
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Monique Limón, Chair
2025 - 2026 Regular

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| Author: | Hart | | |
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| Consultant: | Genevieve Wong | | |

Subject: Groundwater adjudication

SUMMARY

This bill would, in actions to adjudicate groundwater rights, allow a court to exempt or treat separately claimants who extract or divert minor quantities of water; require a party's initial disclosure to additionally include information relating to agricultural use; and require a court to request the groundwater sustainability agency (GSA) provide a technical report that quantifies and describes the groundwater uses of parties that have not otherwise appeared before the court.

BACKGROUND AND EXISTING LAW

Groundwater 101. Groundwater is a critical source of supply that meets more than 40 percent of water demand in an average year and more than 60 percent of demand during drought years. There are three types of groundwater rights: overlying, appropriative, and prescriptive. The most common of these is the overlying right that entitles "an owner of land overlying groundwater to drill a well and pump groundwater for use of that water, within the basin or watershed" (Littleworth and Garner, 2019). No permit is required to obtain overlying rights and these rights are typically not quantified. Due to this, any landowner may pump as much groundwater as they want so long as the water is put to beneficial use and the use is reasonable (Section 2, Article X, California Constitution). Overlying rights are "correlative" to other overlying right holders. If there is a dispute amongst overlying landowners, each have equal rights to the groundwater. Due to this lack of regulation for the management of groundwater for most of California's history, many groundwater basins in California are in a state of overdraft (a condition where average annual pumping exceeds average annual groundwater supply in a basin).

Sustainable Groundwater Management Act (SGMA). In 2014, to address overdraft and other adverse effects of excessive pumping, the Legislature passed SGMA, a statewide framework for groundwater management with the goal of managing and using groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results.

Under SGMA, a local agency or combination of local agencies overlying a groundwater basin may become a GSA for that basin. A GSA has broad management authority of the groundwater basin or basins under their jurisdiction including defining the basin's or basins' sustainable yield, limiting groundwater extraction, and imposing fees. GSAs are required to consider the interests of all beneficial uses and users of groundwater, including, but not limited to, holders of overlying groundwater rights, municipal well operators, public water systems, local land use planning agencies, environmental users

of groundwater, surface water uses, the federal government, California Native American tribes, and disadvantaged communities. GSAs are authorized to perform any act necessary to carry out the purposes of SGMA, including adopting rules, regulations, and ordinances and developing the groundwater sustainability plan (GSP).

SGMA requires GSAs in medium- and high-priority groundwater basins, which includes 21 critically overdrafted basins, to develop and implement GSPs. A GSP is a roadmap for how a basin will reach SGMA's sustainability goal for that basin and ensure that the basin is operated within its "sustainable yield," as determined by the GSA. SGMA defines "sustainable yield" as 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. GSAs may customize their GSPs to their regional economic and environmental circumstances. Thus, while SGMA provides for the sustainable management of groundwater basins, it does so by empowering local agencies to manage groundwater basins, while minimizing state intervention.

SGMA stipulates that it does not alter surface or groundwater rights.

Adjudications. A groundwater adjudication is when parties ask a court to resolve conflicts over groundwater rights. An adjudication is initiated when one or more groundwater pumpers files a civil action asking the court to intervene to determine groundwater rights and/or limit pumping to a basin's "safe yield" (the amount of groundwater pumped that is equal to the average replenishment rate of a groundwater basin).

Groundwater adjudications can cover an entire basin, a portion of a basin, or a group of basins, and may include non-basin areas. Groundwater rights are defined for the overlying landowners and appropriators within the adjudicated area. The court decides who is allowed to extract groundwater, how much they are allowed to extract, and designates a watermaster who ensures the adjudicated areas are managed in accordance with the court ruling. According to Bulletin 118, as of 2020, there are 30 adjudicated areas, mostly in Southern California, that cover portions of 42 groundwater basins. Five of the 42 basins are covered with two or more adjudications.

According to the Water Education Foundation, "through adjudication, the courts can assign specific water rights to water users and can compel the cooperation of those who might otherwise refuse to limit their pumping of groundwater."

State law gives every overlying property owner a potential right in an unadjudicated groundwater basin. As such, determining who has groundwater rights that could be affected by an adjudication and the scope of those rights is difficult and can be a lengthy process; adjudications typically take more than a decade to resolve. Identifying and noticing every party that may have a right, completing technical work and sorting through disagreements over this technical work, and determining historic groundwater use which could affect the scope of one's rights are all factors that can contribute to increasing the time and expense of an adjudication.

In an attempt to streamline the groundwater adjudication process in the wake of SGMA's passage, the Legislature passed SB 226 (Pavley, Chapter 676, Statutes of

2015) and AB 1390 (Alejo, Chapter 672, Statutes of 2015). SB 226 requires the court, in an adjudication action to determine rights to groundwater in a basin that is required to have a GSP under SGMA, to manage the proceedings 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 information and a physical solution; and is consistent with the attainment of sustainable groundwater management within the timeframes established by SGMA.

In 2023, the Legislature passed AB 779 (Wilson, Chapter 655, Statutes of 2023) which, among other things, prohibits a court from entering a judgment that will substantially impair the ability of a GSA, the State Water Board, or DWR to comply with SGMA and achieve sustainable groundwater management.

The Committee is aware of 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.

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.

Existing law

- 1) Declares, under the "reasonable use doctrine," that the waters of the state shall be put to beneficial use to the fullest extent they are capable, the waste or unreasonable use of water shall be prevented, and waters shall be conserved with a view the reasonable and beneficial use of such waters in the interest of the people and the public welfare. Provides the Legislature may enact laws in furtherance of this policy. (California Constitution, Article X § 2)
- 2) Enacts SGMA, which requires GSAs to sustainably manage groundwater in high- or medium-priority basins by 2040 pursuant to a GSP. Defines sustainable management of groundwater as the avoidance of the following six "undesirable results:" (a) chronic lowering of groundwater levels; (b) reduction of groundwater storage; (c) seawater intrusion; (d) degraded water quality; (e) land subsidence; and (f) depletions of interconnected surface water. (Water Code (WAT) §10720 *et seq.*)
- 3) Requires a GSP to include a description of the characteristics of the aquifer system underlying the basin including historical data, groundwater levels, water quality, subsidence, and projected supply and demand; measurable objectives; overdraft mitigation; and monitoring protocols; amongst others. (WAT §10727.2)
- 4) Outlines process and scope for a comprehensive adjudication of a groundwater basin. (Code of Civil Procedure (CCP) §830 *et seq.*)
- 5) 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. (CCP §834)

- 6) Authorizes a court, if the court finds that claims of right to extract or divert only minor quantities of water (not more than five acre-feet (af) of water per year) would not have a material effect on the groundwater rights of other parties, to exempt those claimants but a person who is exempted may elect to continue as a party to the comprehensive adjudication. (CCP §833(d))
- 7) Requires the plaintiff to take certain actions to serve notice regarding the comprehensive adjudication, including mailing, by registered or certified mail, return receipt requested, the notice, compliant, and form answer to all holders of fee title to real property in the basin. (CCP §836)
- 8) 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. (CCP §838).
- 9) Requires a party, within six months of appearing in a comprehensive adjudication, to serve an initial disclosure on the other parties that includes certain information including, amongst others, quantity of water extracted from the basin by the party, type of water rights claimed by the party, and any claims for increased or future use of groundwater. (CCP §842)
- 10) Provides that a court has the authority and duty to impose a physical solution on the parties subject to a comprehensive adjudication when necessary to ensure the water is put to reasonable and beneficial use. (CCP §849 (a)).
- 11) Authorizes a court to enter a judgement in an adjudication action for a basin required to have a GSP if the court determines the judgment will not substantially impair the ability of a GSA, the State Water Board, or DWR to comply with SGMA and to achieve sustainable groundwater management, as specified. (CCP §850(b)).

PROPOSED LAW

This bill would:

- 1) Authorize a court to treat claimants that extract or divert minor quantities of water (not to exceed five acre-feet of water per year) separately from other parties to the comprehensive adjudication by separately processing and entering judgments with respect to those persons.
- 2) Require a court, after a plaintiff files with the court a notice of completion of the specified required mailing, to hold a hearing to determine whether to exempt or treat separately the claimants that extract or divert minor quantities of water and to establish a procedure to register those claims.
- 3) Require the initial disclosure required of parties that appear in a comprehensive adjudication to also include, if the groundwater was used for agricultural use, the type of crops grown and the number of acres irrigated during the previous 10 years.

- 4) Presume that the information is accurate if the party is claiming less than an average annual extraction of 100 acre feet per year, or an amount of average historical extraction of water deemed reasonable by the court. If a party challenges the submitted information, that party has the burden of proof.
- 5) Require the court, in adjudications in basins in which a GSP has been approved by DWR, to request that the GSA provide a technical report that quantifies and describes the groundwater use of parties that have not otherwise appeared before the court. If the GSA provides this report, provides that the GSA is not entitled to a fee for its services but requires the GSA be reimbursed the total expense incurred by the agency.
- 6) Provides that the above described report shall be prima facie evidence of the physical facts found in the report, but requires the court to hear evidence that may be offered by any party to rebut the report or prima facie evidence.

ARGUMENTS IN SUPPORT

According to the author, “Assembly Bill 1466 streamlines groundwater adjudication, reduces unnecessary litigation costs, and protects the implementation of sustainability plans that safeguard California’s water resources. The bill allows small and disadvantaged water users—whose pumping does not substantially impact the basin—to request an exemption from the full adjudication process. It also requires the local groundwater sustainability agency to report on water use by all pumpers in the basin, helping ensure that small and disadvantaged communities are represented throughout the adjudication. AB 1466 strengthens California’s efforts to manage and sustain its groundwater resources.”

ARGUMENTS IN OPPOSITION

Agricultural groups and water agencies, writing in opposition, argue that the technical report required by the bill would “place a substantial burden on GSAs” and “would distract them from their primary mission of groundwater management.” Specifically, the organizations argue that the data required by the technical report may not be readily available and the costs of producing the report could be significant.

COMMENTS

Double referral. This bill is double referred with the Senate Judiciary Committee, with this committee being the committee of first referral. Elements of this bill under the jurisdiction of the Senate Judiciary Committee are included here for context and completeness only and will be discussed before that committee.

Technical reports could help protect under-resourced claimants. By requiring GSAs to provide a report that quantifies and describes the groundwater use of parties that have not otherwise appeared before the court, AB 1466 helps to ensure that courts are aware of the groundwater rights of absent claimants. A party could not be participating in an adjudication for a number of reasons, including lack of resources. Litigation can be expensive and time-consuming, and some claimants may not be able to afford legal representation or attend court hearings. As such, they may not be able to defend their interests. The technical report required by the bill could help ensure a court is aware of the interests of those who otherwise have not been able to participate.

While AB 1466 also provides the courts with authority to exempt or treat separately “de minimus” (5 af or less annually) claimants from a comprehensive adjudication, this report would also help capture, or make known, the usage of parties that have not otherwise appeared before the court, regardless of amount. In a way, this technical report acts as a “catch-all,” providing a full picture to the court of groundwater usage.

It is of note that the bill could benefit from some clarity on a GSA’s requirement to provide the technical report. While the language would require *the courts* to request that a GSA provide the technical report, the bill does not specifically require a GSA to provide the report. Further, (d)(2) provides that “*If the [GSA] provides a report ...*.” The committee may wish to amend the bill to clarify that a GSA would be required to provide the technical report when requested by the court. Due to Senate Policy committee deadlines, the amendment will be adopted in the Senate Judiciary Committee, should the bill pass out of this committee. *See Amendment 1.*

Is the data readily available? According to the opposition, many GSAs do not have easy access to the data that would be required by the technical report. GSPs are required to include things such as a general discussion of historical and projected water demands and supplies. The specific circumstances of the basin will determine the level of detail a GSP will require. Typically, it is only if a GSP contains groundwater allocations that a GSA will need to contemplate individual usage and this usually occurs if the basin has been subject to overdraft. Otherwise, a GSA may rely on more generalized data to develop their GSP. In order to obtain the more comprehensive data, a GSA may need to hire a consultant.

Costs of report. Regardless if the data is available, groups have also expressed concern about the costs of providing the technical report. As discussed above, because the information may not be readily available, a GSA that is requested by the court to provide a technical report would need to hire a groundwater consultant to acquire the data. According to the opposition, although a GSA may be reimbursed for costs of preparing the technical report, GSAs often operate on a limited resources and may not have the extra money to cover the costs of hiring a groundwater consultant until reimbursed.

One possibility to resolve this cost issue is to allow the court to require the petitioner of the groundwater adjudication to provide a bond or security to cover the costs of the technical report until the court determines the most judicious way of splitting the costs between the parties. Thus, the party who is seeking comprehensive adjudication could be responsible for the initial costs of the technical report. A similar process is currently available in the context of challenges to affordable housing projects where the plaintiff could be required to furnish an undertaking as security costs (see CCP §529.2). The author may wish to explore this idea with stakeholders to see if it would address their cost concerns.

Related legislation

AB 1413 (Papan) of the current legislative session would, among other things, require a validation action for a GSP be filed within 180 days and prohibit the court from establishing a safe yield or sustainable yield of a basin that exceeds the sustainable yield in a valid GSP. AB 1413 is pending before this committee.

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 was held in the Senate Appropriations Committee on the suspense file.

AB 779 (Wilson), Chapter 665, Statutes of 2024, makes 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. Provides 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), Chapter 676, Statutes of 2015, integrates and streamlines the groundwater adjudication process for groundwater basins that are subject to SGMA.

AB 1390 (Alejo), Chapter 672, Statutes of 2015, establishes requirements and procedures for a comprehensive groundwater adjudication to ensure the proceedings and final judgment are consistent with sustainable groundwater management

SUGGESTED AMENDMENTS

AMENDMENT 1 (to be adopted in Senate Judiciary Committee)

Amend Code of Civil Procedure §845(d)(2) as follows:

(d)(2) ~~If the~~ A groundwater sustainability agency **that** provides a report pursuant to paragraph (1), ~~the agency~~ shall not be entitled to a fee for its services, but shall be paid or reimbursed the total expense incurred by the agency, including salaries, wages, traveling expenses, and all costs of whatsoever character are properly chargeable to providing the report. The court shall apportion the total expenses reimbursable to the groundwater sustainability agency for providing the report among the parties in an amount and in a manner, that the court deems equitable.

SUPPORT

City of Ridgecrest
Community Alliance with Family Farmers
Fox Canyon Groundwater Management Agency
Indian Wells Valley Groundwater Authority

OPPOSITION

Almond Alliance (unless amended)
Alta Irrigation District (unless amended)
Arvin-Edison Water Storage District (unless amended)
Association of California Water Agencies (unless amended)
Buena Vista Water Storage District (unless amended)
Cal Chamber (unless amended)
California Citrus Mutual (unless amended)

California Farm Bureau Federation (unless amended)
California Fresh Fruit Association (unless amended)
California Municipal Utilities Association (CMUA) (unless amended)
California Tomato Growers Association (unless amended)
Central Delta-Mendota Groundwater Sustainability Agency (unless amended)
Central Kings Groundwater Sustainability Agency (unless amended)
East Turlock Subbasin Groundwater Sustainability Agency (unless amended)
Indian Wells Valley Water District (unless amended)
Kern County Farm Bureau (unless amended)
Kern Non-districted Land Authority GSA (unless amended)
Milk Producers Council (unless amended)
Nisei Farmers League (unless amended)
Searles Valley Minerals (unless amended)
Water Blueprint for the San Joaquin Valley Advocacy Fund (unless amended)
West Turlock Subbasin GSA (unless amended)
Western Growers Association (unless amended)
Western Plant Health Association (unless amended)

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