

# Draft Discussion Paper Tribal Participation with Groundwater Sustainability Agencies

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*Department of Water Resources-State Water Resources Control Board-Tribal Advisory Group  
October 5, 2015*

## **1.0 PURPOSE**

The purpose of this paper is to provide information to advance the discussion between the Department, State Water Resources Control Board (SWRCB) and the Tribal Advisory Group regarding the issue of Tribal participation with SGMA and in particular the relationship between Tribes and Groundwater Sustainability Agencies (GSA). This paper is particularly focused on managing basins containing tribal lands within the basin's boundaries.

This paper should only be used to promote discussion and is not intended to be a position on the topic. This paper should not be referenced as guidelines or policy since it is only being used to formulate a potential direction to promote statewide sustainable groundwater management within basins shared by tribal and GSA boundaries. This document presents preliminary draft information to promote discussion and is subject to revision. Furthermore, because this discussion paper addresses a variety of issues raised by individuals and entities outside of DWR, inclusion of the issues in this document does not constitute an endorsement of any particular issue. DWR invites comment and input on the preliminary draft information and questions presented in this document. Comments should be submitted to [sgmps@water.ca.gov](mailto:sgmps@water.ca.gov).

## **2.0 BACKGROUND**

In 2014, legislation was passed that provides a statewide framework for sustainable groundwater management in California (Senate Bill [SB] 1168, Assembly Bill [AB] 1739, and SB 1319). This legislation, referred to as the SGMA, is intended to support local groundwater management through the oversight of a GSA. Only local agencies can elect to be a GSA. To avoid intervention by the SWRCB, the SGMA requires that all areas of a basin be covered by one or more GSAs in all high- and medium-priority basins by June 30, 2017. The SGMA then requires GSAs to develop GSPs for their respective groundwater basins by January 2020 or 2022, and to achieve sustainability goals by 2040 or 2042. In addition, the SGMA allows the SWRCB to intervene where GSPs are found to be incomplete or inadequate. The exceptions to these requirements include adjudicated portions of certain groundwater basins and local agencies that have already submitted to DWR an Alternative GSP that has been approved or is pending approval.

### **3.0 SELECT CALIFORNIA WATER CODE SECTIONS RELATED TO GSA FORMATION AND TRIBAL PARTICIPATION**

This part identifies select sections of the Water Code related to GSA formation and Tribal participation in SGMA and includes the relevant text. A summary of issues and challenges, and considerations and questions specific to Tribal participation is included in Section 4. The following are Water Code provisions related to GSA formation and Tribal participation that serve as a useful reference when considering the discussion presented in Section 4. Portions of Chapters 5 and 6 of SGMA are included to further the discussion on the authorities and activities that tribes may choose to implement or adopt during coordination with neighboring GSAs.

#### **10720.3 VOLUNTARY PARTICIPATION OF TRIBES**

*(a) This part applies to all groundwater basins in the state.*

*(b) To the extent authorized under federal or tribal law, this part applies to an Indian tribe and to the federal government, including, but not limited to, the United States Department of Defense.*

*(c) The federal government or any federally recognized Indian tribe, appreciating the shared interest in assuring the sustainability of groundwater resources, may voluntarily agree to participate in the preparation or administration of a groundwater sustainability plan or groundwater management plan under this part through a joint powers authority or other agreement with local agencies in the basin. A participating tribe shall be eligible to participate fully in planning, financing, and management under this part, including eligibility for grants and technical assistance, if any exercise of regulatory authority, enforcement, or imposition and collection of fees is pursuant to the tribe's independent authority and not pursuant to authority granted to a groundwater sustainability agency under this part.*

*(d) In an adjudication of rights to the use of groundwater, and in the management of a groundwater basin or subbasin by a groundwater sustainability agency or by the board, federally-reserved water rights to groundwater shall be respected in full. In case of conflict between federal and state law in that adjudication or management, federal law shall prevail. The voluntary or involuntary participation of a holder of rights in that adjudication or management shall not subject that holder to state law regarding other proceedings or matters not authorized by federal law. This subdivision is declaratory of existing law.*

#### **10721. KEY DEFINITIONS**

*10721. Unless the context otherwise requires, the following definitions govern the construction of this part:*

*(d) "Coordination agreement" means a legal agreement adopted between two or more groundwater sustainability agencies that provides the basis for coordinating multiple agencies or groundwater sustainability plans within a basin pursuant to this part. (j) "Groundwater sustainability agency" means one or more local agencies that implement the provisions of this part. For purposes of imposing fees pursuant to Chapter 8 (commencing with Section 10730) or*

taking action to enforce a groundwater sustainability plan, “groundwater sustainability agency” also means each local agency comprising the groundwater sustainability agency if the plan authorizes separate agency action.

(k) “Groundwater sustainability plan” or “plan” means a plan of a groundwater sustainability agency proposed or adopted pursuant to this part.

(l) “Groundwater sustainability program” means a coordinated and ongoing activity undertaken to benefit a basin, pursuant to a groundwater sustainability plan.

(m) “Local agency” means a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin.

### **10723(a) GROUNDWATER SUSTAINABILITY AGENCY**

10723. (a) Except as provided in subdivision (c), any local agency or combination of local agencies overlying a groundwater basin may decide to become a groundwater sustainability agency for that basin.

### **10723.2 CONSIDERATION OF INTERESTS**

10723.2. The groundwater sustainability agency shall consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans. These interests include, but are not limited to, all of the following:

(h) California Native American tribes.

### **10725 POWERS AND AUTHORITIES OF A GSA**

10725. (a) A groundwater sustainability agency may exercise any of the powers described in this chapter in implementing this part, in addition to, and not as a limitation on, any existing authority, if the groundwater sustainability agency adopts and submits to the department a groundwater sustainability plan or prescribed alternative documentation in accordance with Section 10733.6.

(b) A groundwater sustainability agency has and may use the powers in this chapter to provide the maximum degree of local control and flexibility consistent with the sustainability goals of this part.

10725.2. (a) A groundwater sustainability agency may perform any act necessary or proper to carry out the purposes of this part.

(b) A groundwater sustainability agency may adopt rules, regulations, ordinances, and resolutions for the purpose of this part, in compliance with any procedural requirements

*applicable to the adoption of a rule, regulation, ordinance, or resolution by the groundwater sustainability agency.*

*(c) In addition to any other applicable procedural requirements, the groundwater sustainability agency shall provide notice of the proposed adoption of the groundwater sustainability plan on its Internet Web site and provide for electronic notice to any person who requests electronic notification.*

*10725.4. (a) A groundwater sustainability agency may conduct an investigation for the purposes of this part, including, but not limited to, investigations for the following:*

*(1) To determine the need for groundwater management.*

*(2) To prepare and adopt a groundwater sustainability plan and implementing rules and regulations.*

*(3) To propose and update fees.*

*(4) To monitor compliance and enforcement.*

*(b) An investigation may include surface waters and surface water rights as well as groundwater and groundwater rights.*

*(c) In connection with an investigation, a groundwater sustainability agency may inspect the property or facilities of a person or entity to ascertain whether the purposes of this part are being met and compliance with this part. The local agency may conduct an inspection pursuant to this section upon obtaining any necessary consent or obtaining an inspection warrant pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure.*

*10725.6. A groundwater sustainability agency may require registration of a groundwater extraction facility within the management area of the groundwater sustainability agency.*

*10725.8. (a) A groundwater sustainability agency may require through its groundwater sustainability plan that the use of every groundwater extraction facility within the management area of the groundwater sustainability agency be measured by a water-measuring device satisfactory to the groundwater sustainability agency.*

*(b) All costs associated with the purchase and installation of the water-measuring device shall be borne by the owner or operator of each groundwater extraction facility. The water measuring devices shall be installed by the groundwater sustainability agency or, at the groundwater sustainability agency's option, by the owner or operator of the groundwater extraction facility. Water-measuring devices shall be calibrated on a reasonable schedule as may be determined by the groundwater sustainability agency.*

*(c) A groundwater sustainability agency may require, through its groundwater sustainability plan, that the owner or operator of a groundwater extraction facility within the groundwater sustainability agency file an annual statement with the groundwater sustainability agency setting*

*forth the total extraction in acre-feet of groundwater from the facility during the previous water year.*

*(d) In addition to the measurement of groundwater extractions pursuant to subdivision (a), a groundwater sustainability agency may use any other reasonable method to determine groundwater extraction.*

*(e) This section does not apply to de minimis extractors.*

*10726. An entity within the area of a groundwater sustainability plan shall report the diversion of surface water to underground storage to the groundwater sustainability agency for the relevant portion of the basin.*

*10726.2. A groundwater sustainability agency may do the following:*

*(a) Acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and hold, use, enjoy, sell, let, and dispose of, real and personal property of every kind, including lands, water rights, structures, buildings, rights-of-way, easements, and privileges, and construct, maintain, alter, and operate any and all works or improvements, within or outside the agency, necessary or proper to carry out any of the purposes of this part.*

*(b) Appropriate and acquire surface water or groundwater and surface water or groundwater rights, import surface water or groundwater into the agency, and conserve and store within or outside the agency that water for any purpose necessary or proper to carry out the provisions of this part, including, but not limited to, the spreading, storing, retaining, or percolating into the soil of the waters for subsequent use or in a manner consistent with the provisions of Section 10727.2. As part of this authority, the agency shall not alter another person's or agency's existing groundwater conjunctive use or storage program except upon a finding that the conjunctive use or storage program interferes with implementation of the agency's groundwater sustainability plan.*

*(c) Provide for a program of voluntary fallowing of agricultural lands or validate an existing program.*

*(d) Perform any acts necessary or proper to enable the agency to purchase, transfer, deliver, or exchange water or water rights of any type with any person that may be necessary or proper to carry out any of the purposes of this part, including, but not limited to, providing surface water in exchange for a groundwater extractor's agreement to reduce or cease groundwater extractions. The agency shall not deliver retail water supplies within the service area of a public water system without either the consent of that system or authority under the agency's existing authorities.*

*(e) Transport, reclaim, purify, desalinate, treat, or otherwise manage and control polluted water, wastewater, or other waters for subsequent use in a manner that is necessary or proper to carry out the purposes of this part.*

*(f) Commence, maintain, intervene in, defend, compromise, and assume the cost and expenses of any and all actions and proceedings.*

*10726.4. (a) A groundwater sustainability agency shall have the following additional authority and may regulate groundwater extraction using that authority:*

*(1) To impose spacing requirements on new groundwater well construction to minimize well interference and impose reasonable operating regulations on existing groundwater wells to minimize well interference, including requiring extractors to operate on a rotation basis.*

*(2) To control groundwater extractions by regulating, limiting, or suspending extractions from individual groundwater wells or extractions from groundwater wells in the aggregate, construction of new groundwater wells, enlargement of existing groundwater wells, or reactivation of abandoned groundwater wells, or otherwise establishing groundwater extraction allocations. Those actions shall be consistent with the applicable elements of the city or county general plan, unless there is insufficient sustainable yield in the basin to serve a land use designated in the city or county general plan. A limitation on extractions by a groundwater sustainability agency shall not be construed to be a final determination of rights to extract groundwater from the basin or any portion of the basin.*

*(3) To authorize temporary and permanent transfers of groundwater extraction allocations within the agency's boundaries, if the total quantity of groundwater extracted in any water year is consistent with the provisions of the groundwater sustainability plan. The transfer is subject to applicable city and county ordinances.*

*(4) To establish accounting rules to allow unused groundwater extraction allocations issued by the agency to be carried over from one year to another and voluntarily transferred, if the total quantity of groundwater extracted in any five-year period is consistent with the provisions of the groundwater sustainability plan.*

*(b) This section does not authorize a groundwater sustainability agency to issue permits for the construction, modification, or abandonment of groundwater wells, except as authorized by a county with authority to issue those permits. A groundwater sustainability agency may request of the county, and the county shall consider, that the county forward permit requests for the construction of new groundwater wells, the enlarging of existing groundwater wells, and the reactivation of abandoned groundwater wells to the groundwater sustainability agency before permit approval.*

*10726.6. (a) A groundwater sustainability agency that adopts a groundwater sustainability plan may file an action to determine the validity of the plan pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure no sooner than 180 days following the adoption of the plan.*

*(b) Subject to Sections 394 and 397 of the Code of Civil Procedure, the venue for an action pursuant to this section shall be the county in which the principal office of the groundwater management agency is located.*

*(c) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance or resolution imposing a new, or increasing an existing, fee imposed pursuant to Section 10730, 10730.2, or 10730.4 shall be commenced within 180 days following the adoption of the ordinance or resolution.*

*(d) Any person may pay a fee imposed pursuant to Section 10730, 10730.2, or 10730.4 under protest and bring an action against the governing body in the superior court to recover any money that the governing body refuses to refund. Payments made and actions brought under this section shall be made and brought in the manner provided for the payment of taxes under protest and actions for refund of that payment in Article 2 (commencing with Section 5140) of Chapter 5 of Part 9 of Division 1 of the Revenue and Taxation Code, as applicable.*

*(e) Except as otherwise provided in this section, actions by a groundwater sustainability agency are subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure.*

## **CHAPTER 6 REQUIREMENTS OF A GSP**

*10727. (a) A groundwater sustainability plan shall be developed and implemented for each medium- or high-priority basin by a groundwater sustainability agency to meet the sustainability goal established pursuant to this part. The groundwater sustainability plan may incorporate, extend, or be based on a plan adopted pursuant to Part 2.75 (commencing with Section 10750).*

*(b) A groundwater sustainability plan may be any of the following:*

*(1) A single plan covering the entire basin developed and implemented by one groundwater sustainability agency.*

*(2) A single plan covering the entire basin developed and implemented by multiple groundwater sustainability agencies.*

*(3) Subject to Section 10727.6, multiple plans implemented by multiple groundwater sustainability agencies and coordinated pursuant to a single coordination agreement that covers the entire basin.*

*10727.2. A groundwater sustainability plan shall include all of the following:*

*(a) A description of the physical setting and characteristics of the aquifer system underlying the basin that includes the following:*

*(1) Historical data, to the extent available.*

*(2) Groundwater levels, groundwater quality, subsidence, and groundwater-surface water interaction.*

*(3) A general discussion of historical and projected water demands and supplies.*

*(4) A map that details the area of the basin and the boundaries of the groundwater sustainability agencies that overlie the basin that have or are developing groundwater sustainability plans.*

*(5) A map identifying existing and potential recharge areas for the basin. The map or maps shall identify the existing recharge areas that substantially contribute to the replenishment of the groundwater basin. The map or maps shall be provided to the appropriate local planning agencies after adoption of the groundwater sustainability plan.*

*(b) (1) Measurable objectives, as well as interim milestones in increments of five years, to achieve the sustainability goal in the basin within 20 years of the implementation of the plan.*

*(2) A description of how the plan helps meet each objective and how each objective is intended to achieve the sustainability goal for the basin for long-term beneficial uses of groundwater.*

*(3) (A) Notwithstanding paragraph (1), at the request of the groundwater sustainability agency, the department may grant an extension of up to 5 years beyond the 20-year sustainability timeframe upon a showing of good cause. The department may grant a second extension of up to five years upon a showing of good cause if the groundwater sustainability agency has begun implementation of the work plan described in clause (iii) of subparagraph (B).*

*(B) The department may grant an extension pursuant to this paragraph if the groundwater sustainability agency does all of the following:*

*(i) Demonstrates a need for an extension.*

*(ii) Has made progress toward meeting the sustainability goal as demonstrated by its progress at achieving the milestones identified in its groundwater sustainability plan.*

*(iii) Adopts a feasible work plan for meeting the sustainability goal during the extension period.*

*(4) The plan may, but is not required to, address undesirable results that occurred before, and have not been corrected by, January 1, 2015. Notwithstanding paragraphs (1) to (3), inclusive, a groundwater sustainability agency has discretion as to whether to set measurable objectives and the timeframes for achieving any objectives for undesirable results that occurred before, and have not been corrected by, January 1, 2015.*

*(c) A planning and implementation horizon.*

*(d) Components relating to the following, as applicable to the basin:*

*(1) The monitoring and management of groundwater levels within the basin.*

*(2) The monitoring and management of groundwater quality, groundwater quality degradation, inelastic land surface subsidence, and changes in surface flow and surface water quality that directly affect groundwater levels or quality or are caused by groundwater extraction in the basin.*

*(3) Mitigation of overdraft.*

*(4) How recharge areas identified in the plan substantially contribute to the replenishment of the basin.*

*(5) A description of surface water supply used or available for use for groundwater recharge or in-lieu use.*

*(e) A summary of the type of monitoring sites, type of measurements, and the frequency of monitoring for each location monitoring groundwater levels, groundwater quality, subsidence, streamflow, precipitation, evaporation, and tidal influence. The plan shall include a summary of monitoring information such as well depth, screened intervals, and aquifer zones monitored, and*

*a summary of the type of well relied on for the information, including public, irrigation, domestic, industrial, and monitoring wells.*

*(f) Monitoring protocols that are designed to detect changes in groundwater levels, groundwater quality, inelastic surface subsidence for basins for which subsidence has been identified as a potential problem, and flow and quality of surface water that directly affect groundwater levels or quality or are caused by groundwater extraction in the basin. The monitoring protocols shall be designed to generate information that promotes efficient and effective groundwater management.*

*(g) A description of the consideration given to the applicable county and city general plans and a description of the various adopted water resources-related plans and programs within the basin and an assessment of how the groundwater sustainability plan may affect those plans.*

*10727.4. In addition to the requirements of Section 10727.2, a groundwater sustainability plan shall include, where appropriate and in collaboration with the appropriate local agencies, all of the following:*

*(a) Control of saline water intrusion.*

*(b) Wellhead protection areas and recharge areas.*

*(c) Migration of contaminated groundwater.*

*(d) A well abandonment and well destruction program.*

*(e) Replenishment of groundwater extractions.*

*(f) Activities implementing, opportunities for, and removing impediments to, conjunctive use or underground storage.*

*(g) Well construction policies.*

*(h) Measures addressing groundwater contamination cleanup, recharge, diversions to storage, conservation, water recycling, conveyance, and extraction projects.*

*(i) Efficient water management practices, as defined in Section 10902, for the delivery of water and water conservation methods to improve the efficiency of water use.*

*(j) Efforts to develop relationships with state and federal regulatory agencies.*

*(k) Processes to review land use plans and efforts to coordinate with land use planning agencies to assess activities that potentially create risks to groundwater quality or quantity.*

*(l) Impacts on groundwater dependent ecosystems.*

*10727.6. Groundwater sustainability agencies intending to develop and implement multiple groundwater sustainability plans pursuant to paragraph (3) of subdivision (b) of Section 10727 shall coordinate with other agencies preparing a groundwater sustainability plan within the*

*basin to ensure that the plans utilize the same data and methodologies for the following assumptions in developing the plan:*

- (a) Groundwater elevation data.*
- (b) Groundwater extraction data.*
- (c) Surface water supply.*
- (d) Total water use.*
- (e) Change in groundwater storage.*
- (f) Water budget.*
- (g) Sustainable yield.*

*10727.8. (a) Prior to initiating the development of a groundwater sustainability plan, the groundwater sustainability agency shall make available to the public and the department a written statement describing the manner in which interested parties may participate in the development and implementation of the groundwater sustainability plan. The groundwater sustainability agency shall provide the written statement to the legislative body of any city, county, or city and county located within the geographic area to be covered by the plan. The groundwater sustainability agency may appoint and consult with an advisory committee consisting of interested parties for the purposes of developing and implementing a groundwater sustainability plan. The groundwater sustainability agency shall encourage the active involvement of diverse social, cultural, and economic elements of the population within the groundwater basin prior to and during the development and implementation of the groundwater sustainability plan.*

*(b) For purposes of this section, interested parties include entities listed in Section 10927 that are monitoring and reporting groundwater elevations in all or a part of a groundwater basin managed by the groundwater sustainability agency.*

*10728. On the April 1 following the adoption of a groundwater sustainability plan and annually thereafter, a groundwater sustainability agency shall submit a report to the department containing the following information about the basin managed in the groundwater sustainability plan:*

- (a) Groundwater elevation data.*
- (b) Annual aggregated data identifying groundwater extraction for the preceding water year.*
- (c) Surface water supply used for or available for use for groundwater recharge or in-lieu use.*
- (d) Total water use.*
- (e) Change in groundwater storage.*

*10728.2. A groundwater sustainability agency shall periodically evaluate its groundwater sustainability plan, assess changing conditions in the basin that may warrant modification of the plan or management objectives, and may adjust components in the plan. An evaluation of the plan shall focus on determining whether the actions under the plan are meeting the plan's management objectives and whether those objectives are meeting the sustainability goal in the basin.*

*10728.4. A groundwater sustainability agency may adopt or amend a groundwater sustainability plan after a public hearing, held at least 90 days after providing notice to a city or county within the area of the proposed plan or amendment. The groundwater sustainability agency shall review and consider comments from any city or county that receives notice pursuant to this section and shall consult with a city or county that requests consultation within 30 days of receipt of the notice. Nothing in this section is intended to preclude an agency and a city or county from otherwise consulting or commenting regarding the adoption or amendment of a plan.*

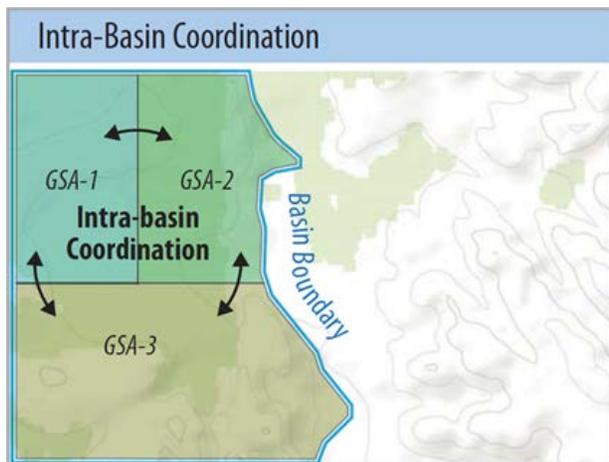
*10728.6. Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the preparation and adoption of plans pursuant to this chapter. Nothing in this part shall be interpreted as exempting from Division 13 (commencing with Section 21000) of the Public Resources Code a project that would implement actions taken pursuant to a plan adopted pursuant to this chapter.*

#### **4.0 SUMMARY OF TOPIC ISSUES, IMPLEMENTATION CHALLENGES, AND QUESTIONS**

As part of the SGMA outreach effort, DWR continues to meet with various organizations and individual experts to receive input on issues and challenges related to tribal involvement. The following represents some tribal issues, challenges, and general questions presented by stakeholders and advisory groups to DWR.

1. *SGMA allows any federally recognized Indian tribe to voluntarily participate in the preparation or administration of a GSP through a joint powers authority or other agreement.*
  - Are there any laws that will not allow tribes to participate in managing groundwater basins jointly with GSAs?
2. *SGMA gives GSAs certain authorities as outlined in 10725 and 10726.*
  - Are there any authorities that GSAs have as outlined in these Sections that tribes do not also have under tribal sovereignty?
3. *SGMA allows multiple GSAs in one basin or one GSA in a basin. Multiple GSAs will be required to have coordination agreements to ensure a consistent plan within the basin. Intra-basin coordination agreements are agreements that will be formed between two or more GSAs when two or more GSPs are developed within the same groundwater basin. SB 13 adds to SGMA by clarifying that exercise of a local*

agency's authorities is limited to its existing agency boundaries. This increases the likelihood that multiple GSAs sharing management responsibilities of a basin will be required to coordinate their authorities.



- If a tribe elects to participate are they able to develop coordination agreements similar to what basins of multiple GSAs must do?

4. SGMA is designed to ensure basin wide sustainability and requires multiple GSAs within a basin to manage using the same data and a GSP that covers the entire basin.

- Could the requirements for the sharing of data, methods, and coordination agreements between intra-basin GSPs (§ 10727.6), be used as a model for how GSAs and tribes coordinate joint management activities? Regardless of agreement type, does the degree of coordination imply the need to coordinate data collection schedules and fully share groundwater data between GSAs, and tribes if they choose to participate?
- To what degree would it be advantageous if Tribes and GSAs be required to use the same data and methodologies for:
  - Groundwater elevation data.
  - Groundwater extraction data.
  - Surface water supply.
  - Total water use.
  - Change in groundwater storage.
  - Water budget.
  - Sustainable yield.

The Department will be developing regulations for preparation of future GSPs. For tribes that elect to participate should they develop plans consistent with GSPs that will be developed by GSAs? This could include measurable objectives and potential action triggers. What are potential alternatives to the approach of coordinating activities with neighboring GSAs and implementing activities compatible with

the new framework provided by SGMA? Are these potential alternatives viable and are there tribes that would prefer these alternatives?

## **CONSIDERATIONS**

- The requirements of SGMA are generally voluntary for federally recognized tribes.
- SGMA specifically allows federally recognized tribes to voluntarily participate in groundwater management actions associated with SGMA implementation. Participation in the preparation or administration of a groundwater sustainability plan can occur through a joint powers authority or other agreement with local agencies in the basin. A participating tribe is eligible to fully participate in planning, financing, and management activities under SGMA, including eligibility for grants and technical assistance.
- However, a federally recognized tribe's actions during participation will be based on the tribe's independent sovereign authority and not the authorities that SGMA provides to local agencies<sup>1</sup>.
- Regardless of whether a tribe opts to coordinate their groundwater management with SGMA implementation, SGMA requires GSAs to consider the interests of all beneficial uses and users of groundwater, including tribes<sup>2</sup>.
- GSAs are required to have stakeholder driven processes and provide opportunity for input when developing sustainability plans.
- The requirements of SGMA apply to non-federally recognized tribes. Non-federally recognized tribes cannot become a GSA, or act as a GSA within their lands because they have not been granted sovereign powers by the state or federal government. Without land or water use authority, non-federally recognized tribes do not have the ability to manage groundwater under the SGMA. A lack of sovereign authority does not preclude a non-federally recognized tribe from participation as a stakeholder during SGMA implementation.
- Regarding water rights, SGMA specifically states that federally reserved water rights to groundwater shall be respected in full<sup>3</sup>. SGMA also states that nothing in the act, or any sustainability plans adopted under the act, will determine or alter surface or groundwater rights<sup>4</sup>.

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<sup>1</sup> Water Code §10720.3(c)

<sup>2</sup> Water Code §10723.2

<sup>3</sup> Water Code §10720.3(d)

<sup>4</sup> Water Code §10720.5(b)