



# SUSTAINABLE GROUNDWATER MANAGEMENT ACT

## Frequently Asked Questions

### Groundwater Sustainability Agencies (GSAs) and State Intervention under the Sustainable Groundwater Management Act (SGMA)

This document addresses questions that Groundwater Sustainability Agencies (GSAs) and others may have about upcoming probationary hearings under the Sustainable Groundwater Management Act (SGMA). These hearings are part of the State Water Resources Control Board’s (Board’s) state intervention process under SGMA. State intervention starts after the Department of Water Resources (DWR) finds a Groundwater Sustainability Plan (GSP) to be inadequate and ends when the Board returns basin oversight to DWR. For more general questions about the state intervention process, please see the [Groundwater, the Sustainable Groundwater Management Act, and State Intervention FAQs](#) or the [SGMA State Intervention website](#).

### Frequently Asked Questions

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## 1. Can a basin avoid a probationary hearing once DWR determines that one or more of its GSPs is inadequate?

After DWR determines that the GSP in a basin is inadequate, DWR refers the basin to the State Water Board. The Board then has discretion to determine whether and when to adopt what the SGMA statute calls a “probationary” designation for that basin.<sup>1</sup> The decision to place a basin on probation is not taken lightly. Before deciding, the Board will consider feedback from stakeholders and other interested parties and recommendations from its staff.

If GSAs opt to revise and resubmit one or more GSPs before a probationary hearing is held, Board staff may review the updated GSP(s), and their review could inform the Board’s decision on whether to place a basin on probation. **However, Board staff must receive updated GSPs with sufficient time for review before the scheduled probationary hearing for the revised plan to be considered.** The time required for Board staff to review resubmitted GSPs depends on the length and number of plans originally submitted, the type and number of deficiencies identified by DWR, and the complexity of revisions to the GSP(s). An estimate of the time needed for review may be provided upon request after a revised plan is provided to staff.

SGMA does not explicitly provide an opportunity for GSAs to resubmit plans to address DWR’s deficiencies before a basin is placed on probation. The Board is providing this flexibility in keeping with the law’s goal of encouraging local management of groundwater basins.

While the Board supports local management, its primary goal is to protect a basin’s groundwater when GSAs are unable to manage groundwater sustainably. Unsustainable groundwater management is an urgent problem with irreversible consequences, and delays in addressing identified GSP deficiencies may result in significant impacts to groundwater users. As a result, the Board is likely to move forward with scheduled probationary hearings unless revised GSPs are provided in a timely manner and resolve the deficiencies identified by DWR.

## 2. What happens when a basin is put on probation? What changes when probation ends?

**A GSA’s authorities and responsibilities remain the same regardless of probation.** GSAs should continue to use their groundwater management authorities to improve and implement their GSPs. Importantly, GSAs should continue to collect groundwater extraction data and fees, as needed, throughout the probationary period to support GSP revisions and implementation.

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<sup>1</sup> Wat. Code, § 10735.2, subd. (a)(3)

There are three key changes that impact GSA(s) when a basin is put on probation:

1. When DWR determines that a GSP is inadequate, DWR no longer provides oversight of plan adequacy. Instead, the Board provides this oversight.
2. When the Board places a basin on probation, the Board requires many individual groundwater extractors in the basin to report groundwater data and pay groundwater extraction fees (de minimis extractors<sup>2</sup> are likely exempt in most instances, but this will be assessed on a case-by-case basis for each basin – See question number 3 below for additional information).
3. If and when the Board implements an interim plan,<sup>3</sup> the Board begins to use the groundwater data it collects to directly manage groundwater extractions. The Board is likely to implement demand management – including restrictions on groundwater extractions – to cease overdraft until the basin exits state intervention.

When a basin exits state intervention, the GSA(s) for that basin continue to use their authorities to improve and implement the GSP(s), but DWR rather than the Board provides oversight. This means that the Board will no longer require individual extractors within the GSA to report groundwater extractions or pay fees or abide by the interim plan, including any groundwater pumping restrictions it may include.

### 3. Are there any exemptions from probation?

The law provides two main exemptions:

1. The Board may exclude a class or category of groundwater extractors from reporting extractions and paying fees if it finds that:
  - A portion of a subbasin already sustainably manages groundwater via a local plan or program, **or**;
  - The class or category's extractions are likely to have a minimal impact on basin withdrawals.<sup>4</sup> Generally, groundwater users that are pumping two acre-feet or less per year (approximately 652,000 gallons or less per year) for their own domestic use (referred to in SGMA as de minimis extractors) will be

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<sup>2</sup> De minimis extractors are people who extract, for domestic purposes, two acre-feet or less of groundwater per year.

<sup>3</sup> An interim plan may be developed if deficiencies are not addressed within one year of probation. For more information on interim plans, please see the [Groundwater, the Sustainable Groundwater Management Act, and State Intervention FAQs](#) or the [SGMA State Intervention website](#).

<sup>4</sup> Wat. Code, § 10735.2, subd. (c)(1)

exempt from reporting extractions and paying fees unless, cumulatively, those pumpers are having a substantial impact on the basin.

2. The Board will exclude from probation any portion of a basin where the Board accepts that a GSA demonstrates compliance with the sustainability goal.<sup>5</sup> Compliance with a sustainability goal requires avoiding undesirable results and operating within sustainable yield.

Since DWR evaluated GSPs at the basin-scale, the Board does not currently have adequate information to support exemptions other than potentially for de minimis extractors. Interested stakeholders may submit information in support of an exemption through the public comment process.

#### **4. In the probationary hearing, will the Board adopt the same deficiencies that the DWR found?**

The Board identifies specific deficiencies and potential actions to address them if it decides to put a basin on probation. Deficiencies identified by DWR in its determinations of plan inadequacy carry great weight with the Board, but the Board has the authority to determine its own set of deficiencies. If a basin is put on probation, GSAs will need to address the deficiencies identified by the Board in order to end state intervention and return to DWR oversight of GSPs.

Draft deficiencies will be identified by staff prior to the hearing and with time for public comment. All draft documents will be posted to the Board's [SGMA Groundwater Basins website](#) with information on how and when to submit comments. Additionally, you can sign up for the Board's SGMA email list to receive notifications and updates on the [SGMA website](#) under "Stay Informed".

#### **5. How can a basin exit probation?**

Other than certain procedural requirements,<sup>6</sup> SGMA does not provide a step-by-step process for repealing a probationary designation. The Board will identify deficiencies at a probationary hearing. GSAs must revise and readopt GSPs that address the deficiencies the Board identifies and transmit the revised GSPs to the Board for evaluation. The Board may then establish a proceeding to repeal the probationary determination. GSAs that have revised GSPs to address the Board-identified deficiencies should contact Board staff to request a preliminary staff-level evaluation of the revisions to the GSP well ahead of staff's recommendation to the Board about whether the basin should exit probation.

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<sup>5</sup> Wat. Code, § 10735.2, subd. (e)

<sup>6</sup> Wat. Code, § 10736

## 6. Why does the Board collect groundwater extraction data and fees during probation? How does that help GSAs?

SGMA directs the Board to require groundwater extraction reporting and to charge fees when a basin is put on probation. As stated above, the Board may exclude a class or category of groundwater extractors if their extractions have a minimal impact on the basin or if their area is already managed sustainably. The Board must collect groundwater extraction information in case it needs to directly manage extractions via an interim plan. Additionally, the Board may provide groundwater extraction information to GSAs to assist them with addressing plan deficiencies. Fees were initially adopted by emergency regulation (per SGMA requirements) in 2017. More information on reporting and fees, including a link to the current SGMA fee regulations, can be found on the [Board's SGMA Reporting and Fees website](#).

## 7. Can a GSA charge fees for groundwater extractions during state intervention?

GSAs have the authority to charge fees to fund sustainable groundwater management regardless of whether a basin is subject to state intervention. In fact, GSAs might not be able to exit state intervention until they provide assurance that their GSPs can be successfully implemented in a manner that is likely to achieve the sustainability goal, so GSAs should consider whether their fee programs are adequate to fund GSP implementation.

SGMA specifically grants GSAs the authority to charge fees on groundwater extractions.<sup>7</sup> Groundwater extraction fees imposed by GSAs under SGMA are subject to some of the requirements of Proposition 218,<sup>8</sup> including the requirement to hold a public hearing<sup>9</sup> at which objections to the fee must be considered. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the GSA cannot impose the fee or charge. A GSA that is unable to fund projects for achieving groundwater sustainability identified in a GSP may need to consider including alternative actions that could accomplish similar results in the GSP. For example, if a GSA is unable to fund infrastructure that is necessary to support groundwater recharge projects identified in a GSP, it might instead establish groundwater pumping restrictions<sup>10</sup> equivalent to the amount of water that would be recharged by the unfunded recharge projects.

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<sup>7</sup> Wat. Code, § 10730.

<sup>8</sup> Wat. Code, § 10730.2, subd. (c)

<sup>9</sup> Cal. Const., Art. XIIIID, § 6, subd. (a)(2)

<sup>10</sup> Wat. Code, § 10726.4, subd. (a)(2)

## **8. Can a GSA require installation and use of well meters?**

GSAs have the authority to require meters to measure groundwater extractions.<sup>11</sup> GSAs may also require installation, calibration, and reporting requirements or use any other reasonable method to determine groundwater extractions. GSAs, however, cannot require meters for de minimis extractors.<sup>12</sup>

## **9. If a GSA reduces its jurisdiction, what happens to the groundwater extractors who are no longer under its management?**

When reduced GSA jurisdiction results in an unmanaged area,<sup>13</sup> the Board must require the unmanaged users to report groundwater extraction data and pay fees to the Board.<sup>14</sup> Additionally, SGMA requires each basin to have one or more GSAs that collectively will implement one or more plans for the entire basin.<sup>15</sup>

The Board supports SGMA's principle of local, sustainable basin management. Where a GSA willingly reduces its coverage area to exclude certain parcels or people from groundwater management, leaving those parcels unmanaged, the Board will consider the impact of reduced GSA jurisdiction relative to the GSA's mandate to develop a GSP for the entire basin. If the Board finds that reduced jurisdiction prevents a GSA from developing a GSP for an entire basin, the Board will consider holding a probationary hearing for the basin.

For more information, email [SGMA@waterboards.ca.gov](mailto:SGMA@waterboards.ca.gov) or call (916) 322-6508.

This FAQ was last updated on June 21, 2023.

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<sup>11</sup> Wat. Code, § 10725.8, subd. (a)

<sup>12</sup> Wat. Code, § 10725.8, subd. (e)

<sup>13</sup> An unmanaged area is an area within a high- or medium-priority basin that is not within the management area of a groundwater sustainability agency.

<sup>14</sup> Wat. Code, § 10724(b)

<sup>15</sup> Wat. Code, § 10735.2, subd. (a)(2); Wat. Code, § 10735.2, subd. (a)(4)