

Date of Hearing: March 24, 2026

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
AB 2125 (Bennett) – As Amended March 16, 2026

As Proposed to be Amended

SUBJECT: GROUNDWATER BASIN ADJUDICATION: NOTICE

KEY ISSUE: SHOULD THE SPECIALIZED NOTICE REQUIREMENTS THAT ARE UTILIZED IN COMPREHENSIVE GROUNDWATER ADJUDICATIONS BE MODIFIED IN ORDER TO ENSURE THAT MORE PARTIES IMPACTED BY THE ADJUDICATION ARE INFORMED OF THEIR RIGHTS?

SYNOPSIS

Unlike most civil matters, even complex civil litigation, comprehensive groundwater adjudication involves potentially thousands of parties and impacts critical property and water rights. Accordingly, it is vital to ensure that all landowners in a groundwater basin are aware of the adjudication and informed as to how to vindicate their rights in court. To that end, in 2015, the Legislature adopted a specialized procedure for providing service of process in these adjudication proceedings with the passage of AB 1390 (Alejo) Chap. 672, Stats. 2015. Recognizing the potential costs and inefficiencies associated with personally serving thousands of interested parties, AB 1390 enacted a specialized, court monitored, process for mailing or posting notice so that all property owners could be efficiently informed of the legal proceedings. However, in the decade since the enactment of AB 1390, the author of this measure contends that the procedures are still not adequately notifying impacted landowners of the proceedings, resulting in the unnecessary loss of water rights and increasing the risk of protracting an already lengthy and costly legal process.

This bill would modify the AB 1390 procedures to require a plaintiff to file affidavits with the court outlining specific information pertaining to when and how a notice was mailed or posted. As proposed to be amended, the bill would also provide judicial officers overseeing an adjudication additional authority to order the plaintiff to undertake restricted delivery of mailed notices to ensure the notice reaches, and is signed for by, the named landowner.

This measure is author sponsored and is supported by four individuals within the author's district. The bill has no registered opposition, however, the California Chamber of Commerce expressed informal concerns with the in-print version of the bill's signature requirement for mailed notice. Recognizing that the Chamber's concern about the infeasibility of the in-print mailing requirement is valid, the author proposed amendments seeking to ameliorate their concern. As of the time of the drafting of this analysis the Committee has yet to receive any indication as to whether or not the author's good faith attempt at compromise has fully satisfied stakeholder concerns.

SUMMARY: Enhances the requirements imposed upon a plaintiff when filing a notice of completion of the mailing when conducting the specialized service of process provisions utilized in comprehensive groundwater adjudications. Specifically, **this bill:**

- 1) Requires, if the notice was mailed, when filing a completion of a notice of mailing in a comprehensive groundwater adjudication, a plaintiff to also file the affidavit of the person who mailed the notice stating the date, time, and place of mailing for each parcel, and shall attach any certified or registered mail delivery receipts received as of the date of the filing.
- 2) Requires, if the notice was posted in the subject property, when filing a completion of a notice of mailing in a comprehensive groundwater adjudication, a plaintiff to also file the affidavit of the person who posted the notice specifying the date, time, and physical location of each parcel where the posting occurred, accompanied by a photograph depicting the posted notice.
- 3) Authorizes a court to require the plaintiff to utilize restricted delivery of any mailed notices if the court finds appropriate and necessary or to ensure those who have not been properly notified of the groundwater adjudication using the procedure in 1) or 2) receive notice.

EXISTING LAW:

- 1) Establishes the Sustainable Groundwater Management Act to provide for enhanced local management of groundwater resources and to provide for the sustainable management of California's groundwater resources. (Water Code Section 10720 *et seq.*)
- 2) Establishes the litigation procedures that guide comprehensive court adjudications of groundwater basins. (Code of Civil Procedure Section 830 *et seq.*)
- 3) 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 of Civil Procedure Section 834.)
- 4) Authorizes any person to intervene in a comprehensive adjudication upon an *ex parte* application that demonstrates that the person holds fee simple ownership in a parcel in the basin, or extracts or stores water in the basin. (Code of Civil Procedure Section 837.)
- 5) Specifies the contents of the notice that a plaintiff must file with the court for approval, simultaneous with the complaint, to inform potential parties to an adjudication that their rights may be implicated by the adjudication. (Code of Civil Procedure Section 836 (a).)
- 6) Requires, within 30 days of the assignment of a judge by the Chairperson of the Judicial Council, the plaintiff to file a motion for approval of the draft notice and draft form answer filed pursuant to 5). (Code of Civil Procedure Section 836 (b).)
- 7) Provides that once the court approves the draft notice, service of that notice in accordance with 8) serves as a substitute for the summons otherwise provided for in civil actions. (Code of Civil Procedure Section 836 (c).)
- 8) Requires the plaintiff, following a court order approving the notice and form answer and authorizing service of landowners, to do the following:
 - a) Identify the assessor parcel numbers and physical addresses of all real property in the basin and the names and addresses of all holders of fee title to real property in the basin using the records of the assessor or assessors of the county or counties in which the basin

- to be adjudicated lies, and provide the court and all parties with notice of its acquisition of, or sufficient access to, this information;
- b) Mail, by registered mail or certified mail, return receipt requested, the notice, complaint, and form answer to all holders of fee title to real property in the basin, and if the physical address of the real property differs from the address of the holder of fee title, the notice, complaint, and form answer is to be mailed by registered or certified mail, return receipt requested, to the physical address of the real property and the address of the holder of fee title;
 - c) If return receipt is not received for a parcel of real property, the plaintiff must post a copy of the notice, complaint, and form answer in a conspicuous place on the real property; and
 - d) Within 20 days of the court order, publish the notice at least once per week for four consecutive weeks in one or more newspapers of general circulation in each county overlying the basin in whole or in part. (Code of Civil Procedure Section 836 (d).)
- 9) Requires, upon completion of the process outlined in 8), the plaintiff to file with the court a notice of completion of mailing. (Code of Civil Procedure Section 836 (e).)
- 10) Provides that notwithstanding the process outlined in 7) through 9) the court may authorize any other procedures it finds appropriate and necessary to provide notice to persons who may hold groundwater rights in the basin. (Code of Civil Procedure Section 836 (i).)
- 11) Provides that compliance with the service and notice provisions of 7) through 10) is to be deemed effective service of process of the complaint and notice on all interested parties of the comprehensive adjudication for purposes of establishing in rem jurisdiction and the comprehensive effect of the comprehensive adjudication. (Code of Civil Procedure Section 836 (j).)

FISCAL EFFECT: As currently in print this bill is keyed non-fiscal.

COMMENTS: Groundwater supplies between 40 and 60 percent of California's annual freshwater supply. Unlike surface water rights, which have been highly regulated for over a century, for most of California history groundwater use was not regulated by state or local entities. As a result, most disputes over groundwater rights are forced into adjudication in court whereby a judge can impose pumping restrictions and apportion water rights to various parties in a groundwater basin. Because groundwater adjudications impact the rights of every water user in a basin it is imperative that all property owners are notified of their right to participate in the adjudication to protect their rights. However, despite legislative efforts to properly inform all groundwater users of the need to protect their rights, the author of this bill contends that the existing processes are still leaving too many landowners unaware of the need to protect their rights. Accordingly, this bill seeks to improve the notice and recordkeeping requirements associated with mailing notices to impacted landowners and expand the court's ability to mandate the use of registered mailing of notices. In support of the bill the author states:

AB 2125 protects small farmers and individual water rights holders by making certain that they receive notice of an adjudication that could impact their rights. In Ventura County, the Las Posas case impacted thousands of residents – many of whom never received notification

of the case. In something as fundamental as the right to water, a simple addition of providing proof to the court that the mailing had been received, and not just mailed, seems to be a minor burden on the plaintiffs. It is a question of good government: should we ensure that everyone has all the information to ensure a level playing field? I believe we should.

Comprehensive adjudications are the primary method for determining groundwater rights.

Given the overlapping priorities of various groundwater rights holders, when a groundwater basin becomes oversubscribed (i.e., the groundwater basin lacks sufficient water supplies to sustainably provide for the needs of all water rights holders), historically, court adjudication was required to establish water rights. The first groundwater basin adjudicated in California was the Raymond Basin underlying the City of Pasadena. Seeking to establish water rights between several municipalities and overlying agricultural water users, the court adopted the doctrine of “mutual prescription” whereby rights were determined based on the highest continuous use during the five-year period in which the basin was over drafted. The court then held that each water user was entitled to a right proportionate to the amount taken during the study period. (*Pasadena v. Alhambra* (1949) 33 Cal.2d 908, 933.)

Twenty-five years later the courts were forced to deal with the issue of a groundwater basin in which varying water right holders held truly unique priorities to a groundwater basin necessitating the appointment of a water master. In *Los Angeles v. San Fernando* (1975) 14 Cal.3d 199, the court rejected strict application of mutual prescription and moved toward a “physical solution” whereby the court sought to establish a “true equitable apportionment” through ongoing monitoring of a basin. (*Id.* at 274.) The *Los Angeles* court’s preference for establishing a physical solution in groundwater adjudications was reaffirmed in 2000 when the California Supreme Court held that, “If Californians expect to harmonize water shortages with a fair allocation of future use, courts should have some discretion to limit the future groundwater use of an overlying owner who has exercised their water right and to reduce to a reasonable level the amount the overlying user takes from an over drafted basin.” (*City of Barstow v. Mojave Water Agency, supra*, at 1249.)

Guided by the *Los Angeles* and *Mojave* decisions, seeking physical solutions to apportion water rights has been the guiding principal in modern groundwater adjudications. However, these adjudications are time consuming, expensive, and frequently require ongoing monitoring by courts. Furthermore, due to the expense of adjudicating groundwater basins, many small water users are left out of the existing process, as they are unable to afford the expense of obtaining legal counsel and the scientific experts necessary to represent their interests in court. When parties cannot afford to participate in comprehensive groundwater adjudications, they risk forfeiting valid water rights.

Given the importance of ensuring full participation in a groundwater adjudication, the Legislature has adopted specialized notice requirement to ensure proper service to all interested parties. As a part of a series of reforms to groundwater law in the early to mid-2010s, in 2015 the Legislature adopted specialized procedures for comprehensive groundwater adjudications with the passage of AB 1390 (Alejo) Chap. 672, Stats. 2015. One of the many aspects of groundwater adjudications that AB 1390 addressed was the unique need to inform all landowners within a groundwater basin of the requirement that the landowner must join the adjudication to protect their rights. Recognizing that personally serving potentially thousands of landowners in a groundwater basin was a time consuming and costly endeavor, AB 1390 enacted streamlined mailing provisions to replace traditional notice and service rules.

Under the AB 1390 framework a plaintiff is required to obtain court approval for a standardized notice of the commence of the action. Upon court approval, the plaintiff is required to identify the assessor parcel numbers and physical addresses of all real property in the basin and the names and addresses of all holders of fee title to real property in the basin using the records of the assessor or assessors of the county or counties in which the basin to be adjudicated lies. Once that list is submitted to the court, the plaintiff must then mail the court-approved notice to those landowners or, if mailing is not feasible, physically post the notice at a conspicuous location on the property. In the event the judge presiding over the matter deems the above process insufficient, the AB 1390 process authorizes the judge to authorize any other procedures that the judge finds appropriate and necessary to effectuate notice. Recognizing that actually serving notice to thousands of landowners is a near-impossible task, the AB 1390 framework legally specified that there was effective service of process of the complaint and notice on all interested parties to the comprehensive adjudication for purposes of establishing in rem jurisdiction and the comprehensive effect of the adjudication, so long as the AB 1390 procedures were utilized properly, whether or not all parties actually received notice.

The author of this measure contends, despite the best intentions of the AB 1390 procedures, that too many small landowners are not being properly notified of groundwater adjudications. Given that the failure to answer the notice of the adjudication is tantamount to a default judgment, the author contends too many landowners are losing their water rights in proceedings they did not know were occurring. Given that the failure of the AB 1390 process either results in the loss of a landowner's water rights, or leads to costly late interventions to a groundwater adjudication, the author contends the AB 1390 process must be strengthened to better ensure that landowners actually receive notice of an adjudication.

Seeking to protect landowners, this bill enhances the AB 1390 adjudication process. When a landowner is not properly notified of a groundwater adjudication, they either lose their rights or must scramble to seek the right to intervene in the adjudication late in the process. Neither outcome is ideal, and late interventions add costs to all parties and delay the outcome of the adjudication, leaving water resources at risk of overdraft for prolonged periods of time. Seeking to improve the adjudication notice process this bill would require a plaintiff to submit an affidavit of the person who sent the mailing or posted the notice. As proposed to be amended, in the case of a mailed notice, the affidavit must state the date, time, and place of mailing for each parcel, and attach any certified or registered mail delivery receipts received as of the date of the filing. For posted notices, the affidavit must include the date, time, and physical location of each parcel where the posting occurred, accompanied by a photograph depicting the posted notice. By filing the affidavits with the court, the author hopes to provide the court with better information that the notice was actually effectuated. As proposed to be amended the bill also provides new powers for a judge to order mailings to utilize restricted delivery mailings, which requires a signature from the intended recipient and not simply any person at the location the mail is delivered.

As proposed to be amended this bill seeks to balance cost concerns with the need to ensure proper notice. Although not having a formal position on the measure, the California Chamber of Commerce expressed concerns to the Committee and the author that the in-print mailing requirements, including a requirement that the return receipt be signed by the named party or their agent, would be impossible to achieve given the United States Postal Service's procedures for obtaining return receipts. The author conceded the point and offered to replace the requirement with a restricted delivery mailing, in which the United States Postal Service will

only deliver the parcel to the named recipient. The Chamber then expressed concerns about the costs of such mailings (a brief search by the Committee confirmed that such mailings are nearly \$10 more expensive than a simply return receipt), especially when multiplied by the number of mailings that must be sent out to commence a groundwater adjudication.

In an attempt to forge compromise the author agreed to eliminate the requirement that the return receipt be signed by the named property owner and not to mandate restricted delivery, but rather provide it as an explicit option a judge can consider when considering alternative forms of effectuating notice. Accordingly, the author is proposing two amendments. The first amendment will remove the explicit signature requirement by amending paragraph (2) of subdivision (e) of Code of Civil Procedure Section 836 as follows:

(2) If service was made pursuant to subparagraph (B) of paragraph (1) of subdivision (d), the notice of completion of mailing shall include the affidavit of the person who mailed the notice ~~and the certified or registered mail delivery receipt for each parcel showing~~ *stating* the date, time, and place of mailing *for each parcel, and shall attach any certified or registered mail delivery receipts received as of the date of the filing.* ~~The delivery receipt shall be signed by the party served or their legally authorized representative.~~

The second amendment will modify subdivision (i) of Section 836 to permit a judge to mandate the use of restricted delivery if the judge deems fit or to ensure the effectiveness of the enhanced provisions of this bill. That amendment will read:

(i) The court may authorize any other procedures it finds appropriate and necessary to provide notice to persons who may hold groundwater rights in the basin *or to those who may not have been notified pursuant to paragraphs (2) and (3) of subdivision (e), including but not limited to requiring the plaintiff to utilize restricted delivery of any mailed notices.*

It should be noted that at the time of the drafting of this analysis the Committee has not heard as to whether or not these amendments fully satisfy the Chamber's concerns. Nonetheless, it should be noted that the organization never took a formal position on the bill and that these amendments reflect the author's good faith effort to address the concerns that were informally raised. In the absence of formal opposition, these amendments appear to be a reasonable compromise and a prudent effort to reform the deficiencies that all stakeholders agree exist in the current AB 1390 notice procedures.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Nicholas Liedtke / JUD. / (916) 319-2334