

State Water Resources Control Board

April 17, 2017

Mr. Paul Gosselin, Director
Butte County Water & Resource Conservation
308 Nelson Avenue
Oroville, CA 95965

REQUEST FOR CLARIFICATION REGARDING GROUNDWATER SUSTAINABILITY AGENCY AREA OVERLAP

Dear Mr. Gosselin:

Thank you for your letter dated February 24, 2017, regarding implementation of the Sustainable Groundwater Management Act (SGMA). Your letter describes a condition in the East Butte Subbasin where four water districts have identified the Thermalito Afterbay area as part of their GSA boundary, despite the area being located outside of their jurisdictional boundaries. Please see the following responses to your questions related to Groundwater Sustainability Agency (GSA) formation.

- 1) Can a local agency file to be a GSA for areas outside of their service area when the area in question is part of another GSA and within the second GSAs jurisdiction?

The four water districts that have filed for the Thermalito Afterbay area could be GSAs, but would lack management authority over the Thermalito Afterbay area. A local agency cannot impose fees or regulatory requirements on activities that are outside of its jurisdictional boundaries. While a GSA's management area can only cover the area within its jurisdictional boundaries, a GSA can consider a larger planning area for the purposes of developing a water budget or a sustainability plan.

There is a difference between overlapping GSA *notification areas* and GSA *management areas*. While some GSAs have submitted notifications for areas outside of their service area, GSAs cannot manage areas that are outside of their jurisdiction. In determining whether all or a portion of a basin is unmanaged, the Board will examine overlapping GSA notifications to determine if there are in fact overlapping *management areas*, and in doing so the Board will need to consider if overlapping GSAs exceed the jurisdiction of the local agency that is forming the GSA.

In the situation described in your letter, the Board considers the Thermalito Afterbay area to be within the management area of the GSA notification filed by Butte County but not within the management area of the four water districts. For additional information on

county and local agency roles with respect to GSA formation, please see the FAQ available at:

http://www.waterboards.ca.gov/water_issues/programs/gmp/docs/eligibility/gsa_faq.pdf.

- 2) If a local agency filed to be a GSA pre-SB13 and included areas outside of their service area that were covered by another GSA with jurisdictional authority, should the filing be deemed inconsistent under current law?

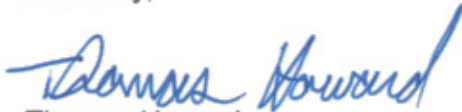
The response to Question 1 describes the Board's view of GSA filings that include areas outside of the filing agency's jurisdictional boundaries. The response provided above applies regardless of whether the GSA notice was filed before or after Senate Bill 13 (SB 13) took effect.

- 3) Would this overlap situation rise to the level of significance that the SWRCB would put the entire East Butte subbasin in probationary status?

The risk of a basin or subbasin being designated probationary can be minimized by ensuring there are no unmanaged areas after June 30, 2017. The Board may designate the East Butte subbasin probationary if the county declines to be the GSA for the Thermalito Afterbay area, and the area is unmanaged as a result. The Board will not be considering probationary basin determinations until after June 30, 2017, however, so the county will have an opportunity to exercise the statutory presumption that it will be the GSA for any unmanaged areas.

If there are additional questions related to the SGMA or GSA formation, please contact Sam Boland-Brien at 916-322-9633 or sboland-brien@waterboards.ca.gov, or Trevor Joseph of the Department of Water Resources at (916) 651-9218 or trevor.joseph@water.ca.gov.

Sincerely,



Thomas Howard
Executive Director

cc: (via e-mail)
Trevor Joseph, Chief
Sustainable Groundwater
Management Branch
Department of Water Resources