

Memorandums of Agreement, Joint Powers Authorities, and Coordination Agreements

Sustainable Groundwater Management Act (SGMA)

Reaching agreement on who will manage a groundwater basin is a critical step in achieving sustainable management, and there a number of ways that agencies may enter into agreements for managing groundwater. The following information may be useful for local public agencies or other groups interested in learning more about legal agreements between agencies for the Sustainable Groundwater Management Act (SGMA) compliance activities.

[Note: the information contained in this document does not indicate a preference, either in terms of content or in terms of process, for any specific legal agreement or coordination effort. The references and citations are provided strictly as informational material. The following information incorporates the 2015 legislative changes outlined in SB13.]

Forming a Groundwater Sustainability Agency

One of the most important SGMA requirements is the formation of one or more groundwater sustainability agencies (GSAs). The GSA is responsible for developing a sustainability plan for the groundwater basin. SGMA allows any local agency to become a GSA; in some cases, there may be multiple agencies that are interested in jointly managing the groundwater resources. SGMA allows multiple local agencies to act as a single GSA through a **memorandum of agreement (MOA), a joint powers agreement (JPA), or any other legal agreement** (California Water Code, Section [§] 10723.6 (a)).¹ A water corporation regulated by the PUC or a mutual water company may also participate in a GSA through a memorandum of agreement or other legal agreement (§ 10723.6 (b)). Additionally, although Tribes cannot form GSAs, they can participate in SGMA through a JPA or other agreement (§ 10720.3 (c)).

Every groundwater basin must have a GSA for all areas of the basin, by June 30, 2017. Submitting a GSA notification to the Department of Water Resources (DWR) initiates a 90-day period after which the submitting agency is presumed to be the exclusive GSA in the area covered by the notification. If local agencies submit GSA notifications for overlapping areas, no agency will become the GSA until the agencies reach agreement on sharing the authority to manage the basin (§ 10723.8 (c)). If the local agencies cannot reach agreement, the basin may be designated as a probationary basin and the state may develop an interim plan for managing the basin until the agencies can reach agreement and identify a GSA or GSAs (§ 107352.2(a)(1)).

Some local agencies have entered into a non-binding memorandum of understanding to forbear submittal of a GSA notification until all interested local agencies have an opportunity to meet and agree on which agencies will manage the groundwater basin. Taking the necessary time to negotiate and reach agreement among the local agencies prior to submitting a GSA notification may lead to a more productive and less costly process for achieving sustainable groundwater management.

Developing Coordinated Sustainability Plans

Where multiple agencies agree to act as a single GSA, the agencies will develop a single groundwater sustainability plan (§ 10727(b)(1)). Multiple GSAs may also work together to develop a single sustainability plan (§ 10727(b)(2)), or to develop multiple sustainability plans for a single basin. When there is more than one sustainability plan for a groundwater basin, the responsible GSAs must

¹ All subsequent citations are to the California Water Code.

coordinate management of the basin through a single **coordination agreement** that covers the entire basin (§ 10727(b)(3)). The coordination agreement, defined as a legal agreement between two or more GSAs for coordinating multiple agencies or sustainability plans within a basin (§ 10721 (d)), must be submitted to DWR for review with the submission of the groundwater sustainability plans. SGMA requires that each coordinated sustainability plan utilize the same data and methodologies for groundwater elevation data, extraction data, surface water supply, total water use, change in storage, water budget, and sustainable yield (§ 10727.6). DWR will adopt regulations for evaluating coordination agreements by June 1, 2016 (§ 10733.2(a)(1)).

References and Available Documents

The California Water Foundation recently published a *Guide to Forming Groundwater Sustainability Agencies* (Guide), which includes chapters on “Governance Through an MOA,” and “GSA Formation through a JPA.” The Guide includes a table comparing the differences between the two types of agreements. The Guide can be found on the California Water Foundation Website:

http://californiawaterfoundation.org/wp-content/uploads/2015/09/CF_GSA_Guide_09.30.15_web.pdf

Sample Memorandum of Agreement and Joint Powers Agreements

Several basins or groups have developed Memorandums of Agreement (MOAs) and JPAs to help guide their SGMA efforts, including GSA formation and development of sustainability plans. Several sample MOAs/JPAs establishing relationships between interested agencies are presented below. The State Water Resources Control Board and DWR do not intend this list to indicate preference, approval, or legal merit, and do not intend that a GSA should or must follow the content or intent of any of the agreements listed below.

- Ventura Basin: www.cityofventura.net/files/file/meetings/city_council/2015/03-16-15/item%2010.pdf
- Kings Basin: www.co.fresno.ca.us/ViewDocument.aspx?id=63946
- Monterey County: www.mpwmd.dst.ca.us/asd/board/boardpacket/2003/20030828/07/item7_exh7b.pdf
- Sacramento Central Basin Groundwater Authority JPA: <http://www.scgah2o.org/documents/Sacramento%20Central%20JPA.pdf>
- Soquel-Aptos JPA: http://sccounty01.co.santa-cruz.ca.us/BDS/Govstream2/Bdsvdata/non_legacy_2.0/agendas/2015/20150519-658/PDF/036.pdf
- Eastern San Joaquin County JPA: http://www.ci.lathrop.ca.us/agenda/pdf/18-09-2015_11-16-09-23_Report.pdf
- Madera Groundwater Authority JPA: http://www.cityofmadera.org/c/document_library/get_file?uuid=4837dba9-975e-4b53-b8a7-9ac69f4a9ee2&groupId=10128

