

Excerpts from SGMA pertaining to water rights and adjudications

Note: This is an excerpt from the 2014 Sustainable Groundwater Management Act and related statutory provisions; it includes 2015 amendments which are shown in underline and ~~strikeout~~.

Access the full legislation at this link: <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Groundwater-Management/Sustainable-Groundwater-Management/Files/2014-Sustainable-Groundwater-Management-Legislation-with-2015-amends-1-15-2016.pdf>

10720.5. NO MODIFICATION OF WATER RIGHTS OR PRIORITIES, AND NO DETERMINATION OF WATER RIGHTS PURSUANT TO THIS PART

(a) Groundwater management pursuant to this part shall be consistent with Section 2 of Article X of the California Constitution. Nothing in this part modifies rights or priorities to use or store groundwater consistent with Section 2 of Article X of the California Constitution, except that in basins designated medium- or high-priority basins by the department, no extraction of groundwater between January 1, 2015, and the date of adoption of a groundwater sustainability plan, pursuant to this part, or the approval by the department of an alternative submitted under Section 10733.6, whichever is sooner, may be used as evidence of, or to establish or defend against, any claim of prescription.

(b) Nothing in this part, or in any groundwater management plan adopted pursuant to this part, determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.

(c) Water rights may be determined in an adjudication action pursuant to Chapter 7 (commencing with Section 830) of Title 10 of Part 2 of the Code of Civil Procedure.

CHAPTER 12. Determination of Rights to Groundwater

10737. GROUNDWATER ADJUDICATION

Except as provided in this chapter, an adjudication action to determine rights to groundwater in a basin shall be conducted in accordance with the Code of Civil Procedure, including pursuant to Chapter 7 (commencing with Section 830) of Title 10 of Part 2 of that code.

10737.2. ADJUDICATION PROCEEDINGS AND SUSTAINABILITY PLAN

In an adjudication action for a basin required to have a groundwater sustainability plan under this part, the court shall manage the proceedings in a manner that minimizes interference with the timely completion and implementation of a groundwater sustainability plan, avoids redundancy and unnecessary costs in the development of technical information and a physical solution, and is consistent with the attainment of sustainable groundwater management within the timeframes established by this part.

10737.4. DEPARTMENT REVIEW OF JUDGMENT

(a) Chapter 11 (commencing with Section 10735) shall not apply to a judgment approved by the court pursuant to Section 850 of the Code of Civil Procedure if both of the following apply:

(1) A local agency or a party directed by the court to file the submission submits the judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6.

(2) The department determines that the judgment satisfies the objectives of this part for the basin.

(b) A party or group of parties proposing a stipulated judgment pursuant to subdivision (b) of Section 850 of the Code of Civil Procedure may submit the proposed stipulated judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6.

(c) Notwithstanding subdivision (c) of Section 10733.6, a judgment or proposed stipulated judgment pursuant to this section may be submitted to the department after January 1, 2017.

(d) A determination of the department on a submission pursuant to this section is subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure. Venue shall be in the court with jurisdiction over the adjudication action and the case shall be coordinated with the adjudication action.

10737.6. DEPARTMENT ASSESSMENTS AND RECOMMENDATIONS

If the department determines that a judgment satisfies the objectives of this part in accordance with paragraph (2) of subdivision (a) of Section 10737.4, the department shall submit to the court the assessments and any recommended corrective actions that the department issues pursuant to Section 10733.8. The court, after notice and, if necessary, an evidentiary hearing, shall determine whether to amend the judgment pursuant to Section 852 of the Code of Civil Procedure to adopt the department's recommended corrective actions.

10737.8. COURT FINDINGS

In addition to making any findings required by subdivision (a) of Section 850 of the Code of Civil Procedure or any other law, the court shall not approve entry of judgment in an adjudication action for a basin required to have a groundwater sustainability plan under this part unless the court finds that the judgment will not substantially impair the ability of a groundwater sustainability agency, the board, or the department to comply with this part and to achieve sustainable groundwater management.