

The Sustainable Groundwater Management Act: Implementation Update

The Department of Water Resources ("DWR") recently issued its [Draft Basin Boundary Emergency Regulation](#) on July 17, 2015 to implement provisions in the Sustainable Groundwater Management Act ("SGMA"). The Draft Regulation establishes a process for local agencies to request the DWR to revise boundaries of a groundwater basin and to establish new subbasins. The Draft Regulation is another step toward active management of California's groundwater resources under SGMA.

Currently, California's groundwater basins and subbasins are defined in the DWR's [Bulletin 118 – Update 2003](#). A groundwater basin is defined as "an alluvial aquifer or a stacked series of alluvial aquifers with reasonably well-defined boundaries in a lateral direction and a definable bottom." (Bulletin 118-Update 2003, at p. 88.) A subbasin is created by "dividing a groundwater basin into smaller units using geologic and hydrologic barriers, or, more commonly, institutional boundaries." (*Id.* at p. 90.) Institutional subbasin boundaries "could be based on a political boundary, such as a county line or a water agency service area, or a legally mandated boundary such as a court adjudicated basin." (*Id.*)

The draft regulation creates a mechanism for local agencies to request modifications to existing boundaries, and for the DWR to review and approve the modification requests. The two types of permissible modifications are scientific and jurisdictional. Scientific modifications require geologic or hydrologic evidence to demonstrate that a boundary should be changed. Alternatively, and particularly important for local agencies, jurisdictional modifications allow for a change in a boundary to promote sustainable groundwater management. Three types of jurisdictional modification requests are permitted: (1) internal boundary modification; (2) basin consolidation, including county basin consolidation; and (3) basin subdivision. For each, the local agency must submit an explanation of how sustainable groundwater management could likely be achieved under the proposed modification and a discussion of the potential impact to various state groundwater management programs including SGMA and its required Groundwater Management Plans. In addition, evidence that all affected agencies and public water systems support the modification must also be submitted. The Draft Regulation is open for public comment through September

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4, 2015 and comments can be submitted [here](#).

Additionally, while SGMA does not alter or define water rights, its passage created the push to reform the groundwater adjudication process. The present groundwater adjudication process allows all rights to water in a basin to be defined by a court, but it is expensive and cumbersome. Governor Brown has released a [proposal for modernizing the groundwater adjudication process](#) that would provide a more efficient, alternative adjudication process for all groundwater basins regulated under SGMA and an option for basins that are not. The primary objectives of the proposal are to make the adjudication process more cost-effective, ensure that it is fair, and harmonize it with SGMA so that parties have a forum to determine their water rights without delaying or obstructing Groundwater Management Plans. In addition to the Governor's proposal, two bills were introduced in February 2015, [SB 226 \(Pavley\)](#) and [AB 1390 \(Alejo\)](#), and also propose adjudication reform.

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