



## CALIFORNIA ENACTS LEGISLATION TO REGULATE GROUNDWATER.

November 26, 2014

On September 16, 2014, following three years of drought and increasing inability to deliver water to Central Valley farms and business, Governor Jerry Brown signed AB 1739, SB 1168, and SB 1319. Collectively these bills constitute California's Sustainable Groundwater Management Act (SGMA). Briefly put, the legislation, which is part of the Brown Administration's Water Action Plan, is intended to increase local control and protection of California's groundwater basins and sub-basins so as to achieve groundwater sustainability. It represents a departure from our state's historic use of the court system to adjudicate issues such as pumping amounts, basin boundaries, overdraft and safe yields by applying common law principles. The changes are drastic and widespread, *all groundwater users will be impacted.*

In place of relying on adjudication by courts the SGMA creates Groundwater Sustainability Agencies (GSA) that are to develop local or regional Groundwater Sustainability Plans (GSPs) with the intent to achieve sustainable groundwater management, sustainable is not defined in the SGMA. A GSA can then file an action to determine the validity of the GSP which will be binding on all persons with interests in the affected basin. For example, a GSP can set limitations on the amount of water that a groundwater user can extract. A groundwater user who desires to challenge any such action will likely be limited to reverse validation actions under California's Civil Code. These actions have onerous and burdensome notice requirements, and short periods of time within which to bring the action.

A GSA can be one or more local agencies that will assume responsibility to develop, adopt and enforce a GSP. The GSP represents a set of coordinated ongoing activities designed to manage groundwater within a basin so that water can be extracted in a way that avoids: chronic lowering of groundwater levels, and significant and unreasonable: reductions in the ability of the basin to store groundwater, seawater intrusion, water quality degradation, land subsistence, adverse impacts to surface waters, etc. To create and enforce its GSP, a GSA will have the power to participate in defining basin boundaries, determine basin safe yield, regulate groundwater extraction, impose fees, impose fines, and curtail groundwater extractions when

necessary.

If a GSA is not adopted to oversee a basin, if a GSA fails to submit a GSP that the State Water Resources Control Board (SWRCB) deems adequate, or if a GSA fails to successfully implement its GSP by meeting five year milestones over the course of the next forty years, the SWRCB can take control of the basin and unilaterally implement its own plan.

A compilation of the SGMA can be accessed from the Governor's Office of Planning and Research.

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