

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1413 (Papan)
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AM

SUBJECT

Sustainable Groundwater Management Act: groundwater adjudication

DIGEST

This bill requires a court to use the sustainable yield of a valid groundwater sustainability plan (GSP) to determine the physical solution in a groundwater adjudication. The bill requires a validation action brought against a GSP to be brought within 180 days of adoption, and any other action challenging an action of a groundwater sustainability agency (GSA) to be brought within 90 days of that action.

EXECUTIVE SUMMARY

Groundwater is a critical source of water supply in this state that meets more than 40 percent of water demand in an average year and more than 60 percent of demand during drought years. The adjudication of groundwater rights can be complex and involve many parties and counterclaims. In 2014, the Sustainable Groundwater Management Act (SGMA) was passed to establish local groundwater sustainability agencies (GSAs), who are responsible for implementing SGMA by bringing their over-drafted groundwater basins into sustainable yield. However, SGMA explicitly states that it does not alter preexisting groundwater rights.¹ In 2015, streamlined groundwater adjudication statutes were enacted. (AB 1390 (Alejo, Ch. 672, Stats. 2015.))

An inherent tension has existed between SGMA and the adjudication statutes and several bills have been brought in the past seeking to address this tension. According to the author, this tension has created a situation where it is more appealing to some to seek adjudication over a basin's groundwater rights than comply with SGMA. This Committee's analysis of AB 1390 specifically called out this issue and noted the discrepancy between terms used under SGMA (sustainable yield) and the adjudication

¹ Wat. Code § 10720.5(b) stating "nothing in [SGMA], 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."

statutes (safe yield) were the underpinning of this tension.² This bill seeks to address this issue by explicitly prohibiting a court from establishing a safe yield or sustainable yield for a groundwater basin that exceeds the sustainable yield of the basin as established in a valid GSP. Second, the bill requires a validation action of a GSP to be brought within 180 days, and any other action against a GSA within 90 days. The bill also makes various other changes to the groundwater adjudication statutes.

The bill is author sponsored. The bill is supported by Community Alliance With Family Farmers, Indian Wells Valley Groundwater Authority, Sacramento Suburban Water District, and The Nature Conservancy. The bill is opposed by numerous agriculture and business interests, water agencies, and GSAs, including the Western Growers Association, Association of California Water Agencies, and the California Chamber of Commerce. The bill passed the Senate Natural Resources and Water Committee on a vote of 4 to 3.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Declares that because of the conditions prevailing in this state the general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare, and that the right to water or to the use or flow of water in or from any natural stream or water course in this state is to be limited to such water as is reasonably required for the beneficial use to be served, and such right does not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. (Cal. Const. art. X, § 2.)
- 2) Provides that no water is to be available for appropriation by storage in, or by direct diversion from, any of the components of the California Wild and Scenic Rivers System, as such system exists on January 1, 1981, where such appropriation is for export of water into another major hydrologic basin of the State, as defined by the Department of Water, unless such export is expressly authorized prior to such appropriation by an initiative statute approved by the electors, or the Legislature, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring. (*Ibid.*)
- 3) Establishes SGMA with the goal of providing for the sustainable management of groundwater basins, enhancing local management of groundwater consistent with

² Sen. Jud. Comm. analysis of AB 1390 (2015-2016 reg. sess.) as amend July 6, 2015 at p. 11.

rights to use or store groundwater, providing local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater, and establishing minimum standards for sustainable groundwater management.

- a) Defines sustainable management of groundwater as the avoidance of the following six “undesirable results:”
 - i. chronic lowering of groundwater levels;
 - ii. reduction of groundwater storage;
 - iii. seawater intrusion;
 - iv. degraded water quality;
 - v. land subsidence; and
 - vi. depletions of interconnected surface water. (Wat. Code §§ 10720 et seq.)
- 4) Provides that nothing in SGMA determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights. (Wat. Code § 10720.5(b).)
- 5) Authorizes the creation of local GSAs and requires GSAs to consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans. (Wat. Code § 10723.2.)
- 6) Establishes the procedures for a court to use when adjudicating a groundwater basin. (Code Civ. Proc. § 830 et seq.)
 - a) Provides that in a comprehensive adjudication, the court may determine all groundwater rights of a basin, whether based on appropriation, overlying right, or other basis of right, and use of storage space in the basin. (Code Civ. Proc. § 834.)
- 7) Provides that a court may enter a judgment in a comprehensive groundwater adjudication if the court finds that the judgment meets all of the following criteria:
 - a) it is consistent with Section 2 of Article X of the California Constitution;
 - b) it is consistent with the water right priorities of all non-stipulating parties and any persons who have claims that are exempted in the basin;
 - c) it treats all objecting parties and any persons who have claims that are exempted as compared to the stipulating parties; and
 - d) it considers the water use of and accessibility of water for small farmers and disadvantaged communities, as provided. (Code Civ. Proc. § 850(a).)
- 8) Requires a court presiding over an adjudication to manage the proceedings in a manner that minimizes interferences 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 SGMA. (Wat. Code § 10737.2.)

- 9) Provides a court is not to approve entry of judgment in an adjudication action for a basin required to have a groundwater sustainability plan unless the court finds that the judgment will not substantially impair the ability of a GSA, the State Water Resources Control Board (SWRCB), or DWR to comply with SGMA and to achieve sustainable groundwater management. (Wat. Code § 10737.8)
- 10) Requires an action against a GSA that is located in a basin that is being adjudicated to be coordinated and consolidated with the adjudication, as appropriate, if the action concerns the adoption, substance, or implementation of a GSP, or the GSA's compliance with the timelines in SGMA. (Code Civ. Proc. § 838).
- 11) Authorizes a GSA that adopts a GSP to file an action to determine the validity of the plan pursuant to the validation statutes under the Code of Civil Procedure no sooner than 180 days following the adoption of the plan.
 - a) Any other action of a GSA is subject to judicial review pursuant to Section 1085 of the Code of Civil, which provides for a writ of mandamus. (*Id.* at subd. (e).)

This bill:

- 1) Provides that a judgment in an adjudication substantially impairs the ability of a GSA, the State Water Board, or DWR to comply with SGMA if it allows more total pumping from the basin annually or on average than the sustainable yield of the basin established in the latest GSP or GSPs covering the basin.
 - a) Specifies that this is not the exclusive manner by which a court may substantially impair the ability of a GSA, the State Water Board, or DWR to comply with SGMA.
- 2) Prohibits the court from establishing a safe yield or sustainable yield for the basin that exceeds the sustainable yield of the basin as established in a GSP for the basin. A GSP for a basin is to be presumed valid unless the GSP has been ruled invalid by DWR or has been referred to DWR pursuant to Section 10735.2 of the Water Code.
- 3) Provides that a judgment substantially impairs the ability of a GSA, the State Water Board, or DWR to comply with SGMA and to achieve sustainable groundwater management if it permits more total pumping from the basin annually or on average than the sustainable yield of the basin established in the latest GSP or GSPs covering the basin and the groundwater sustainability plan or plans have received a determination from DWR that the plan or plans are likely to achieve the sustainability goal for the basin and either of the following apply:

- a) the groundwater sustainability plan or plans have been validated by a final judgment issuing from a validation action brought pursuant to Section 10726.6 of the Water Code; or
 - b) the groundwater sustainability plan or plans have been validated by operation of law because no validation action was filed.
- 4) Requires a validation action of a GSP to be brought within 180 days, and any other action against a GSA within 90 days.
- 5) Requires the court, if judicial review is sought regarding an action or determination that is concurrently being reviewed by either DWR or the State Water Board pursuant to SGMA, to promptly consider whether, in the interests of efficiency or justice, to stay that challenge until DWR or the State Water Board has completed their evaluation or related procedure.
- 6) Requires the court, in an action where consolidation occurs, to try the cause of action for judicial review of the GSP's determination of a basin's sustainable yield before trying any other issue in the action.

COMMENTS

1. Stated need for the bill

The author writes:

Successful implementation of the Sustainable Groundwater Management Act (SGMA) is of vital importance to California. A minority of pumpers should not be able to use the groundwater adjudication process to get around, delay, or undermine SGMA. AB 1413 will limit abuse of the groundwater adjudication process. To accomplish this goal, this bill prevent pumpers from filing a comprehensive groundwater adjudication to get around a groundwater sustainability plan (GSP) and rehash the sustainable yield (or groundwater budget) established in a GSP.

Unfortunately, it appears this is occurring in pending groundwater adjudications in basins subject to SGMA. Revisiting the question of sustainable yield in a groundwater adjudication delays sustainable groundwater management and is redundant. While the court has an important role to play in determining individual groundwater water rights, the GSP development and implementation processes are the best forums for determining the sustainable yield for a given groundwater basin (akin to land use planning and zoning). This administrative planning process is bolstered by review and oversight by the state agencies with technical expertise in water management – DWR and the State Water Board – that take an active and ongoing role in SGMA implementation. To avoid delay in reversing groundwater overdraft and avoid shutting out smaller actors, this bill directs courts to not permit

more groundwater pumping than would be allowed under a valid GSP when entering a judgment in a comprehensive groundwater adjudication.

2. Adjudication of water rights and SGMA

The adjudication of water rights in the state can be complex and involve many parties. According to the State Water Resources Control Board (State Water Board) a “water right” is a legal entitlement authorizing water to be diverted from a specified source and put to beneficial, nonwasteful use. Water rights are property rights, but their holders do not own the water itself.”³ Existing state law recognizes three types of water rights – riparian rights, appropriative rights, and groundwater rights. With the impacts of climate change affecting the scarcity and availability of water, via droughts and other conditions, litigation around water rights will likely increase in the near future. Prior to the adoption of SGMA in 2014, there was no statewide oversight of groundwater management. The courts were left to adjudicate groundwater basin cases based on principles of common law and prior case law.

Historically, in groundwater adjudications courts endeavored to find a physical solution to apportion water rights of the groundwater basin subject to the adjudication by determining the safe yield in the basin, which the California Supreme Court has defined as “the maximum quantity of water which can be withdrawn annually from a groundwater supply under a given set of conditions without causing an undesirable result.”⁴ The concept of safe yield is rooted in the constitutional doctrine of reasonable and beneficial use of water. (*Ibid.*) A physical solution is the resolution of an adjudication of groundwater rights, whether through settlement or judicial decision, that resolves conflicting claims that “advances the constitutional rule of reasonable and beneficial use of the state’s water supply.”⁵

a. SGMA

In 2014, the Legislature passed SGMA,⁶ which put in place a statewide framework for groundwater management for the first time. The purpose of SGMA was to address overdraft and other adverse effects of excessive pumping of groundwater by avoiding six specified “undesirable results”⁷ to ensure long-term sustainability.⁸ SGMA

³ State Wat. Resources Control Bd., *The Water Right Process* (updated Aug. 20, 2020), available at https://www.waterboards.ca.gov/waterrights/board_info/water_rights_process.html.

⁴ *City of Los Angeles v. City of San Fernando* (1975) 537 P.2d 1250, 1308.

⁵ *Santa Maria v. Adam* (2012) 211 Cal.App 4th 266, 287-88.

⁶ Enacted through a three bill package AB 1739 (Dickinson, Ch. 347, Stats. 2014), SB 1168 (Pavley, Ch.346, Stats. 2014), and SB 1319 (Pavley, Ch. 348, Stats. 2014).

⁷ These are:

(1) Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon. Overdraft during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and groundwater recharge are managed as necessary to ensure that reductions in groundwater levels

specifically provides that its provisions do not determine or alter surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights. (Wat. Code § 10720.5(b).) Under SGMA, a GSA is to adopt a GSP to accomplish these goals. The initial and most significant step, in establishing a GSP is determining the “sustainable yield” for the basin. The sustainable yield is the maximum quantity of water, calculated over a base period representative of long-term conditions in the basin and including any temporary surplus, that can be withdrawn annually from a groundwater supply without causing an undesirable result. (Wat. Code § 10721(w).) Essentially, how much water is available to be pumped without causing undesirable results. Existing law provides that GSPs adopted by a GSA are subject to the validation statutes. (Wat. Code § 10726.6(a).) Any other action of a GSA are subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure, which provides for a writ of mandamus. (*Id.* at subd. (e).)

Under SGMA, a GSA possesses the authority to adopt rules, regulations and ordinances to carry out the GSP. The development of the GSP is required to be developed in a manner that considers the interests of all beneficial water users in a basin. While the statute does not specify the exact manner in which a GSA must engage the public and receive comment on a proposed GSP, the statute does specify the parties a GSA is to seek input from, including holders of overlying groundwater rights, public water systems, the federal government, California Native American, tribes, and disadvantaged communities. (Water Code Section 10723.2.) Once the sustainable yield is determined and the GSP is completed, it is submitted to DWR for review, where the public is entitled to submit comments to DWR regarding the plan and DWR evaluates the plan and issues an assessment of it. (Wat. Code § 10733.4.) Even after a GSP has been approved by DWR and implemented by the GSA, the plan must be reviewed by DWR every five years. (Wat. Code § 10733.8.)

After the enactment of SGMA, the Legislature passed SB 226 (Pavley, Ch. 676, Stats. 2015) and AB 1390 (Alejo, Ch. 672, Stats. 2015) with the intent of streamlining the adjudication process for groundwater rights. Under SB 226, a court must adjudicate rights to groundwater in a basin that is required to have a GSP under SGMA in a manner that minimizes interference with the timely completion and implementation of a GSP, avoids redundancy and unnecessary costs in the development of technical

or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.

- (2) Significant and unreasonable reduction of groundwater storage.
- (3) Significant and unreasonable seawater intrusion.
- (4) Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.
- (5) Significant and unreasonable land subsidence that substantially interferes with surface land uses.
- (6) Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water. (Wat. Code § 10721(x).)

⁸ State Wat. Resources Control Bd., *The Sustainable Groundwater Management Act* (updated Aug. 8, 2024), available at https://www.waterboards.ca.gov/sgma/about_sgma.html.

information and a physical solution, and is consistent with the attainment of sustainable groundwater management within the timeframes established by SGMA. (Wat. Code § 10737.2.) AB 1390 authorized a GSA for the basin, a city, county, or city and county that overlies the basin, and certain persons to intervene in a groundwater adjudication. (Code of Civ. Proc. § 837 & 837.5.) Last session, AB 779 (Wilson, Ch. 655, Stats. 2023) was enacted to, among other things, ensure that the water use of small farmers and disadvantaged communities has been considered by a court before a judgment is entered.

b. Streamlined groundwater adjudication proceedings

Under state law, every overlying property owner has a potential right in an unadjudicated groundwater basin, which makes adjudication of those rights difficult and often a very lengthy process – sometimes taking more than a decade for water rights holders and basin managers to come to an agreement. Prior to the enactment of SGMA, adjudications were the only form of state oversight on groundwater basins. In a common law adjudication, groundwater basins are managed according to the concept of “safe yield,” and overlying appropriators are limited when total basin groundwater extraction exceeds the basin’s safe yield, leading to basin overdraft. The safe yield of a groundwater basin is “the maximum amount of water that could be extracted annually, year after year, without eventually depleting the underground basin. Safe yield is generally calculated as the net of inflows less subsurface and surface outflows.” (*City of Santa Maria v. Adam* (2012), 211 Cal.App.4th 266, 279.) The safe yield is used by the court to decide on a physical solution for the basin.

A year after the enactment of SGMA, the Legislature enacted streamlined groundwater adjudication statutes. (Gov. Code §§ 830 et seq.; AB 1390 (Alejo, Ch. 672, Stats. 2015.) Under these statutes, a court may enter a judgement in a comprehensive groundwater basin adjudication if the judgement is consistent with the reasonable use doctrine, is consistent with the rights of parties exempted from the adjudication, and treats all objecting and exempted parties equitably. (Code Civ. Proc. § 850(a).) Any party to the adjudication may propose a stipulated judgment to the court, and the court may adopt the stipulated judgment if the parties proposing the settlement represent 75 percent of the groundwater pumped in the basin or if 50 percent of the pumpers in the basin agree to the stipulated judgment (*Id.* at (b).) The party proposing the stipulated judgment may submit the proposed stipulated judgment to DWR for an evaluation and assessment that it satisfies the objects of SGMA for the basin, and DWR can recommend corrective actions. (Wat. Code § 10737.4.) The court may determine it is necessary to amend the judgment to adopt DWR’s recommended corrective actions. (*Ibid.*). This process, however, is only triggered if a party chooses to submit the proposed settlement. Additionally, a court is not to approve entry of judgment in an adjudication action for a basin required to have a GSP unless the court finds that the judgment will not substantially impair the ability of a GSA, SWRCB, or DWR to comply with SGMA and to achieve sustainable groundwater management. (Wat. Code § 10737.8.) A court is also

required to consider the water use of, and accessibility of water for, small farmers and disadvantaged communities when issuing a judgment in a comprehensive water adjudication. (Code Civ. Proc. § 850(a)(4).)

c. GSPs are subject to the validation statutes

The validation statutes provide for an expedited procedure for challenging certain government actions in order to promptly settle the validity of a public agency's actions. (*McLeod v. Vista United School Dist.* (2008) 158 Cal.App.4th 1156, 1166; Code Civ. Proc. § 860 et seq.) When made applicable by another substantive statute, the validation statutes provide a 60-day period in which the public entity or any interested person may sue to determine the validity of a governmental act. (*Golden Gate Hill Development Company, Inc. v. County of Alameda* (2015) 242 Cal.App.4th 760, 765–767.) Lawsuits brought by the public entity are called “validation actions,” and lawsuits by the public are called “reverse validation actions.” (*Id.*)

Validations actions were traditionally used to enable public agencies to establish the validity of their bonds and assessments. (*City of Ontario v. Superior Court* (1970) 2 Cal. 3d 335, 340.) “[I]n its most common and practical application, the validation proceeding is used to secure a judicial determination that proceedings by a local government entity, such as the issuance of municipal bonds and the resolution or ordinance authorizing the bonds, are valid, legal, and binding. Assurance as to the legality of the proceedings surrounding the issuance of municipal bonds is essential before underwriters will purchase bonds for resale to the public.” (*Friedland v. City of Long Beach* (1998) 62 Cal. App.4th 835, 842, citations omitted [*Friedland*]) However, the governing statutes apply to “any matter which under any other law is authorized to be determined pursuant to this chapter” (Code Civ. Proc. § 860).

Under these procedures, once a public agency takes an action, a complaint must be filed within 60 days of the act to be challenged. (Code Civ. Proc. § 860.) Notice of the claim must be served on all interested parties by publication. (*Id.* § 861.) The claim or action must be given preference over other civil actions. (*Id.* § 867). Appeal of the trial court's ruling must be noticed within 30 days of the notice of entry of judgment. (*Id.* § 870(b).) If not appealed or overturned, the judgment is “forever binding and conclusive ... against the agency and against all other persons.” (*Santa Clarity Organization for Planning & the Environment v. Abercrombie* (2015) 240 Cal.App.4th 300, 308, citing section 870(a).)

If no challenge is brought within 60 days, the action is deemed valid and “become[s] immune from attack.” (*Kaatz v. City of Seaside* (2006) 143 Cal.App.4th at 30.) As a result, all matters “which have been or which could have been adjudicated in a validation action, ... including constitutional challenges,” must be “raised within the statutory limitations period in section 860 et seq. or they are waived.” (*Friedland, supra*, 62 Cal.App.4th at 846–847.) Courts have concluded the 60-day period is reasonable given

the important purposes of the validation statutes, which include “the need to limit the extent to which delay due to litigation may impair a public agency’s ability to operate financially.” (*California Commerce Casino, Inc. v. Schwarzenegger* (2007) 146 Cal.App.4th 1406, 1420.) “We recognize the statutory period of limitation for commencing a validation action is extremely short but it is not unique in its brevity. ‘What constitutes a reasonable time is a question ordinarily left to the Legislature, whose decision a court will not overrule except where palpable error has been committed.’” (*Id.*, citations omitted.)

The only difference from the validation statutes for a GSP is that an action cannot be commenced any sooner than 180 days after the adoption of the GSP. (Wat. Code § 10726.6(a).) This bill would change this provision to no later than 180 days after the adoption of the GSP.

3. Current pending adjudications

According to the Senate Natural Resources and Water Committee, there are currently five pending groundwater adjudications:

- Santa Clara Valley – Oxnard (No. 4-001.2) and Pleasant Valley (No. 4-006) groundwater basins, commenced in December 2022. A coalition of pumpers, the “OPV Coalition,” initiated this action in December 2022 against the Fox Canyon Groundwater Management Agency (FCGMA) (the GSA for the basins) asserting six causes of action: (1) seeking a comprehensive groundwater adjudication; (2) seeking quiet title to plaintiffs’ claims to use groundwater; (3), (4), and (5) writs of mandate challenging the GSP or FCGMA’s efforts to implement the GSP; and (6) alleging a violation of the California Environmental Quality Act. The court has stayed all causes of actions while it hears the comprehensive groundwater adjudication; this first phase is currently underway. DWR approved the GSPs for both basins in November 2021.
- Cuyama Valley groundwater basin (No. 3-013), commenced in March 2022. Two large agricultural pumpers, Bolthouse Land Company and Grimmway Enterprises, initiated this action in March 2022 seeking a comprehensive groundwater adjudication and quiet title to plaintiffs’ claims to use groundwater. DWR approved the GSP for this basin in May 2023 and it is currently undergoing its first 5-year review.
- Indian Wells groundwater basin (No. 6-54), commenced in November 2021. A number of legal actions have taken place in this basin in recent years. The Indian Wells Valley Water District (not part of the basin’s GSA) filed the action seeking a comprehensive groundwater adjudication in June 2021; however, this was a cross-complaint to another action filed by an agricultural pumper, Mojave Pistachios, challenging the GSP for the basin. The crux of the

conflict is that various parties in the basin disagree about the basin's sustainable yield; some pumpers allege the Indian Wells Valley Groundwater Authority (IWVGA), the GSA for the basin, underestimated it. The adjudication is in the first phase to determine the U.S. Navy's federal reserved rights to groundwater in the basin. It is expected that there will be at least two more phases on safe yield and then individual groundwater rights. DWR approved the GSP for this basin in January 2022.

- Upper Ventura River (No. 4-3.01), Ojai Valley (No. 4-2), Lower Ventura River (No. 4-3.02), and Upper Ojai Valley (No. 4-1) groundwater basins, commenced in November 2019. Santa Barbara Channelkeeper initiated a suit against the City of Ventura in 2014 to limit the city's use of water from the Ventura River. The City of Ventura filed a cross-complaint in December 2019 alleging nine claims for relief, one of which seeks a comprehensive groundwater adjudication of these basins. DWR approved the GSP for Ventura River in May 2023 and for Ojai Valley in October 2023.
- Las Posas Valley groundwater basin (No. 4-8), commenced in November 2018. A coalition of pumpers, the "Las Posas Valley Water Rights Coalition," initiated this action in October 2018 against FCGMA (i.e., the GSA for the basin) seeking a comprehensive groundwater adjudication. Parties reached a settlement in spring 2023 that the court adopted in July 2023. DWR approved the GSP for this basin in January 2022; this will be supplanted by the judgment in the comprehensive groundwater adjudication. As a separate issue, it is unclear if all the landowners received proper notice of the adjudication.⁹

An additional adjudication in the Borrego Valley groundwater subbasin (No. 7-024.1) commenced in July 2020; the court approved a stipulated judgment to settle this adjudication on April 8, 2021 and the case is no longer active.¹⁰

4. Indian Wells groundwater basin adjudication highlights the existing tension between SGMA and the adjudication statutes

The genesis of this bill stems from the Indian Wells groundwater basin adjudication. In that adjudication, the sustainable yield adopted by Indian Wells Valley Water District, the GSA, is being challenged. Indian Wells argued to the superior court that the sustainable yield under the GSP was required to be used as the safe yield in the adjudication to determine a physical solution. The plaintiffs in the adjudication argue that the safe yield must be determined in an adjudication, and that the GSA's sustainable yield was determined in a non-judicial setting and therefore is non-binding.

⁹ Sen. Nat. Res. & Wat. Comm. analysis AB 1466 (2025-26 reg. sess.) as amended Jun. 26, 2025.

¹⁰ *Ibid.*

It is important to note that the Indian Wells adjudication contains high stakes for both sides. Under the GSP, all groundwater extractors are subject to a basin replenishment fee of \$2,130 per acre-foot, with some exceptions for public agencies and de minimis pumpers. Mojave Pistachios, one of the plaintiffs, claims that if they pay the fees the cost will destroy their ability to continue doing business and if they do not their trees will die and they will be put out of business.¹¹ Indian Wells has spent millions of dollars and many years developing the GSP and is expecting funding of \$50 million for construction of an augmentation project this year.¹²

The court stated that a potential question is raised as to whether a physical solution in an adjudication can displace a GSP, and noted the following that are relevant to this analysis:¹³

- The concept of safe yield is not explicitly referenced in the adjudication statutes but is a “Critical underpinning” of those statutes and “is integral to developing any physical solution.” (citing *Antelope Valley Groundwater Case* (2021) 62 Cal.App.5th 992, 1000-1002.)
- Determining the safe yield is done in an adversarial setting and includes the use of expert witnesses.
- A sustainable yield under SGMA is done via an administrative proceeding, which is not an adversarial setting.
- SGMA specifically contemplates the possibility of replacing a GSP with a DWR approved physical solution. (Wat. Code § 10733.6.)
- No provision of either law specifically address how to handle a situation where a party could undermine a GSP through an adjudication.
- The statute that requires adhering to an existing GSP during an adjudication “suggests that the GSP may be replaced as a result of the proceeding.”
- A safe yield trial is not clearly precluded by existing statutes, as a comprehensive adjudication following implementation of a GSP. (Code Civ. Proc. §849(b).)
- The “thrust of the statutes[;]” however, “make clear that the Legislature has attempted to harmonize SGMA” and the adjudication statutes.¹⁴

The court determined that a physical solution in an adjudication and a GSP both need a safe/sustainable yield at the outset, that, in the court’s opinion, a safe yield and a sustainable yield are “essentially equivalent terms,” and that this was “well known before the enactment of SGMA” and the adjudication statutes by the Legislature.¹⁵ The court ultimately concluded that the “Legislature easily could have required a court in an adjudication action to adopt a groundwater agency’s findings on the issue. Since it

¹¹ *Mojave Pistachios, LLC v Indian Wells Valley Water District*, Case No. 30-2021-01187275-CU-OR-CJC, Sup. Court, Orange County, Notice of Ruling from the 8/5/24 Hearing, (Oct. 2, 2024).

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

did not do so, the [c]ourt is hard pressed to read ‘avoiding redundancy and unnecessary costs’ as imposing this requirement.”¹⁶

It is important to note that the court specifically points out that there were “data gaps” acknowledged by both Indian Wells and DWR underlying the determination of a sustainable yield in the GSP, and that if the court is going to impose a physical solution it should do so based on the most accurate and up-to-date information available.¹⁷ The court also noted that the validation statutes apply to a GSP, not an adjudication, and that though a physical solution may differ from a GSP, it is not a direct attack on the GSP as barred under the validation statutes.¹⁸

5. This bill seeks to specifically require a court to use the sustainable yield of a valid GSP to determine the physical solution in a groundwater adjudication

Proponents of the bill claim it is clarifying existing law. However, as evidenced by the court’s decision described in 4), above, the issue is not so cut and dried. As noted earlier, this exact issue was pointed out in this Committee’s analysis of AB 1390, stating:

Since the concept of “safe yield” used in groundwater adjudications could allow parties to extract more groundwater than would be permitted under a groundwater management plan crafted under SGMA, it is possible that improving the speed and efficiency of groundwater adjudications could lead parties not inclined to participate in the SGMA process to use adjudications as a way to circumvent that process.¹⁹

What is clear, is that the court has invited the Legislature to make a determination on the issue, and this bill seeks to do just that.

a. Under the bill, a valid GSP’s suitable yield will control in an adjudication

The bill requires a court to use the sustainable yield of a valid GSP to determine the physical solution in a groundwater adjudication by prohibiting the court from establishing a safe yield or sustainable yield for the basin that exceeds the sustainable yield of the basin as established in a GSP. A GSP for a basin is to be presumed valid unless the GSP has been ruled invalid by DWR or has been referred to DWR pursuant to Section 10735.2 of the Water Code. The bill explicitly states that a judgment in an adjudication substantially impairs the ability of a groundwater sustainability agency, the State Water Board, or DWR to comply with SGMA if it allows more total pumping from the basin annually or on average than the sustainable yield of the basin established in the latest groundwater sustainability plan or groundwater sustainability plans covering the basin.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ See Sen. Jud. Comm. analysis of AB 1390 (2015-2016 reg. sess.) as amend July 6, 2015 at p. 11.

The bill provides that a judgment substantially impairs the ability of a GSA, the State Water Board, or DWR to comply with SGMA and to achieve sustainable groundwater management if it permits more total pumping from the basin annually or on average than the sustainable yield of the basin established in the latest GSP or GSPs covering the basin and the groundwater sustainability plan or plans have received a determination from DWR that the plan or plans are likely to achieve the sustainability goal for the basin and either of the following apply:

- the groundwater sustainability plan or plans have been validated by a final judgment issuing from a validation action brought pursuant to Section 10726.6 of the Water Code; or
- the groundwater sustainability plan or plans have been validated by operation of law because no validation action was filed.

The bill in print currently provides differing descriptions of what makes a GSP valid or invalid. Both the SGMA provisions in Water Code Section 1073.2 and adjudication provisions in Code of Civil Procedure Section 850 provide that a GSP that was either validated under the validation statutes, or by operation of law because it was not challenged, is valid. In the SGMA provision it states that a GSP that was referred to the State Water Board is not a valid GSP. Under the adjudication provisions, it says that a GSP that was determined by DWR as likely to achieve the sustainability goal for the basin is valid. In practicality, a GSP referred to the State Water Board would not have been found by DWR to likely to achieve the sustainability goal for the basin, and vice versa. However, the Committee strongly advises the author, should this bill pass this Committee, to streamline terms and cross-references used under these two statutes to avoid any ambiguity on what approval or determination is needed by DWR to ensure a GSP is considered valid.

b. This bill affects pending adjudications

This Committee generally disfavors statutes that interfere with pending litigation. It raises concerns of fairness and equity. In this instance, the issue at hand – whether the sustainable yield of a GSP controls in an adjudication – has been an open question since the enactment of the adjudication statutes and one that had not been addressed by the court until recently. However, the Legislature is now squarely faced with this question. If the bill in print were not to apply to pending adjudications, it would result in the scenario where the Legislature has made the policy decision that SMGA is so important to groundwater sustainability that a GSP's sustainable yield should control in an adjudication, except for the five basins where an adjudication is currently pending. On one hand this seems nonsensical. However, the parties involved, mainly the plaintiffs, made decisions based on their understanding of what their rights in a groundwater adjudication were. This bill would essentially validate a GSP as a matter of law for the pending adjudications, and cut off those plaintiffs' ability to argue their case as the GSPs have already been adopted and approved by DWR.

To address this concern, the author has proposed to amend the bill to provide for a one-time special reopening of the statute of limitations to permit parties under existing adjudications to contest previously validated GSPs through a validation action. In order to ensure that any final determinations regarding the safe yield made in an adjudication before the enactment of this bill, whether by a court or through a stipulated settlement, are not re-litigated the bill would not apply the one-time reopening of the statutes to those pending adjudications. The specific amendments are provided in Comment 6), below.

c. Bill may implicate the beneficial use doctrine under the California Constitution

Opponents argue this bill would violate the beneficial use doctrine under the California Constitution. They write:

[...] Article X, Section 2 of the California Constitution establishes the principle of reasonable and beneficial use of water. It declares that all water use—including surface and groundwater—must “be put to beneficial use to the fullest extent of which they are capable” without waste or unreasonable use or diversion. This ensures that California’s water resources are managed efficiently to serve the greatest public benefit.

A safe yield in an adjudication tasks courts with determining the appropriate amount of water that can be sustainably withdrawn from the groundwater basin or water source over time without causing undesirable results. AB 1413 would tie the hands of the courts, preventing the establishment of a safe yield that maximizes all beneficial uses of groundwater. This would be an unconstitutional violation of Article X, Section 2.

It is unclear to Committee staff if requiring the sustainable yield to control in a groundwater adjudication would be in violation of the beneficial use doctrine. There is certainly a potential that in a specific situation a sustainable yield determined by a GSP could be artificially low due to faulty data or a myriad of other reasons. In this scenario, one would presume that the review process by DWR would prevent this from occurring. Nevertheless, it is conceivable that this could happen. In such a situation, an artificially low sustainable yield could affect the beneficial use of water in the state because shrinking the size of water available to pump would necessarily shrink the amount of water that can be pumped and, therefore, be put to beneficial use. However, this would be a very fact specific determination.

a. Other changes to SGMA and the adjudication statutes under the bill

Under the bill, the court, if judicial review is sought regarding an action or determination that is concurrently being reviewed by either DWR or the State Water Board pursuant to SGMA, must promptly consider whether, in the interests of

efficiency or justice, to stay that challenge until DWR or the State Water Board have completed their evaluation or related procedure. The bill requires the court, in an action where consolidation occurs, to try the cause of action for judicial review of the GSP's determination of a basin's sustainable yield before trying any other issue in the action.

In regards to the consolidation provision, the opposition writes:

[...] While consolidation is often the most efficient means of dealing with related cases, courts currently have discretion to consolidate if it is appropriate based on the circumstances. For instance, there could be circumstances where consolidation would not be appropriate because of disparate case status and schedules, among other reasons. By removing judicial discretion, this provision would force consolidation regardless of appropriateness and limit courts' ability to manage their cases in ways that maximize efficiency and take into consideration the needs of the parties. We suggest that consolidation remains within the court's discretion, rather than mandating a particular action.

SGMA requires a court to manage adjudication 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 SGMA. (Wat. Code § 10737.2.) In light of these provisions, the consolidation requirement seems consistent with existing public policy.

Lastly, the bill requires a validation action of a GSP to be brought within 180 days, and any other action against a GSA within 90 days.

6. Amendments

The specific amendments to address the concerns raised under Comment 5(b), above, are as follows:²⁰

Amendment 1

Section 850 of the Code of Civil Procedure is amended to read:

850. (a) The court may enter a judgment in a comprehensive adjudication if the court finds that the judgment meets all of the following criteria:

(1) It is consistent with Section 2 of Article X of the California Constitution.

²⁰ The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel.

(2) It is consistent with the water right priorities of all nonstipulating parties and any persons who have claims that are exempted pursuant to Section 833 in the basin.

(3) It treats all objecting parties and any persons who have claims that are exempted pursuant to Section 833 equitably as compared to the stipulating parties.

(4) It considers the water use of and accessibility of water for small farmers and disadvantaged communities. This consideration shall be consistent with the conditions identified in this subdivision.

(b) (1) The court may enter judgment in an adjudication action for a basin required to have a groundwater sustainability plan under the Sustainable Groundwater Management Act, if in addition to the criteria enumerated in subdivision (a), the court also finds that the judgment will not substantially impair the ability of a groundwater sustainability agency, the State Water Resources Control Board, or the department to comply with the Sustainable Groundwater Management Act and to achieve sustainable groundwater management.

(2) A judgment substantially impairs the ability of a groundwater sustainability agency, the State Water Resources Control Board, or the department to comply with the Sustainable Groundwater Management Act and to achieve sustainable groundwater management if it permits more total pumping from the basin annually or on average than the sustainable yield of the basin established in the latest groundwater sustainability plan or plans covering the basin and the groundwater sustainability plan or plans have received a determination from the department, pursuant to *Chapter 10 (commencing with Section 10733 of the Water Code)*, including a determination under Section 10733, that the plan or plans are likely to achieve the sustainability goal for the basin and either of the following apply:

[...]

Amendment 2

Section 10726.6 of the Water Code is amended to read:

10726.6. (a)(1) A groundwater sustainability agency that adopts a groundwater sustainability plan may file an action to determine the validity of the plan pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure within 180 days following the adoption of the plan.

(2)(A) *Notwithstanding paragraph (1), for any groundwater basin in which a comprehensive groundwater adjudication was filed prior to January 1, 2025, pursuant to Chapter 7 (commencing with Section 830) of Title 10 of Part 2 of the Code of Civil Procedure, any party that has timely appeared in that adjudication may file an action pursuant to paragraph (1) by March 2, 2026.*

(B) That action shall be consolidated with the adjudication and have priority over any other issue pending in the adjudication.

(2) Paragraph (2) shall not apply to a comprehensive adjudication in which a court has issued a final determination on the basin's safe or sustainable yield prior to January 1, 2026.

[...]

Amendment 3

Section 10737.2 of the Water Code is amended to read:

10737.2. (a) 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.

(b)(1) In an adjudication action for a basin required to have a groundwater sustainability plan pursuant to this part, the court shall not establish a safe yield or sustainable yield for the basin that exceeds the sustainable yield of the basin as established in a valid groundwater sustainability plan for the basin. A groundwater sustainability plan for a basin shall be presumed valid unless the groundwater sustainability plan has been ruled invalid pursuant to Section 10726.6 or has been referred to the board pursuant to Section 10735.2.

(2) Paragraph (1) shall not apply to a comprehensive adjudication in which a court has issued a final determination on the basin's safe or sustainable yield prior to January 1, 2026.

7. Statements in support

Indian Wells Valley Groundwater Authority writes in support, stating:

[...] SGMA established a local process to determine groundwater management using the best available science, open participation by all stakeholders, and addressing the specific needs of stakeholders. In addition, it established a regulatory process requiring the State (through the Department of Water Resources) to oversee and verify a GSP, including its ability to meet sustainability requirements. Lastly, it established judicial mechanism through a Validation Action process — to challenge a GSP or the actions of a groundwater sustainability agencies in a timely manner; providing further the use of a Writ Process, under Section 1085 of the Code of Civil Procedure that is not limited to a review of the administrative record and involves introducing other kinds of evidence including, discovery, depositions, declarations

of witnesses, and other types of evidence typically that are not permitted in a typical administrative mandate case.

Litigants in the current groundwater adjudications are removing this local process in favor of a courtroom — literally hundreds of miles from the stakeholders in the basin — with limited participation by those that can afford such legal action.

AB 1413 establishes a mechanism that prevents the re-litigation of a GSP's "sustainable yield" through an adjudication providing certainty to finance sustainability projects, removing unnecessary and costly delays in the implementation of sustainability measures, and prevents duplicative litigation costs. The bill protects the ability of any party to seek a groundwater right through adjudication and maintains the due process afforded to participants in the adjudication process. [...]

The Community Alliance of Family Farmers:

We are concerned that large-scale farming interests have at times filed for adjudication when the process at their local GSA has resulted in lower pumping than they would prefer, and so they aim to achieve a better deal in court. There are instances of large-scale producers asking the court to find that there is a "safe yield" level of pumping that is greater than the "sustainable yield" the GSA has calculated, thus providing more water to be pumped in the future. We support efforts to limit adjudications as a way to circumvent the past ten years of work in creating Groundwater Sustainability Plans.

It makes no sense for the court to re-do an estimate that professionals have already calculated with the GSA. That the court has this "safe yield" charge at all is left over from the pre-SGMA era when there were no GSAs nor sustainable yield calculations. It is time to do away with it. We understand that GSAs cannot assign groundwater rights, but we are concerned that allowing adjudications to assign groundwater rights that exceed that amount of water determined to be sustainable yield will result in significant adverse effects for family farmers, and the undesirable effects that SGMA seeks to avoid.

Small-scale farmers are more likely to have shallow wells at risk of going dry, and generally stand to lose their water access in adjudication proceedings. It is extremely difficult for small farms and rural residents to participate in an adjudication, as they must employ legal representation and the courts are required to provide a venue outside their county. They have neither the money for the attorneys nor the time to attend.

While we know that Groundwater Sustainability Plans are not perfect, we support the public process of amending and improving them, rather than the high bar to

entry that adjudications currently represent. Importantly, this approach would still allow for validation actions. This ensures that problems with a GSP can be addressed without putting the entire subbasin through an adjudication. Aligned with our advocacy on AB 1466, we seek to ensure that small scale farmers are appropriately represented in adjudications and have their water rights fairly protected.

8. Opposition concerns

Opponents to the bill include a large coalition of agriculture and business interests, water agencies, and GSAs, including the Western Growers Association, Association of California Water Agencies, and the California Chamber of Commerce, who raise several concerns with the bill. They have proposed amendments that would essentially allow a GSP's sustainable yield to control in an adjudication unless there was reasonable evidence that the GSA's sustainable yield is not based on the best available science or where transparency into the process of establishing the GSP was lacking. There amendments would provide that they do not apply to any pending adjudications.

First, the opposition notes issues with only allowing validation actions to challenge the sustainable yield:

AB 1413 essentially states that anyone who disagrees with a sustainable yield determination should file a reverse validation action. The sustainable yield, as defined in SGMA, is "the maximum quantity of water... that can be withdrawn annually from a groundwater basin without causing an undesirable result." A validation proceeding asks whether the agency complied with the law when taking the challenged action. If the court finds that the agency did something wrong, all the court can do is direct the agency to redo the action, this time following the law. The court cannot review the best available technical information outside the administrative record developed by the GSA during development of the GSP or cross-examine witnesses. Unlike in a groundwater adjudication, not all water rights holders are required to participate nor is there a requirement that there has to be proof that all water rights holders were notified. Additionally, since SGMA prohibits GSAs from determining water rights, groundwater users do not present evidence during the GSP development process to prove the extent or validity of their rights. This means that the administrative record does not include evidence of an individual user's water rights.

Second, they argue that this bill will allow GSAs though a GSP to determine water rights, in violation of SGMA:

AB 1413 would make the GSA the lone arbiter of the size of the pie, and, in effect, determine water rights, which SGMA expressly prohibits. Each water rights holder's slice of that pie is affected by how big the entire pie is. Appropriative and prescriptive water rights, two types of water rights claims that very frequently arise

in groundwater adjudications, are partially if not fully dependent on the safe yield determination for the basin. By forcing courts to essentially defer to a GSP's sustainable yield, AB 1413 removes the authority reserved to courts to determine water rights and deprives water rights holders of the due process that SGMA guarantees.

They further rightfully point out that agencies can make mistakes, and this bill does not account for any scenario where a GSA may incorrectly assess the correct amount for a sustainable yield:

One of the major concerns with AB 1413 is that it assumes that a GSP will accurately estimate the sustainable yield or the maximum amount of water that can be withdrawn from a basin annually. It does so by saying that a court cannot find a safe yield that exceeds the GSP's sustainable yield – although it does allow a court to find a smaller number. This declares that a GSP's sustainable yield number is, in all cases, the maximum amount of water that may be used. It does not contemplate a scenario where a GSA has incorrectly determined this number. It also elevates a GSP from a management document to controlling evidence. This would be analogous to say that a city's general plan is a piece of controlling evidence in a real property dispute. A general plan may be relevant and useful, but it cannot determine the extent of a property right.

They point out that some adjudications have been borne from a lack of transparency by GSAs in the process of developing the GSP, which creates distrust and demonstrates why a GSP should not be controlling.

Lastly, the opponents argue that this bill should not apply to any pending adjudications. They write:

Finally, no legislation should apply to the five ongoing adjudications. The Las Posas adjudication has already been completed at the trial court level and briefing at the appellate court is complete. Safe yield trials are set for May 12, 2025 in the Cuyama adjudication and September 15, 2025 in the Oxnard-Pleasant Valley adjudication. The safe yield trial in the Indian Wells Valley adjudication is set for June 1, 2026. In all four of these adjudications, all parties have already expended substantial financial resources preparing for these safe yield trials based on the existing law. No legislation should apply to these ongoing cases.

SUPPORT

Community Alliance With Family Farmers
Indian Wells Valley Groundwater Authority
Sacramento Suburban Water District
The Nature Conservancy

OPPOSITION

Agricultural Council of California
Almond Alliance
Alta Irrigation District
Arvin Groundwater Sustainability Agency
Association of California Water Agencies
California Alfalfa and Forage Association
California Association of Realtors
California Association of Wheat Growers
California Association of Winegrape Growers
California Chamber of Commerce
California Citrus Mutual
California Farm Bureau
California Fresh Fruit Association
California Grain and Feed Association
California Groundwater Coalition
California Municipal Utilities Association
California Seed Association
California Tomato Growers Association
California Water Association
Cawelo Groundwater Sustainability Agency
Central Delta-Mendota Groundwater Sustainability Agency
Central Kings Groundwater Sustainability Agency
East Turlock Subbasin Groundwater Sustainability Agency
El Rico Groundwater Sustainability Agency
Fresno County Farm Bureau
Henry Miller Water District Groundwater Sustainability Agency
Indian Wells Valley Economic Development Corporation
Indian Wells Valley Water District
Kern County Farm Bureau
South San Joaquin Irrigation District

RELATED LEGISLATION

Pending Legislation: AB 1466 (Hart, 2025), among other things, authorizes a court to exempt or treat separately claimants who extract or divert minor quantities of water, and require a party's initial disclosure to include information relating to agricultural use in a groundwater adjudication. AB 1466 is set to be heard in this Committee on the same day as this bill.

Prior Legislation:

AB 560 (Bennett, 2024) would have required parties to a comprehensive groundwater adjudication to submit a proposed settlement to the State Water Board for a nonbinding advisory determination regarding its impact on sustainable groundwater management and small and disadvantaged users prior to filing it with the court, among other provisions. AB 560 died in the Senate Appropriations Committee.

AB 779 (Wilson, Ch. 665, Stats. 2024), made various changes regarding proceedings in a comprehensive groundwater adjudication to increase transparency and account for the needs of disadvantaged communities and small farmers in a final judgment, and provided that groundwater pumpers in a basin subject to an adjudication continue to comply with any applicable GSP while the adjudication is pending.

SB 226 (Pavley, Ch. 676, Stats. 2015) integrated and streamlined the groundwater adjudication process for groundwater basins that are subject to SGMA.

AB 1390 (Alejo, Ch. 672, Stats. 2015) established requirements and procedures for a comprehensive groundwater adjudication to ensure the proceedings and final judgment are consistent with sustainable groundwater management.

SB 1168 (Pavley, Ch.346, Stats. 2014) was part of the three-bill package that enacted SGMA.

SB 1319 (Pavley, Ch. 348, Stats. 2014) was part of the three-bill package that enacted SGMA.

AB 1739 (Dickinson, Ch. 347, Stats. 2014) was part of the three-bill package that enacted SGMA.

PRIOR VOTES

Senate Natural Resources and Water Committee (Ayes 4, Noes 3)

Assembly Floor (Ayes 45, Noes 21)

Assembly Appropriations Committee (Ayes 10, Noes 4)

Assembly Judiciary Committee (Ayes 8, Noes 3)

Assembly Water, Parks and Wildlife Committee (Ayes 9, Noes 4)
