

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2024-0030**

**DESIGNATION OF THE TULE GROUNDWATER SUBBASIN AS PROBATIONARY
UNDER THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT**

WHEREAS:

1. Groundwater provides a significant portion of California's water supply, making up more than one-half of the water used by Californians in drought years when other sources are unavailable. When properly managed, groundwater resources provide for communities, farms, and the environment and help protect against prolonged dry periods and climate change, preserving water supplies for existing and potential beneficial uses. However, excessive groundwater extraction can cause long-term overdraft, failed wells, deteriorated water quality, environmental damage, and irreversible land subsidence that damages infrastructure and diminishes the capacity of aquifers to store water for the future, all of which can have substantial economic impacts. Additionally, failure to manage groundwater to prevent long-term overdraft can potentially infringe on rights to or use of groundwater or interconnected surface water;
2. In 2014, the State of California enacted Assembly Bill 1739, and Senate Bills 1168 and 1319, collectively referred to as the Sustainable Groundwater Management Act (SGMA). SGMA is intended to ensure the proper and sustainable management of groundwater resources in California;
3. The State Water Board recognizes that near-term SGMA implementation has the potential to result in substantial economic impacts in overdrafted basins. The State Water Board further recognizes that the goal of SGMA is sustainable groundwater management that will ensure the long-term viability of groundwater resources for future use by communities, farms, businesses, and the environment;
4. SGMA allows local agencies overlying alluvial groundwater basins determined by the Department of Water Resources to be high- or medium-priority to form Groundwater Sustainability Agencies (GSAs), and requires each GSA to prepare and implement a Groundwater Sustainability Plan (GSP) to achieve sustainable management of the basin;
5. SGMA recognizes that groundwater management is best accomplished locally; however, if local agencies fail to form a GSA or prepare a GSP for a groundwater basin, or the Department of Water Resources determines that

the GSP is inadequate or not being implemented in a way that is likely to achieve SGMA's sustainability goal, SGMA authorizes the State Water Resources Control Board (State Water Board or Board) to intervene in the basin to ensure that the basin is managed sustainably;

6. SGMA requires GSAs, which can have broad impacts within their basins, to consider the interests of all beneficial uses and users of groundwater and to encourage the active involvement of diverse elements of the population of a groundwater basin during the development and implementation of GSPs;
7. To implement SGMA's state intervention process, the State Water Board may designate a basin as probationary. If the State Water Board designates a basin as probationary, it must identify the deficiencies in the GSP, identify potential actions to remedy the deficiencies, and exclude from probationary status any portion of a basin for which a GSA demonstrates compliance with SGMA's sustainability goal, and may exclude a class or category of extractions from the reporting and fee requirement that applies to probationary basins under Water Code section 5202 if those extractions are adequately managed under an applicable plan or program or are likely to have a minimal impact on basin withdrawals;
8. The deadline for GSAs in critically overdrafted high- and medium-priority basins to adopt and submit GSPs for review by the Department of Water Resources was January 31, 2020;
9. The Tule Subbasin is depicted in Attachment 1 and is a critically overdrafted high-priority basin;
10. As of the date of this resolution, the Eastern Tule Groundwater Sustainability Agency, Pixley Irrigation District Groundwater Sustainability Agency, Lower Tule River Irrigation District Groundwater Sustainability Agency, Delano-Earlimart Irrigation District Groundwater Sustainability Agency, Alpaugh Groundwater Sustainability Agency, and County of Tulare Groundwater Sustainability Agency, the Tri-County Water Authority Groundwater Sustainability Agency, Kern-Tulare Water District Groundwater Sustainability Agency, the Vandalia Water District, and the Teapot Dome Water District (collectively, the Tule Subbasin GSAs) were recognized by the Department of Water Resources as the GSAs for the Tule Subbasin;
11. The Tule Subbasin GSAs submitted the Tule Subbasin 2020 GSPs to the Department of Water Resources for review between January 23 and 30, 2020;

12. On January 28, 2022, the Department of Water Resources issued a determination that the Tule Subbasin 2020 GSPs were incomplete and provided the Tule Subbasin GSAs with 180 days to address the deficiencies identified in the incomplete determination;
13. The Tule Subbasin GSAs submitted Revised Tule Subbasin GSPs to the Department of Water Resources for review on July 27, 2022;
14. The Department of Water Resources evaluated the Revised Tule Subbasin GSPs and on March 2, 2023 issued its “Inadequate Determination of the Revised 2020 Groundwater Sustainability Plans Submitted for the San Joaquin Valley – Tule Subbasin” which is available on the Department’s online SGMA portal;
15. The State Water Board reviewed the Tule Subbasin 2022 GSPs and the Department of Water Resources’ determination of inadequacy, and Board staff prepared a draft staff report that describes the GSPs’ deficiencies, recommends potential actions that GSAs could take to remedy the deficiencies, and supports designating the Tule Subbasin as a probationary basin under SGMA;
16. On March 7, 2024, the State Water Board made the draft staff report available to the public and issued notice of public staff workshops, opportunities to comment on the draft staff report, and the date of the public board hearing for the proposed designation of the Tule Subbasin as a probationary basin;
17. When issuing the notice, the State Water Board posted the notice on its website and sent the notice by electronic mail to its SGMA email listserv, to the Department of Water Resources, to each city and county within which any part of the Tule subbasin is situated, and to the points of contact for each of the Tule Subbasin GSAs;
18. On March 7, 2024, the State Water Board mailed the notice to all persons known to the Board who extract or who propose to extract water from the basin;
19. The public comment period for the probationary hearing notice and draft staff report ran from March 7, 2024, to May 7, 2024;
20. The State Water Board staff held informational workshops on April 5, 2024, and April 8, 2024, to explain the draft staff report, share more about how to

participate in the State Water Board's state intervention process, and accept verbal public comments regarding the draft staff report;

21. State Water Board staff, after reviewing and considering input from public comments submitted at the workshops and during the public comment period, have revised and [finalized the staff report](#), which supports the staff recommendation that the State Water Board designate the Tule Subbasin as a probationary basin under SGMA and sets forth the staff recommendation that the State Water Board exclude extractions that are subject to and in compliance with the Kern-Tulare management actions or the DEID management actions from the requirement to report groundwater extractions and pay fees imposed by Water Code section 5202;

22. The Kern-Tulare Water District Groundwater Sustainability Agency (Kern-Tulare) has adopted and is implementing a well registration and metering program that includes registration of groundwater wells, requirements for meters, monitoring by Kern-Tulare staff, and a charge on groundwater extractions. These management actions (the Kern-Tulare management actions) have resulted in the maintenance of a generally balanced groundwater budget such that groundwater extractions have not exceeded additions to groundwater in the Kern-Tulare Management Areas even though the volume of extractions varies year to year, and this balanced pattern is expected to continue into the future. Kern-Tulare has submitted proposed GSP revisions to the State Water Board for consideration but upon initial staff review the proposed revised GSP does not demonstrate compliance with the sustainability goal because it is not clear that it identifies and causes implementation of measures that will ensure the portion of the Tule Subbasin to which it applies will be operated without causing undesirable results. After consideration of the components of Kern-Tulare's well registration and metering program, however, staff recommends that if the Board designates the Tule Subbasin as probationary, it exclude groundwater extractions that are subject to and in compliance with the Kern-Tulare well registration and metering program from the requirement to report extractions and pay the associated fee imposed by Water Code section 5202 as long as the groundwater budget within Kern-Tulare remains generally balanced.

23. The Delano-Earlimart Irrigation District GSA (DEID) manages groundwater extractions within the Richgrove, Earlimart, and DEID management areas (collectively, the DEID Management Areas) and is implementing groundwater management actions (the DEID management actions) within those management areas that have resulted in the maintenance of a generally balanced groundwater budget such that groundwater extractions have not exceeded additions to groundwater in the DEID Management Areas even though the amount of extractions varies year to year. This balanced pattern is

expected to continue into the future, as DEID is developing a demand management plan. DEID has submitted a proposed revised GSP to the State Water Board for review but that proposed revised GSP does not demonstrate compliance with the sustainability goal because it does not resolve the deficiencies identified by Board staff and set forth in the Final Staff Report, particularly with respect to the definition of sustainable management criteria and related monitoring regarding degradation of water quality. After consideration of the improvements DEID has made to the GSP and confirming that the water budget in the DEID Management Areas has been generally balanced even when factoring in years of higher groundwater pumping, however, staff recommends that if the State Water Board designates the Tule Subbasin as probationary, it exclude groundwater extractions within the DEID Management Areas that are in compliance with DEID's management activities be excluded from the requirement from report extractions and pay the associated fee imposed by Water Code section 5202 as long as the groundwater budget in the DEID Management Areas remains generally balanced.

24. The State Water Board has reviewed and considered the staff report and public testimony and comments received during the public comment period and at the public probationary hearing;
25. The State Water Board recognizes the established Human Right to Water policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes;
26. The State Water Board is committed to upholding California's human right to water and making racial equity, diversity, inclusion, and environmental justice a central consideration in water law;
27. The State Water Board has a duty to consider adverse impacts groundwater extraction would have on public trust resources and to protect public trust resources where feasible;
28. The State Water Board acknowledges and appreciates the efforts of the Tule Subbasin GSAs to develop and revise the Tule Subbasin GSPs, including continued constructive engagement with State Water Board staff on technical information and approaches to remedy deficiencies, but these efforts have not yet been sufficient to rectify deficiencies in the GSPs;

29. Based on its review and consideration, the State Water Board agrees that the Tule Subbasin should be designated at this time as probationary and agrees with other staff recommendations as resolved herein.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Finds that the Tule Subbasin is subject to Water Code section 10720.7, subdivision (a)(1), and that the Department of Water Resources, in consultation with the State Water Board, has determined that the groundwater sustainability plans for the Tule Subbasin are inadequate.
2. Designates the Tule Subbasin as a probationary basin pursuant to Water Code section 10735.2, subdivision (a)(3) with an effective date of October 3, 2024.
3. Identifies deficiencies in the Tule Subbasin 2022 GSPs and corresponding potential actions, identified in the final staff report as potential actions, that can correct those deficiencies pursuant to Water Code section 10735.6, subdivision (a). Deficiencies identified:
 - a. Groundwater Levels (GL)
 - i. Deficiency GL-1 – The 2022 GSPs plain-language undesirable results do not clearly describe the impacts from groundwater level decline that would constitute a “lack of access to water supplies.”
 - ii. Deficiency GL-2 – The Tri-County Water Authority GSP quantitative undesirable result definition is unclear and inconsistent with the Coordination Agreement.
 - iii. Deficiency GL-3 – The GSPs use modeled rather than observed 2015 groundwater levels to identify wells that were already impacted before SGMA.
 - iv. Deficiency GL-4 – GSPs do not provide a reasonable path to achieve the sustainability goal by 2040.

- v. Deficiency GL-5 – The 2022 GSPs Minimum Thresholds do not clearly represent undesirable results.
- vi. Deficiency GL-6 – The number of impacted wells differs between the Coordination Agreement and the Delano-Earlimart Irrigation District GSP.
- vii. Deficiency GL-7 – The Tri-County Water Authority GSP does not explain how it chose the 90th percentile threshold for well completion elevations as the Minimum Threshold for upper aquifer wells.
- viii. Deficiency GL-8 – The well mitigation framework provided in the GSPs lacks necessary detail.
- ix. Deficiency GL-9 – There are inconsistencies in the description of the proposed groundwater level monitoring network between the text, tables, and maps of the 2022 Coordination Agreement.

b. Land Subsidence (LS)

- i. Deficiency LS-1 - The 2022 GSPs do not clearly describe subsidence conditions that would reasonably be expected to cause undesirable results.
- ii. Deficiency LS-2 - The GSAs did not set Minimum Thresholds in accordance with DWR Regulations.
 - 1. Deficiency LS-2a – MTs were not established based on avoiding undesirable results.
 - 2. Deficiency LS-2b – Some MTs appear to exceed subsidence limits set in other pre-existing agreements and there are MT discrepancies between documents.
- iii. Deficiency LS-3 – The GSPs do not provide adequate implementation details and are not on track to avoid serious impacts to the Friant-Kern Canal.

- iv. Deficiency LS-4 – The Tri-County Water Authority GSP does not define Undesirable Results and Sustainable Management Criteria consistent with the Subbasin Coordination Agreement.
- v. Deficiency LS-5 – The GSPs do not address undesirable results caused by land subsidence after 2040, and instead allow for residual subsidence to continue after 2040.

c. Groundwater Quality (GWQ)

- i. Deficiency GWQ-1 – The 2022 GSPs do not clearly define the conditions that would be considered an undesirable result.
- ii. Deficiency GWQ-2 – Minimum thresholds set by the 2022 GSPs are not consistent with GSP Regulations.
 - 1. Deficiency GWQ-2a – The GSPs do not define Minimum Thresholds consistent with prevention of further degradation of groundwater quality where pre-2015 undesirable results occurred.
 - 2. Deficiency GWQ-2b – The GSPs do not consider all constituents with known exceedances.
 - 3. Deficiency GWQ-2c – Minimum Thresholds based on agricultural standards are applied to domestic wells.
- iii. Deficiency GWQ-3 – The Tri-County Water Authority GSP does not define Undesirable Results and Sustainable Management Criteria consistent with the Subbasin Coordination Agreement.
 - 1. Deficiency GWQ-3a – The Tri-County Water Authority GSP defined undesirable result is inconsistent with the subbasin wide definition of an undesirable result.
 - 2. Deficiency GWQ-3b – The TCWA method of setting SMC is not consistent with the goals of SGMA or the Tule Subbasin Coordination Agreement.

- iv. Deficiency GWQ-4 – The water quality monitoring plan in the 2022 GSPs is not consistent with GSP regulations.
 - 1. Deficiency GWQ-4a – The proposed monitoring network in the 2022 GSPs is inconsistent with the 2022 Coordination Agreement defined RMS wells.
 - 2. Deficiency GWQ-4b – The proposed monitoring frequency is insufficient to detect short-term and seasonal trends.
- v. Deficiency GWQ-5 – Management actions are not responsive to water quality degradation.
 - 1. Deficiency GWQ-5a – Additional sampling is not triggered when MTs are exceeded.
 - 2. Deficiency GWQ-5b – Well mitigation plans do not address MT exceedances.

d. Interconnected Surface Water (ISW)

- i. Deficiency ISW-1 – The 2022 GSPs claim that there is no ISW in the Tule basin, but the analysis is limited and relies on incomplete data.
 - ii. Deficiency ISW-2 – The 2022 GSPs do not correctly define Interconnected Surface Water.
 - iii. Deficiency ISW-3 – If depletions of Interconnected Surface Water occur in the subbasin, the GSAs must set Sustainable Management Criteria for depletions of Interconnected Surface Water and establish a shallow water monitoring network.
4. Adopts the following requirements and exclusions regarding reporting, measuring, and metering of groundwater extractions:

- a. In accordance with Water Code sections 5202 and 10721, any person who extracts more than two acre-feet of groundwater per year from the subbasin or who extracts groundwater from the subbasin for purposes other than domestic uses must report their extractions made on or after January 1, 2025, to the State Water Board pursuant to Water Code section 5202 and pay to the State Water Board the associated fee imposed pursuant to California Code of Regulations, title 23, section 1040 et seq.. Any person who extracts two acre-feet of water or less per year for domestic purposes only is a de minimis extractor and is exempt from this requirement.

- b. In addition to the above requirements, any extractions that are within the Friant-Kern Canal Subsidence Management Area and not de minimis must be measured using a meter that meets the requirements of Cal. Code Regs., title 23, section 1042.

- c. In addition to the above requirements, for the purposes of measuring and reporting extractions, any person (extractor) who extracts more than 500 acre-feet from the Tule subbasin during the period of October 1, 2023, through September 30, 2024, and any person who anticipates extracting more than 500 acre-feet during the period of October 1, 2024, and September 30, 2025, must install meters no later than March 1, 2025, on each production well that extracts groundwater for uses that cannot be measured by an evapotranspiration methodology no later than March 1, 2025. For each production well that extracts groundwater for uses that can be measured by an evapotranspiration methodology, individuals must do one of the following no later than March 1, 2025:
 - i. Install and use meters that meet the requirements of Cal. Code Regs., title 23, section 1042 on their production wells;

 - ii. Use an evapotranspiration methodology to determine monthly extraction volumes for each parcel where groundwater use occurs. If the methodology was developed or is currently implemented by a GSA, the extractor may elect to have the applicable GSA submit the extraction report on behalf of the extractor. A GSA may compile and submit extraction reports for multiple extractors, provided the information required by Water Code section 5203 is organized on a per extractor and per parcel basis.

- d. Extractors using a methodology described in section 4.c.ii are also subject to the following requirements:
 - i. For any individual relying on an evapotranspiration method to report extractions the extraction report shall include an explanation of the methodology. Additionally, if groundwater is extracted for uses not measured by the evapotranspiration methodology, those extractions must be measured by a meter, and this must be included in the explanation of the methodology.
 - ii. If any evapotranspiration methodology relies on data regarding surface water deliveries to the extractor's place of use for extracted groundwater to determine extraction volumes, surface water delivery data relied on by the methodology for each parcel shall be included in the extraction report.
- e. Wells that are used for domestic purposes only and extract two acre-feet or less of groundwater per year are excluded from the requirement to install and use meters or an alternative methodology set forth above provided that the extractor uses another method to measure extractions from those wells and includes the measurements in reports of groundwater extractions.
- f. Temporarily forgoing the use of meters for periods of time reasonably necessary for replacement, maintenance, or calibration activities does not violate the requirement of subdivision (b), provided that the extractor measures groundwater extractions using another method during those periods and includes the measurements for those periods in the reports of groundwater extraction filed pursuant to subdivision (a).

5. Regarding Kern-Tulare:

- a. Finds that the Kern-Tulare management actions adequately manage extractions within the portion of the Tule Subbasin to which they apply.
- b. Pursuant to subdivision (c) of Water Code section 10735.2, excludes groundwater extractions within the Tule Subbasin that are subject to and made in compliance with the Kern-Tulare management actions

from the requirement for reporting extractions and paying the associated fees imposed by Water Code section 5202.

- c. Directs Board staff to evaluate the continued adequacy of Kern-Tulare's groundwater management in the Tule Subbasin at least annually based on information provided by Kern-Tulare or other interested parties and any other relevant information available to staff and to post a summary of the results of such evaluation on the Board's webpage for the Tule Subbasin.
- d. Directs Board staff to continue to provide technical feedback to Kern-Tulare regarding resolution of the deficiencies identified in the Final Staff Report. Upon submittal of a revised GSP, the Executive Director is delegated authority to exclude Kern-Tulare from probationary status pursuant to water code section 10735.2, subdivision (e), provided the GSP addresses the deficiencies in the Final Staff Report and the findings that supported exclusion pursuant to subdivision (c) continue to apply.
- e. This resolution may be amended as provided herein if adequate management of extractions excluded from the reporting requirement under this section ceases.

6. Regarding DEID:

- a. Finds that the DEID management actions are adequately managing groundwater extractions within the DEID Management Areas.
- b. Pursuant to subdivision (c) of Water Code section 10735.2, excludes groundwater extractions from the DEID Management Areas that are subject to and made in compliance with DEID's groundwater management actions from the requirement for reporting extractions and paying the associated fees pursuant to subdivision (c) of Water Code section 10735.2
- c. Directs Board staff to evaluate the continued adequacy of DEID's groundwater management in the Tule Subbasin at least annually based on information provided by DEID or other interested parties and any other relevant information available to staff and to post a summary of the results of such evaluation on the Board's webpage for the Tule Subbasin.

- d. Directs Board staff to continue to provide technical feedback to DEID regarding resolution of the deficiencies identified in the Final Staff Report. Upon submittal of a revised GSP, the Executive Director is delegated authority to exclude DEID from probationary status pursuant to water code section 10735.2, subdivision (e), provided the GSP addresses the deficiencies in the Final Staff Report and the findings that supported exclusion pursuant to subdivision (c) continue to apply.
 - e. This resolution may be amended as provided herein if adequate management of extractions excluded from the reporting requirement under this section ceases.
7. Directs State Water Board staff to continue to provide technical feedback to the Tule Subbasin GSAs regarding the GSAs' efforts to resolve the deficiencies in the GSPs and to periodically update the State Water Board regarding the GSAs' progress towards resolving the deficiencies, including whether actions GSAs may propose to correct the GSPs' deficiencies (other than the potential actions identified by the State Water Board) meet SGMA's standards and whether the Board should consider applying exclusions under Water Code section 10735.2. Factors for consideration in evaluating exclusions may include whether there is a feasible and timely strategy for avoiding undesirable results and conditions of long-term overdraft, what plans or policies are in place for implementing such strategies, whether there are contingency plans in the event the original strategy fails, and any other factors indicating that a GSA has demonstrated compliance with the sustainability goal, that extractions are adequately managed, or that extractions have a minimal impact on basin withdrawals. Recommendations for application of exclusions under Water Code section 10735.2 shall be provided by State Water Board staff in the form of a resolution amending the probationary designation and shall be issued for public comment at least 30 days prior to State Water Board action on the resolution.
8. Delegates to the Executive Director the authority to amend the reporting and metering requirements of this probationary designation after the provision of at least 30 days' public notice.
9. Directs staff to provide notice and opportunity for public comment at least 30 days before bringing to the State Water Board for consideration and potential approval a resolution to adopt amendments of this probationary designation that are not delegated to the Executive Director or to repeal this probationary designation.

10. Directs staff to solicit technical feedback from the United States Bureau of Reclamation, the Friant Water Authority, and the Department of Water Resources regarding the effects of subsidence in the Tule Subbasin and to consider that feedback in making further recommendations regarding the Subbasin.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 17, 2024.

AYE: Chair E. Joaquin Esquivel
Vice Chair Dorene D'Adamo
Board Member Sean Maguire
Board Member Laurel Firestone
Board Member Nichole Morgan

NAY: None

ABSENT: None

ABSTAIN: None



Courtney Tyler
Clerk to the Board