
Subject: Eastern Municipal Water District - GSA eligibility formation and State intervention questions
Attachments: Private_Groundwater_Producers_Location_Maps_20160114.pdf; Stipulated Judgment filed 4-18-2013 - Exhibit C.pdf; Jones San Jacinto Basin SGMA Opinion.pdf

From: Gage, Kelley [<mailto:gagek@emwd.org>]
Sent: Wednesday, April 06, 2016 8:36 AM
To: WB-EXEC-Groundwater_Management
Cc: Jones, Paul; Steve O'Neill
Subject: Eastern Municipal Water District - GSA eligibility formation and State intervention questions

To: State Water Resources Control Board

Eastern Municipal Water District (EMWD) is located in Riverside County and plans to participate with other local agencies in forming a Groundwater Sustainability Agency (GSA) for the San Jacinto Basin (Bulletin 118, Basin No. 8-05). The Sustainable Groundwater Management Act (SGMA) designates the San Jacinto Basin as an adjudicated basin or "area," but incorrectly assumes it is fully adjudicated. [Water Code §10720.8 (a)(16)]

Only a portion of the San Jacinto Basin is managed by a Watermaster pursuant to a stipulated judgment [*Eastern Municipal Water District v City of Hemet, et al.*, Riverside County Superior Court, Case No. RIC 1207274 ("San Jacinto lawsuit")]. The area of adjudication does not cover the entire hydrological basin (Basin No. 8-05). Further, not all pumpers in the area of the adjudication are parties to the judgment. Stated another way, the adjudication excludes significant portions of the groundwater basin and excludes significant pumpers in the region that it adjudicates.

The attached map shows the portion of Basin 8-05 subject to the adjudication, depicting private pumpers Class A, Class B and Non-Participants parcels identified in the adjudication. Class B participants have assigned Base Production Rights in the Stipulated Judgment (see Judgment - Exhibit C, attached). Class A participants do not have assigned Base Production Rights in the Judgment, but have the right to convert to Class B within three years of the date of the entry of the judgment, or by April 18, 2016. Non-Participants are private pumpers that elected to not participate in the Water Management Plan, and do not have the option to intervene as a Party under the Judgment at a later date. The remaining parcels shown on the attached map that are not designated as Class A, Class B or Non-Participants are not subject to the Judgment and therefore not a part of the Water Management Plan.

General Counsel to EMWD, Mr. Steven O'Neill, has prepared a legal opinion concerning the creation of a GSA for the unadjudicated parts of the San Jacinto Basin; it is attached.

We have also reviewed the Department of Water Resources published GSA FAQ's: http://www.water.ca.gov/groundwater/sgm/pdfs/DWR_GSA_FAQ_2016-01-07.pdf, specifically:

15. Must a GSA be formed if portions of a basin are not adjudicated?

Yes. If there are areas of a high- or medium-priority basin that are not part of an adjudicated action listed Water Code §10720.8, then a GSA should be formed in those areas by June 30, 2017. The response to this question does not address Alternative Plans where management pursuant to an adjudicated action could be used as an Alternative Plan submittal. The GSP emergency regulations will be adopted by June 1, 2016, which will provide additional GSP and Alternative Plan details. *Water Code References: §10720.8, §10721, §10727 et seq., §10733.2, §10733.6, §10735 et seq.*

EMWD is requesting the State Water Resources Control Board provide written clarification by answering the following questions regarding the eligibility of EMWD, and the other local agencies, forming a GSA over the unadjudicated portion of San Jacinto Basin:

1. If the remaining parcels/pumpers not subject to the adjudication that are within the 'adjudicated area' and are not covered by a GSA, would the State Board designate the unadjudicated parts of the basin as an unmanaged area, and therefore a probationary basin under Water Code Section 10735.2(a)(1)?
2. Does State intervention apply in the absence of GSA formation over the unmanaged area? Thus, would the area be subject to groundwater extraction reporting in accordance with Part 5.2 (commencing with §5200) of Division 2 of the Water Code and be subject to fees listed in §1529.5?

We very much appreciate your consideration of the above and are available to answer any additional questions you may have or provide additional information. We are hoping for an expeditious review and response from the State Water Board on this issue. If the portion of the basin in question is considered an 'unmanaged area' under SGMA, we can promptly begin the process of forming a multi-agency GSA for the area.

Kindest regards,

Kelley Gage

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IMPORTANT NOTE: EMWD is now in Stage 4 of the Water Shortage Contingency Plan. All outdoor water budgets are reduced 70 percent from what they would be under non-drought conditions. Please visit www.emwd.org/drought to find out how this may impact customer water bills.