

Sustainable Groundwater Management and Agricultural Interests

The State recently enacted the 2014 Sustainable Groundwater Management Act (SGMA). The SGMA commits the State to locally controlled, sustainable groundwater management over a 20-year implementation period.

The SGMA requires basins designated by the Department of Water Resources (DWR) as either high or medium priority, be managed under a groundwater sustainability plan (GSP) prior to January 2022. The bill allows “a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin,” to elect to be a groundwater sustainability agency (GSA). The GSA leads the development and implementation of a Groundwater Sustainability Plan (GSP).

Under SGMA, GSAs can require groundwater well registration, measurement of groundwater extractions, filing of annual extraction reports, and regulation of groundwater extractions by imposing well spacing requirements, limiting extractions, and establishing extraction allocations. While the SGMA is not intended to affect water rights, the powers of the GSA can affect a party’s ability to exercise their pre-existing rights, resulting in a “back-door adjudication”. These powers are of concern to overlying right holders, as the GSA could assign favorable pumping allocations to appropriative right holders (normally junior to overlying rights), given that GSA members may hold such appropriative rights.

Aquilologic has been retained by a large agricultural client with land holdings in five groundwater basins in Central and Southern California. Given the enactment of the SGMA, our client has asked us to evaluate the impact of possible GSA actions and the GSP on their current activities. We have developed a strategy to allow them to participate in each GSA, and have input into the resulting GSP. We are also assisting in the development of a strategy to secure favorable pumping allocations for our client and protect or perfect their water rights. In addition, we are evaluating options to obtain alternate water sources and augment storage in the basins, such as non-potable re-use of waste water, use of degraded groundwater, additional recharge, or inter-basin transfers.