
State Water Resources Control Board

December 12, 2016

Frequently Asked Questions on Groundwater Sustainability Agencies State Water Resources Control Board

The 2014 Sustainable Groundwater Management Act (SGMA) requires the formation of groundwater sustainability agencies (GSAs) in high- and medium-priority groundwater basins and subbasins (basins) by June 30, 2017. The following provides general guidance on some frequently asked questions about GSA formation, and will be updated as necessary. The FAQs provided here supplement additional frequently asked questions about GSAs that the Department of Water Resources (DWR) has responded to (available on DWR's Sustainable Groundwater Management website: <http://www.water.ca.gov/groundwater/sgm/gsa.cfm>).

1. Which local agencies are eligible to be GSAs?

Any local public agency that has water supply, water management, or land use responsibilities within a groundwater basin can decide to become a GSA. A single local agency can decide to become a GSA, or a combination of local agencies can decide to form a GSA by using a joint powers agreement, a memorandum of agreement (MOA), or other legal agreement. The State Water Board has sent several letters to entities who requested clarification on GSA eligibility; these letters are available on the State Water Board's website at http://www.waterboards.ca.gov/water_issues/programs/gmp/eligibility.shtml.
Wat. Code, §§ 10721, 10723, 10723.6, 10723.8, & 10726.8.

2. How can a water corporation regulated by the California Public Utilities Commission or a mutual water company participate in a GSA?

Only local public agencies can become or form a GSA. However, a water corporation regulated by the California Public Utilities Commission or a mutual water company may participate in a GSA through a MOA or other legal agreement. The structure of an agreement that allows participation by private water entities is up to the GSA to determine, but that agreement must be in compliance with applicable laws governing agreements between public and private entities. SGMA does not confer any additional powers to a nongovernmental agency.

Some mutual water companies have proposed to participate in a GSA by entering a joint powers agreement with other local agencies. Unlike water corporations, mutual water companies may enter into a joint powers agreement with one or more public agencies for the purpose of jointly exercising any power common to the contracting parties. (Gov. Code, § 6525.) However, only local public agencies are authorized by Water Code section 10723.6 to form a GSA using a joint powers agreement. Furthermore, an agency created by

a joint powers agreement holds only those powers that are common to its signatory members. Because a mutual water company does not have the independent authority to become a GSA, a JPA that includes a mutual water company as a signatory member also lacks the authority to become a GSA.

This does not foreclose a mutual water company from participating in a GSA that has been formed by a joint powers agreement. Although it cannot be a signatory member, a mutual water company may participate in the governance of a GSA if the members agree to grant it a seat on the governing board. An example of a joint powers authority that includes representatives of local mutual water companies on its governing board is the Sacramento Central Groundwater Authority, whose joint powers agreement is available here: <http://www.scgah2o.org/documents/Sacramento%20Central%20JPA.pdf>.

Note that groundwater extractors not located within a valid GSA as of July 1, 2017, are required to report extractions and pay fees to the State Water Board. *Wat. Code, §§ 5202, 10723 & 10723.6; Gov. Code, § 6525.*

3. What happens if the 90-day waiting period to become an exclusive GSA has not expired by June 30, 2017?

The State Water Board will not intervene in a basin in which the entire basin is within the management area of a GSA, even if the 90-day notice period for a GSA to become the exclusive GSA for that area has not expired by June 30, 2017. If another local agency files a notification of decision to become a GSA for all or a portion of the same area within a basin, such that neither decision to become a GSA will take effect after the 90-day notice period, the basin is subject to state intervention. *Wat. Code, §§ 10723.8, subd. (c) & 10735.2(a).*