



**Sacramento Groundwater Authority**  
*Managing Groundwater Resources  
 in Northern Sacramento County*

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California American  
 Water

Carmichael  
 Water District

Citrus Heights  
 Water District

City of Folsom

City of Sacramento

County of Sacramento

Del Paso Manor  
 Water District

Fair Oaks Water District

Golden State  
 Water Company

Natomas Central Mutual  
 Water Company

Orange Vale  
 Water Company

Rio Linda / Elverta  
 Community Water  
 District

Sacramento Suburban  
 Water District

San Juan  
 Water District

Agricultural and  
 Self-Supplied  
 Representative

California Department of Water Resources  
 Attn: Sustainable Groundwater Management Section  
 P.O. Box 942836  
 Sacramento, California 94236

Transmitted via email to [sgmps@water.ca.gov](mailto:sgmps@water.ca.gov)

Dear Sustainable Groundwater Management Section:

We appreciate the opportunity to comment on the Draft Basin Boundary Emergency Regulations. We commend the Department for its intensive efforts to seek input from various constituencies prior to releasing the Draft Regs. As a result, the Draft represents a valuable starting point for the process of considering public comments and finalizing the regulations.

The Sacramento Groundwater Authority (SGA) was created in 1998 to manage groundwater in Sacramento County north of the American River. SGA was formed to implement an element of the Sacramento Water Forum Agreement, which was founded on the coequal objectives of reliable water supplies and protection of the environment of the lower American River. Over the ensuing two decades, a robust conjunctive use program has been implemented, resulting in stabilized and recovering groundwater levels. SGA is widely acknowledged as a successful model of effective groundwater management. It is this experience that is the foundation for the comments that follow.

The comments are organized into a few overriding considerations, followed by specific comments and recommendations on a section-by-section basis. If you have any questions, please contact me at (916) 967-7692 or [jwoodling@rwah2o.org](mailto:jwoodling@rwah2o.org).

**Overriding Considerations**

The incongruent definitions of "basin" in the Sustainable Groundwater Management Act (SGMA) and in Bulletin 118, create some confusion in the Draft Regs. The terms "basin" and "basin or subbasin" are inconsistently used throughout the Draft Regs. The Department should clarify throughout that the provisions of the Draft Regs apply to all basins and subbasins in Bulletin 118, i.e. "basins" in SGMA.

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The Draft Regs include important recognition of the role of local public agencies in implementing SGMA. This is reflected, for example, in Section 344.8, which acknowledges that local support will be based on the support of other local agencies, rather than individuals or special interest groups. Similarly, Section 343.12, which requires that protests be held to the same standards as the original request, properly protects the interests of local agencies in the process. In the same spirit of promoting the State's commitment to local groundwater management, we believe the Draft Regs need to more fully defer to local agencies' determinations that a revised basin boundary will lead to more effective and more timely sustainable management of groundwater. Only locals can adequately consider the technical, legal, political, and institutional issues that will be either opportunities or obstacles.

The Draft Regs contain a number of provisions that may be unnecessarily burdensome to local agencies requesting a boundary modification. These include Section 343.6, requiring all boundary revision requests affecting a basin to be combined, and Section 344.8, requiring unanimous support, as demonstrated by resolutions from the governing boards of all affected agencies and water systems.

Similarly, the Draft Regs make the process more cumbersome by failing to recognize the differences that may exist between local agencies and public water systems in the affected areas. Local governments and water agencies are governed by boards of elected officials that are accountable to the public. Public water systems may be privately owned and serve as few as 15 connections. Clearly, the regulations must strive to support the interests of agencies that are accountable to the public, and that serve the preponderance of the residents and industries in a basin.

### **Specific Comments and Recommendations**

#### **Page 2 -§341(d)**

The definition of “affected basin” in 341(d) does not clearly include the basin that is actually proposed for revision.

Recommendation:

Rewrite to read, “affected basin” means a basin or subbasin that is the subject of a basin boundary revision request and any basin where the ability to achieve....

#### **Page 7 - §343.2**

The draft lacks clarity on an agency’s eligibility to request a boundary modification. An agency outside the basin or subbasin should not be entitled to request a change.

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Recommendation:

Change the language to read, “A request for a boundary modification may be initiated by a local agency whose jurisdiction lies within ~~or borders~~ the existing or proposed basin or subbasin for which boundary modification is sought.”

**Page 7 - §343.6**

The requirement to combine all boundary modification requests affecting a basin or subbasin may be overly burdensome. The statute (Water Code Section 10722.2) does not suggest such a requirement. There may be a number of reasons that requests could be submitted independently; for example, the requests may be geographically separated at the extremes of a large basin, one request may be ready to be presented before another, or there may be potentially conflicting requests. The department has the ability to consider the degree of coordination with others in evaluating and approving boundary modification requests (for example in §344.8. Local Support).

Recommendation:

Revise the language to read “Requesting agencies may ~~shall~~ combine ~~all~~ two or more boundary modification requests that affect the same basin or subbasin, and in so doing shall coordinate...”

**Page 7 - §343.6**

In the case of combined requests, the draft specifies that DWR may adopt all or any part of the combined request. Presumably this standard could also apply to individual requests (i.e., DWR could use the submitted information to independently determine an appropriate basin boundary modification). This authority exists for the department under Water Code Section 12924, but not explicitly under Water Code Section 10722. Water Code Section 10722 clearly envisioned a local agency driven boundary modification (i.e., requesting agencies could expect either an approval or disapproval of the request).

Recommendation:

The draft regulation should explicitly address that the basin boundary revision process under Water Code Section 10722 et seq, is entirely separate from the department’s authority under Water Code Section 12924 to revise boundaries.

Strike the last sentence of §343.6.

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**Page 8 - §343.8**

The draft implies that the request and evaluation will be conducted within the 60 day period.

Recommendation:

Change 343.8 to read "...the department shall establish review periods during which boundary modification requests will be accepted ~~and evaluated.~~"

**Page 8 - §343.8**

Again, the draft confuses the process of local agency driven boundary revision requests with planned updates of Bulletin 118. Additionally, the draft contains no clarity about when local agencies could be expected to have opportunities to submit requests.

Recommendation:

Strike language referring to Bulletin 118 and add language requiring at least annual review periods. Rewrite as follows:

~~Prior to updating or revising Bulletin 118,~~ The Department shall establish at least one review periods each calendar year during which boundary modification requests will be accepted ~~and evaluated.~~

**Page 8 - §343.10(b)**

The draft provides for the department to request additional information based on a review of the completeness of the request. The draft is silent, however, on the time allowed the department to make such a request or the time provided for responding.

Recommendation:

Draft additional language that clarifies that additional information requested by DWR is not subject to the 60-day window in §343.8.

**Page 8 - §343.10(d)**

Here and in §344.4 the draft refers to "interested" local agencies and public water systems. However, there is no indication of how "interest" will be documented.

Recommendation:

For clarity, use definitions of "affected agency" and "affected system" rather than "interested."

**Page 9 - §343.12**

The draft lacks some clarity about the role of protests. Can a protestor propose changes to the proposed boundary modification or simply oppose that proposed by the requesting agency? Can DWR use the information from both the request and the protest to develop a different boundary than that requested?

**Recommendation:**

Change the language to clarify that the *content* of the modification request remains under the control of the local agency, and the department role is to approve or disapprove.

Rewrite to read, (d) The department shall give the requesting agency a reasonable opportunity to respond to protests, which may include, at the requesting agency's discretion, providing additional information or changing the details of the request to address objections.

**Page 10 - §344**

The draft refers to information that the requesting agency is “encouraged” to provide; however, there is no indication that any of the information is optional.

**Recommendation:**

Strike “or encouraged,” so that the regulation refers only to required elements.

**Page 12 - §344.8**

The standards required in 344.8, Local Support may be needlessly onerous, and far beyond that required in most public processes. Formal resolutions from each affected agency and system could be very time consuming to collect, especially from those that have little interest in the requested basin change. Additionally, unanimity is an unrealistic standard for local support. Such a standard could preclude basin revisions that are widely supported and broadly beneficial to sustainable groundwater management. Finally, public water systems, which may be privately owned and serve as few as 15 connections, cannot have the same level of influence as local agencies, which have elected boards and may serve tens or hundreds of thousands of customers. The regulations must strive to support the interests of agencies that are accountable to the public, and that serve the preponderance of the residents and industries in a basin.

**Recommendation:**

Draft the regulations to require evidence of notification of each affected agency or system and the lack of any significant opposition.

Rewrite as follows:

(a) A requesting agency shall demonstrate local support for a proposed jurisdictional boundary modification pursuant to Section 342.4 as follows:

(1) A request ~~that involves an internal boundary modification~~ shall provide information demonstrating that ~~the modification is supported by~~ each affected agency and affected system has been provided with information regarding the modification and provided with an opportunity to comment in support or opposition.

(2) A request that involves a basin consolidation, ~~or~~ county basin consolidation, or internal boundary modification shall provide information demonstrating that ~~the requesting agency notified each affected agency and affected system and that~~ a majority of affected agencies and affected systems that provided comments support the boundary modification.

(3) A request that involves basin subdivision shall provide information demonstrating that the boundary modification is supported by three-fourths or more of the each local agenciesy and by each public water systems in the affected basin(s) that provided comments.

(4) The standards of local support in subsection (2) and (3) shall be measured on the basis of both:

(i) the number of responses in support or opposition, and

(ii) the population represented by the responding local agency or affected system.

(b) Evidence of local support or opposition from any local agency or public water system shall consist of one or more of the following:

(1) a copy of a resolution formally adopted by the decision-making body of the agency.

~~(c) Evidence of local support from any public water system shall consist of a copy of a resolution formally adopted by the decision-making body of the system or~~

(2) a letter of support or opposition signed by an ~~executive officer~~ official with appropriate delegated authority.

### **Page 13 - §344.12**

It is unclear why the draft excludes an internal boundary modification from the requirement to provide a conceptual hydrogeologic model. The hydrogeologic conceptual model will be one of the foundational elements of groundwater management regardless of basin boundaries.

Recommendation:

Strike the language excluding an internal boundary modification from the requirement.

**Page 15 - §344.16**

The draft requires submittal of a “water management plan” that meets the requirements of Water Code Section 10753.7(a) or 10727. The purpose of a jurisdictional modification may be to more expeditiously develop a groundwater sustainability agency and groundwater sustainability plan.

The expectation that a water management plan already exists that meets certain standards should not be a requirement for a boundary modification.

Recommendation:

Require submission of any available water management plans that demonstrate water management capacity and will support achieving groundwater sustainability.

Rewrite as follows:

(a) Each request for a boundary modification that involves a jurisdictional modification pursuant to Section 342.4 shall include the following:

(1) Any available water management plan(s) that cover all or a portion ~~or is in the immediate vicinity of the proposed basin or portion of the proposed basin and satisfies the requirement of that~~ could contribute to meeting the requirements of Water Code Section 10753.7(a) or 10727, ~~through one of~~ including the following:

(A) An adopted groundwater management plan, a basin-wide management plan, or other integrated regional water management program or plan that meets the requirements of Water Code section 10753.7(a).

(B) Management pursuant to an adjudication action.

(C) One or more technical studies that cover the relevant portion of a basin or subbasin and adjacent areas.

(D) A valid Groundwater Sustainability Plan or alternative adopted pursuant to the Act.

**Page 15 - §344.16**

The draft does not reflect the reality that jurisdictional modifications may be driven in whole or in part by legal, political, and institutional opportunities and/or obstacles.

Recommendation:

The regulations should provide an opportunity for the local agency to demonstrate that a jurisdictional boundary revision may provide opportunities or overcome obstacles without precluding sustainable management in an adjacent basin.

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The following language should be added as Section 344.16(a)(2)

A statement identifying any political, legal, institutional or other opportunities that would arise from or obstacles that would be overcome by the requested boundary modification.

In addition, move and renumber Section 344.16(b)(6) to 344.16(a)(3) so that it applies to all jurisdictional boundary change requests, not just subdivisions.

#### **Page 16 - §344.18**

The Draft presupposes that DWR will be a responsible agency for CEQA purposes on a basin boundary revision. The local agency making a boundary modification request should determine for itself whether and to what extent CEQA applies, and to provide the information necessary to DWR to serve as a responsible agency only if the local agency determines that an environmental document is required (i.e., the request is non-exempt).

#### **Recommendation**

Rewrite to read:

§ 344.18. CEQA Compliance - A local agency requesting to modify a basin or subbasin shall satisfy all requirements of the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.), including, if required, providing information necessary to enable the Department to satisfy the requirements of a responsible agency.

#### **Page 17 - §345.2**

Some of the conditions under which the department could deny a boundary modification request are too restrictive and not supported by statute.

For example, §345.2(a)(4) identifies limiting the “use of consistent data and methodologies,” as a basis for denial. This provision of the statute (in Water Code Section 10727.6) specifically applies to multiple GSAs managing a basin or subbasin. It should not be applied for the purpose of evaluating basin boundaries.

Similarly, §345.2(b) of the draft indicates a request may be denied if “the requesting agency is unable to demonstrate a history of sustainable management of groundwater levels in the existing or proposed basin.” While the statute cites this criterion, it should be used as one line of evidence for supporting and approving a boundary modification, rather than the basis for denial.

The condition would preclude a boundary modification that may be beneficial in moving a basin toward sustainability.

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Recommendation:

Rewrite §345.2(a)(4) as follows:

(4) Coordination of management activities and the sharing of data and information across basin boundaries. ~~and use of consistent data and methodologies by local agencies to evaluate groundwater elevation data, groundwater extraction data, surface water supply, total water use, change in groundwater storage, water budget, or sustainable yield.~~

Strike §345.2(b) as it is already included in §345.4.

**Page 18 - §345.4(a)(1) and §345.4(c)**

The draft refers to “hydrogeologic models.” It is unclear if this is the “hydrogeologic conceptual model” required under §344.12.

In addition, the standard for evaluation is rather circular and unenforceable. The draft refers to “the degree to which the models align with the *known* geologic framework, the *known* direction and movement of groundwater flow, and the *general understanding* of water budget components for the basin or subbasin,” (emphasis added). While the requesting agency will provide substantial technical information supporting the request, it is unclear who will provide the “known” conditions and “general understanding” to which it will be compared.

Recommendation:

Change the draft language to read,

“(1) Hydrogeologic conceptual models will be evaluated to determine the degree to which they apply technical information to the models align with the known describe the geologic framework, the known direction and movement of groundwater flow, and the components of the general understanding of water budget ~~components~~ for the basin or subbasin.

**Page 21 - §346.2(a)**

The draft specifies that the department will hold at least one public meeting to solicit comments on the draft boundaries. It is unclear where such a meeting should or will occur. In an ideal world, the meeting would take place within the proposed basin or subbasin; however, this could prove very cumbersome for the state.

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Recommendation:

Assess the ability of the DWR to hold public meetings throughout the state and clarify the regulation.

**Page 21 - §346.2(d)**

The draft refers to the department making “substantial changes to a proposed boundary modification,” and resubmitting the proposed changes to the Water Commission. This again points to the need for clarification of the basin boundary changes made pursuant to Water Code Section 10722 vs. those made pursuant to Water Code Section 12924 and the process and requirements for each.

The intent of SGMA was to promote local groundwater management by providing a process for local agencies to request boundary revisions. If a proposed boundary changes as a result of the evaluation process, it should be with the concurrence of the requesting agency, or pursued under the Department's independent authority.

Recommendation:

Change §346.2(d) to read:

(d) If the Department ~~makes~~ determines that substantial changes to a proposed boundary modification are necessary after presentation to the Commission, the requesting local agency shall be entitled to modify the boundary modification request and resubmit it for consideration. the Department shall resubmit the proposed changes to the Commission for further review consistent with the Act.

Sincerely,



John Woodling  
Executive Director