.*
- (c) *[Includes list of 15 "exclusive" local agencies – these agencies do not become a GSA until they submit a notification of GSA formation to DWR].*

#### GOVERNMENT CODE §6066

*Publication of notice pursuant to this section shall be once a week for two successive weeks. Two publications in a newspaper published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The period of notice commences upon the first day of publication and terminates at the end of the fourteenth day, including therein the first day.*

## Step 2: Consideration of Interests of Beneficial Uses and Users of Groundwater

Water Code §10723.2 requires GSAs to consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing GSPs. An explanation of how those interests will be considered by a GSA when developing and implementing a GSP is required as part of the GSA formation notification requirements. The details of the explanation will be considered by DWR staff when performing its completeness review. The relevant Water Code sections are excerpted below.

### WATER CODE §10723.2

*The GSA shall consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing GSPs. These interests include, but are not limited to all of the following:*

- (a) Holders of overlying groundwater rights, including:
  - (1) Agricultural users.*
  - (2) Domestic Well owners.**
- (b) Municipal well operators.*
- (c) Public water systems.*
- (d) Local land use planning agencies.*
- (e) Environmental users of groundwater.*
- (f) Surface water users, if there is a hydrologic connection between surface and groundwater bodies.*
- (g) The federal government, including, but not limited to, the military and managers of federal lands.*
- (h) California Native American Tribes.*
- (i) Disadvantaged communities, including, but not limited to, those served by private domestic wells or small community water systems.*
- (j) Entities listed in Section 10927 that are monitoring and reporting groundwater elevations in all or a part of a groundwater basin managed by the GSA.*

GSAs are encouraged to engage additional stakeholders in order to develop the relationships and expertise necessary to develop and implement GSPs. As stated in Water Code §10727.8, “*The GSA shall encourage the active involvement of diverse social, cultural, and economic elements of the population within the groundwater basin prior to and during the development and implementation of the GSP.*”

## Step 3: Submittal of GSA Formation Information to DWR for Completeness Review

A local agency or group of local agencies must notify DWR and document its intent to become or form a GSA. The requirement for DWR to post complete GSA notices was added by an amendment made by SB 13 and is included in the Water Code references below. DWR will not post GSA formation notifications on its website that are determined incomplete – please see **Attachment A**.

### WATER CODE §10723.8

- (a) Within 30 days of deciding to become or form a GSA, the local agency or combination of local agencies shall inform the department of its decision and its intent to undertake sustainable groundwater management. The notification shall include the following information, as applicable:
  - (1) The service area boundaries, the boundaries of the basin or portion of the basin the agency intends to manage pursuant to this part, and the other agencies managing or proposing to manage groundwater within the basin.*
  - (2) A copy of the resolution forming the new agency.*
  - (3) A copy of any new bylaws, ordinances, or new authorities adopted by the local agency.*
  - (4) A list of interested parties developed pursuant to Section 10723.2 and an explanation of how their interests will be considered in the development and operation of the GSA and the development and implementation of the agency’s sustainability plan.**

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(b) *The department shall post all complete notices received under this section on its Internet Web site within 15 days of receipt.*

### EXCLUSIVE GSA FORMATION TIMELINE – OVERLAPPING GSA SERVICE AREAS

Water Code §10735.2(a) says the SWRCB, 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. A local agency that decides to become a GSA within its service area, or a group of local agencies that decides to form a GSA within their combined service areas, does not effectively become the exclusive GSA for those areas until the provisions of Water Code §10723.8(c) and (d) are met – these provisions address overlapping GSAs and management within a service area. If multiple local agencies form separate GSAs in a basin within a 90-day period, and if any of those GSA formations result in a service area overlap in the areas proposed to be managed, then none of the local agencies will become the exclusive GSA unless the overlap is resolved, which could require making a material change to the posted notice(s). The relevant Water Code sections are excerpted below.

#### WATER CODE §10723.8

- (c) *The decision to become a GSA shall take effect 90 days after the department posts notice under subdivision (b) if no other local agency submits a notification under subdivision (a) of its intent to undertake groundwater management in all or a portion of the same area. If another notification is filed within the 90-day period, the decision shall not take effect unless the other notification is withdrawn or modified to eliminate any overlap in the areas proposed to be managed. The local agencies shall seek to reach agreement to allow prompt designation of a GSA. If agreement is reached involving a material change from the information in the posted notice, a new notification shall be submitted under subdivision (a) and the department shall post notice under subdivision (b).*
- (d) *Except as provided in subdivisions (e) and (f), after the decision to be a GSA takes effect, the GSA shall be presumed to be the exclusive GSA within the area of the basin within the service area of the local agency that the local agency is managing as described in the notice.*

#### WATER CODE §10726.8

- (b) *Nothing in this part shall be construed as authorizing a local agency to make a binding determination of the water rights of any person or entity, or to impose fees or regulatory requirements on activities outside the boundaries of the local agency.*

### CONDITIONS FOR DETERMINING A GSA NOTIFICATION INCOMPLETE

A GSA formation notice could be determined incomplete if the provisions of Water Code §10723.8(a) are not clearly addressed. An incomplete notice will not be posted on DWR's GSA Formation Table – DWR staff will inform local agencies of the reason(s) for not posting. Local agencies will be given an opportunity to provide additional required information, if applicable. A complete notice will be posted within 15 days of being determined complete. Examples of what could deem a GSA formation notification to be incomplete include, but are not limited to, the following:

- Informing DWR of the decision to become a GSA more than 30 days after the decision was made.
- Submitting an incomplete map or insufficient information to clearly define the local agency's service area boundaries with respect to the area of the basin proposed to be managed as a GSA.
  - DWR must be able to determine if one GSA notice overlaps with another GSA notice, and a GIS shapefile may be required to make this determination. *Please submit an accurate shapefile.*
- No copy of a resolution or legal agreement forming the new agency.
- No copy of any new bylaws, ordinances, or new authorities adopted, if applicable.

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- An incomplete list of interested parties developed pursuant to Water Code §10723.2 or an insufficient explanation of how their interests will be considered by the GSA when developing a GSP.
- Submitting a GSA formation notification for a basin or portion of a basin where a local agency is already presumed to be the exclusive GSA.
- Deciding to become or form a GSA for an area that is outside the service area boundary of the local agency(s) forming the GSA (without a legal coordination agreement).
- Forming a GSA outside the boundaries of a basin defined in DWR's Bulletin 118.

Questions related to GSA formation can be directed to DWR by contacting Mark Nordberg at [Mark.Nordberg@water.ca.gov](mailto:Mark.Nordberg@water.ca.gov) or calling 916-651-9673. Other information and responses to frequently asked questions are located on DWR's GSA webpage at: <http://water.ca.gov/groundwater/sgm/gsa.cfm>.

Please e-mail your GSA formation notification and GIS shape files, and send via postal mail a hardcopy, to the following DWR staff:

### **Mark Nordberg, GSA Project Manager**

Sustainable Groundwater Management Program  
California Department of Water Resources  
901 P Street, Room 213-B  
P.O. Box 942836  
Sacramento, CA 94236

### **DWR Region Office Groundwater Contact**

<http://water.ca.gov/groundwater/gwinfo/contacts.cfm>  
Bill Ehorn, Northern Region  
Bill Brewster, North Central Region  
Mike McKenzie, South Central Region  
Tim Ross, Southern Region

## **SELECT SGMA AND GSA RESOURCES**

- Sustainable Groundwater Management Website: <http://water.ca.gov/groundwater/sgm/index.cfm>
- 2014 SGMA Legislation Text with 2015 Legislative Amendments: [http://www.water.ca.gov/cagroundwater/docs/2014%20Sustainable%20Groundwater%20Management%20Legislation%20with%202015%20amends%2011-10-2015\\_clean-2.pdf](http://www.water.ca.gov/cagroundwater/docs/2014%20Sustainable%20Groundwater%20Management%20Legislation%20with%202015%20amends%2011-10-2015_clean-2.pdf)
- GSA Frequently Asked Questions: see <http://water.ca.gov/groundwater/sgm/gsa.cfm>
- GSA Formation Table: [http://www.water.ca.gov/groundwater/sgm/gsa\\_table.cfm](http://www.water.ca.gov/groundwater/sgm/gsa_table.cfm)
- GSA Interactive Map: [http://water.ca.gov/groundwater/sgm/gsa\\_map.cfm](http://water.ca.gov/groundwater/sgm/gsa_map.cfm).
- Water Management Planning Tool: <http://water.ca.gov/groundwater/boundaries.cfm>
- Basin Boundaries Assessment Tool: <http://water.ca.gov/groundwater/sgm/bbat.cfm>
- GIC Interactive Map (Data): [http://water.ca.gov/groundwater/MAP\\_APP/index.cfm](http://water.ca.gov/groundwater/MAP_APP/index.cfm)



**ATTACHMENT A**  
**PROCESS FOR REVIEWING GSA FORMATION NOTICES AND ADDRESSING  
OVERLAPPING SERVICE AREA BOUNDARIES**

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1. DWR receives a GSA formation notification (notification or notice) from a local agency(s).
2. DWR reviews the notice for completeness.
  - a. If incomplete, the local agency(s) is contacted and the notice is not posted. DWR informs the local agency(s) of the reason(s) for being determined incomplete – the local agency will be given an opportunity to make the notification complete.
  - b. If complete, the notice is posted on DWR’s GSA Formation Table within 15 days.
3. Complete GSA notifications are posted with (1) the posting date and (2) a date that indicates the posting-date-plus-90-calendar-days. This is the active 90-day period for that portion of the basin.
  - a. The GSA area submitted with the notice is included on DWR’s GSA Interactive Map after DWR Region Office staff determines the suitability of the GIS shape files. The area included as a shape file must match the area depicted in the notice.
  - b. The 90-day period does not apply to the statutory boundaries of the exclusive local agencies listed in Water Code §10723(c).
4. If no other local agency(s) submits a notification within the 90-day period in all or a portion of the same basin area, the local agency(s) that submitted the notification will become the “exclusive” GSA for the area of the basin as described in the notice.
  - a. Status as “exclusive” GSA will be indicated on the GSA Formation Table and the area claimed by the GSA will be distinctly colored on the GSA Interactive Map.
  - b. If any other local agency(s) submits a notification for all or a portion of an area managed by an “exclusive” GSA, DWR will determine the notification to be incomplete and will contact that local agency(s).
5. If another local agency(s) submits a complete notification within an active 90-day period, and that notification results in an overlap in all or a portion of the same area of an existing notice, then:
  - a. The notification will be included on the GSA Formation Table with a posting date.
  - b. The column with the posting-date-plus-90-days date for all affected notifications will be labeled with “overlap” to indicate a GSA formation overlap.
  - c. The GIS shape files on the GSA Interactive Map for all affected notifications will be labeled with a color that clearly indicates the extent of the GSA formation overlap.
6. All local agencies that are affected by overlapping notifications will remain in overlap status until the conditions stated in Water Code §10723.8(c) are met.
  - a. “Exclusive” designation of a GSA will not proceed unless conflicting notifications are withdrawn or modified to eliminate any overlap in the areas proposed to be managed.
7. If agreement is reached involving a material change from the information in the posted notice, a new notification shall be submitted in accordance with Water Code §10723.8(a) and the new notification will be reviewed and posted by DWR as described in this process.
  - a. A material change includes, but is not limited to: a significant GSA boundary revision; a change of local agencies forming the GSA; or a consolidation of local agencies or proposed GSAs through a JPA or MOA or other legal agreement.
8. If overlapping GSA notifications exist in a basin after June 30, 2017, then that basin is subject to probationary status by the SWRCB per Water Code §10735.2(a). In addition, the groundwater extraction reporting requirements in Water Code §5200 *et seq.* apply to the portions of that basin where local agencies have not been determined “exclusive” GSAs.