

SGMA State Intervention: General Overview and Public Participation Information for Agricultural Landowners, Pumpers, and Operators Relating to San Joaquin Valley Sustainable Groundwater Management Act ‘Probationary Process’ in Six San Joaquin Valley Groundwater Subbasins (Fall 2023)

Table of Contents

- I. Potential State Water Resources Control Board Intervention in Six (6) San Valley Joaquin Groundwater Subbasins 1
- II. Introduction to Water Board SGMA ‘State Intervention’ Process for Agricultural Affected Landowners, Groundwater Pumpers, and Operators 3
- III. What’s Potentially at Stake for Affected Agricultural Landowners, Groundwater Pumpers and Operators 3
- IV. Overview of the Water Board’s State Intervention Process and Where You—as an Affected Agricultural Landowner, Groundwater Pumper, or Operator—Can Get Involved 4
 - A. Groundwater Management Issues That Can Trigger SGMA Probation and/or a Potential State Interim Plan 4
 - B. Water Board Timeline and Order of Priority 4
 - C. Pre-Probationary Hearing Process 6
 - D. Potential Water Board Fees and Reporting After Probation..... 7
 - E. Potential Water Board State Interim Plan If Deficiencies Not Addressed In Probationary Phase and Steps to Exit Intervention..... 7
- V. Conclusion 9

I. Potential State Water Resources Control Board Intervention in Six San Joaquin Valley Groundwater Subbasins

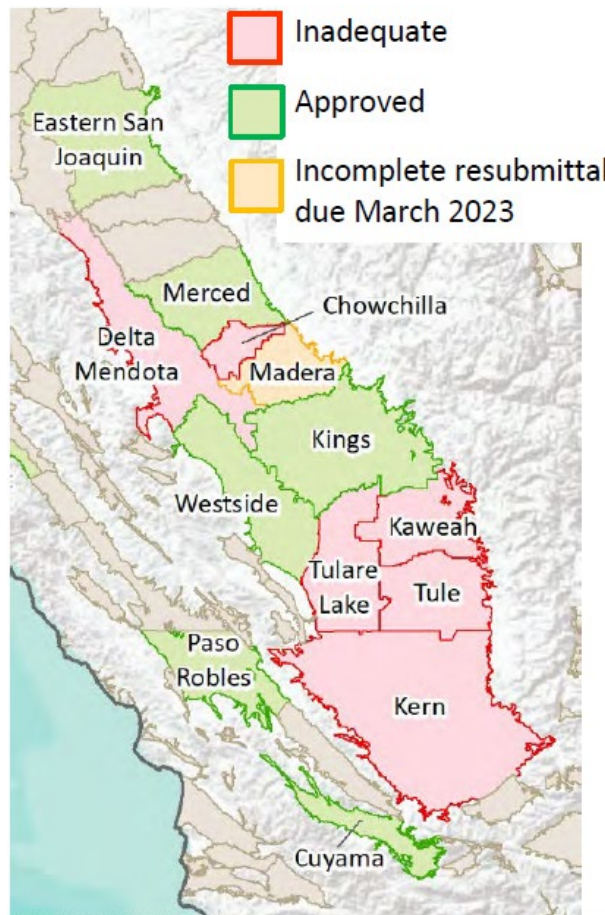
Groundwater basins under California’s 2014 Sustainable Groundwater Management Act (“SGMA”) can face potential “state intervention”, before the California State Water Resources Control Board (“Water Board”)—including “probation” and possible eventual “state interim plans.”

This can occur when local groundwater sustainability plans (“GSPs”), initially submitted by designated local groundwater sustainability agencies (“GSAs”) to the Department of Water Resources (“DWR”), are determined *not* to meet minimal standards of long-term groundwater sustainability established by SGMA.

As of this posting (Fall of 2023), six San Joaquin Valley groundwater subbasins (See map below) are subject to eventual planned SGMA “probationary hearings” before the Water Board as the result of a prior “inadequate” determination from DWR.

In December 2023, the Department approved multiple GSPs covering a seventh “critical overdraft” subbasin—the Madera Subbasin—resubmitted resubmitted in March 2023, with a revised coordination agreement, following an “incomplete” determination from DWR in September of 2022. The Department’s Madera Subbasin staff report approving the Madera Subbasin GSPs ([Basin 5-022-06](#)) can be accessed on the Department SGMA Portal [here](#).

The six subbasins mentioned can be visually located on the map below or accessed, in interactive map mode with points of contact and other pertinent subbasin info, via the hyperlinked text at right. The subbasins are, specifically, the [Tulare Lake](#), [Tule](#), [Kaweah](#), [Kern County](#), [Delta-Mendota](#), and [Chowchilla](#) Subbasins. The Madera Subbasin is also shown on the map below—but, as of this posting (October 2023), as noted, has avoided state intervention.



II. Introduction to Water Board SGMA ‘State Intervention’ Process for Affected Landowners, Groundwater Pumpers, and Operators

The overview of the Water Board’s planned SGMA probationary process, here provided, is intended to inform and equip affected Farm Bureau members and the greater agricultural community at large. This information is provided at the basic level necessary to understand the SGMA probationary and state intervention process, and as a starting point for deeper and more meaningful engagement in your local area. **For general background regarding the Sustainable Groundwater Management Act of 2014, including potential “undesirable results” as defined in the Act, interested persons can find a series of [SGMA background brochures on CAFB’s website here.](#)**

As of this posting (December 2023), local GSAs in the six currently affected subbasins are working to correct deficiencies identified by the Department of Water Resources ahead of tentatively scheduled probationary hearings, as described below. (See IV.B “Water Board Timeline and Order of Priority” below.) Nonetheless, **implementation of SGMA over the next 20 years can affect groundwater use and agricultural operations.**

Accordingly, **if you are a property owner, groundwater pumper, and/or you own a business or are an agricultural operator potentially impacted by the Water Board state intervention process here described, it is very important for to know about and stay abreast of the probationary process in your area, and to make your voice heard, as you may deem appropriate and necessary.**

III. What’s Potentially at Stake for Affected Agricultural Landowners, Groundwater Pumpers and Operators

The probation and “state intervention” process affords local GSAs multiple opportunities to correct identified deficiencies and avoid either probation or a state interim plan. However, in the event deficiencies are not addressed to the satisfaction of the Water Board, consistent with SGMA, the risk of both probation and/or of a possible eventual state interim plan remains.

SGMA (and the Water Board) recognizes that groundwater is normally best managed at the local level. Fees and reporting to the Water Board after probation would divert resources away from local efforts to manage local groundwater. (Click [here](#) for additional information regarding fees and reporting to the Water Board. For further information, considerable additional detail regarding potential fees and required extraction reporting is provided in the Water Board’s June 2023 FAQ sheet [here.](#))

The potential step of a state interim plan, potentially following probationary status, if deficiencies in probation are not corrected to the satisfaction of the Water Board, would likely focus on pumping restrictions—thus, likely severely constraining local management options including supply enhancement, for example, or projects to increase groundwater recharge.

Issues ahead of potential probation may become difficult—and could even spill over into potential groundwater adjudication actions in some areas. However, the potential consequences of a loss of local basin control underlines the need for local cooperation to avoid state intervention wherever possible.

IV. Overview of the Water Board’s State Intervention Process and Where You—as an Affected Landowner, Groundwater Pumper, or Operator—Can Get Involved

A. Groundwater Management Issues That Can Trigger SGMA Probation and/or a Potential State Interim Plan

Groundwater management issues that can tip a local subbasin into state intervention include [basin overdraft](#), [drinking water issues](#), [land subsidence impacts](#), [water quality](#) and [implementation and GSA coordination](#) issues.

B. Water Board Timeline and Order of Priority

Per a June 21st, 2023 Water Board SGMA probationary process and state intervention update, subbasins will be scheduled in order of priority over the course of 2023-24.¹ A revised schedule, per a subsequent December 19, 2023 SGMA Water Board implementation update, is provided below:

¹ PowerPoint slides relating to the Water Board’s probation, here hyperlinked throughout, are drawn from two Water Board SGMA probation and state intervention presentations from April and June of 2023. The Water Board’s April 4, 2023 “Update on the Implementation of the Sustainable Groundwater Management Act (SGMA),” in its entirety, can be accessed [here](#). It’s June 21, 2023 “Potential Probationary Hearings Process Update” can be accessed [here](#). A subsequent December 19, 2023 “Sustainable Groundwater Management Act Update” presentation can be accessed [here](#).

Proposed Schedule for Holding Probationary Hearings

Tulare Lake	Apr 16, 2024
Tule	Sep 2024
Kaweah	Nov 2024
Kern County	Jan 2025
Delta-Mendota	1 st quarter 2025
Chowchilla	2 nd quarter 2025***

*** if needed, pending State Water Board determination on updated plan submitted May 5, 2023

The schedule above follows the Water Board original June 2023 “prioritization” of the six subbasins based on the perceived severity or importance of the deficiencies identified in each subbasin as follows:

1st-Tier Priority SGMA Probation Subbasins (per [June 21st, 2023 State Water Board SGMA Update](#)):

- The Tulare Lake, Tule, Kaweah Subbasins ([drinking water & subsidence issues](#));
- The Kern County Subbasin ([GSA coordination issues, clarifying ‘exceedance thresholds’ to trigger management actions, data gaps relating to possible ‘extensive’ impacts](#)).

2nd-Tier Priority SGMA Probation Subbasins (per [June 21st, 2023 State Water Board SGMA Update](#)):

- The Delta-Mendota Subbasin ([less extensive impacts, substantial GSA coordination issues, single GSP to address](#));
- The Chowchilla Subbasin ([less extensive impacts, revised plan to address submitted](#));

C. Pre-Probationary Hearing Process

In addition to continuing efforts to implement SGMA consistent with the original plans, local GSAs, at this time, are actively revising previously submitted GSPs to address deficiencies.

Details of the Water Board’s current schedule and “proposed schedule” for the first two subbasins above—the Tulare Lake and Tule Subbasins, respectively—are provided below per a December 19, 2023 “Sustainable Groundwater Management Act Implementation Update”:



An initial draft staff report, identifying deficiencies and recommended corrections related to the Tulare Lake Subbasin's revised and resubmitted August 2022 GSP, can be found on the Water Board's website [here](#). As shown in the Water Board schedule above, a final staff report after a public comment period that closed December 2023, is expected in March 2023, a month ahead of the currently schedule April 16, 2023 probationary hearing

Video from a November 3, 2023 public hearing in Sacramento can be accessed [here](#), and the staff presentation from a November 8, 2023 public hearing in Hanford can be found [here](#).

The Water Board's process for the other subbasins will likely mirror its process for Tulare Lake. Thus, each of these subbasin probationary process would be subsequently noticed, beginning with a draft Water Board staff report on "deficiencies."

Following the initial step of a draft Water Board staff report formally identifying deficiencies, [subsequent steps in the Water Board's probationary SGMA process will include 1\) notices to all pumpers in each subbasin, 2\) stakeholder meetings, 3\) public comments, 4\) final deficiencies and a draft order—and, finally, 5\) a probationary hearing.](#)

D. Potential Water Board Fees and Reporting After Probation

If, after a probationary hearing, the Water Board determines probation is warranted, the Water Board can begin to [impose fees and reporting](#).

E. Potential Water Board State Interim Plan If Deficiencies Not Addressed In Probationary Phase and Steps to Exit State Intervention

If defects, after probation, are not adequately addressed the Water Board will proceed to determine—within a minimum period of no less than one year—whether to impose a "state interim plan". Such a plan [results in direct management of groundwater use in the basin, for a time, until issues are resolved](#) and local agencies can reassume control.

Per the Water Board's December 19, 2023 update, steps to exit state intervention are detailed below:

STEPS to Exit State Intervention

STEP 1: GSA(s) revise plan

STEP 2: Board staff review submitted plan(s) – timelines

STEP 3: Board decides

Side note: “Good Actor” exemptions

STEPS to Exit State Intervention

- **STEP 1: GSA(s) revise plan**

Identify for each deficiency: 1. Issue noted in previous GSP 2. New content in revision 3. Explanation on how the changes address the deficiency

STEPS to Exit State Intervention

- **STEP 2: Board staff review submitted plan(s) - timelines**

Plan for **three months** for one plan, likely one additional month for each additional plan

If inadequate time is provided before a hearing, staff will only be able to perform a **cursory review (if any)**

- If any substantial deficiencies appear unresolved, staff will recommend **continuing with the hearing**
- If all deficiencies appear resolved, staff will recommend a delay so staff can complete **comprehensive review and incorporate public feedback**

Submittal of new or revised plans does not guarantee cancellation or delay of a hearing

STEPS to Exit State Intervention

- **STEP 3: Board decides**

If plan is fixed: hearing could be either (1) cancelled or (2) kept so staff can publicly recommend ending state intervention; any probationary basin determination will be rescinded

If plan is *not* fixed: Any scheduled hearings will be held; probationary basin requirements will remain in place

STEPS to Exit State Intervention

- **Side note: “Good Actor” exemption from probationary status:**

To qualify for this exemption, any area must have a GSA that **“demonstrates compliance with the sustainability goal”** for the subbasin. This means:

- Area is covered by a GSA
- Area has a GSP that meets the requirements of SGMA

Considerable additional information regarding the Water Board’s state intervention process, how to correct deficiencies to avoid probationary status and a potential state interim plan, and how to return a basin to local management is provided in the Water Board’s June 2023 FAQ sheet [here](#) and in the October 2023 FAQ sheet [here](#).

V. Conclusion

In addition to closely plugging in with your local GSA at the local subbasin level, general questions regarding the above-outlined state intervention process can be directed to CAFB staff [here](#).