
CONSENT

Bill No: AB 2125
Author: Bennett (D)
Amended: 3/25/26 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 12-0, 6/9/26

AYES: Umberg, Niello, Allen, Ashby, Caballero, Durazo, Laird, Reyes,
Valladares, Wahab, Weber Pierson, Wiener

NO VOTE RECORDED: Stern

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 7/1/26

AYES: Becker, Seyarto, Allen, Cabaldon, Grove, Laird, Stern

ASSEMBLY FLOOR: 72-0, 5/11/26 - See last page for vote

SUBJECT: Groundwater basin adjudication: notice

SOURCE: Author

DIGEST: This bill places new requirements on a plaintiff when filing a notice in a groundwater basin adjudication, including an attachment of any certified or registered mail delivery receipts received as of the date of the filing, as provided. Under the bill, if a return receipt is not received for a parcel of real property, the plaintiff is required to also include an affidavit of the person who posted the notice specifying the date, time, and physical location of each parcel of real property where the posting occurred, accompanied by a photograph depicting the posted notice.

ANALYSIS:

Existing law:

- 1) Establishes the Sustainable Groundwater Management Act (SGMA) with the goal of providing for the sustainable management of groundwater basins, enhancing local management of groundwater consistent with 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. (Water (Wat.) Code §§ 10720 et seq.)

- 2) Authorizes the creation of local Groundwater Sustainability Agencies (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 (GSP). (Wat. Code § 10723.2.)
- 3) Establishes the procedures for a court to use when adjudicating a groundwater basin. (Code of Civil (Civ.) Procedure §§ 830 et seq.)
- 4) 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.)
- 5) 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).)
- 6) Requires a court presiding over an adjudication to manage the proceedings in a manner that does not interfere with the completion and implementation of a GSP and that is consistent with sustainable groundwater management under SGMA. (Wat. Code § 10737.2.)
- 7) Provides 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, the State Water Resources Control Board (SWRCB), or the Department of Water Resources (DWR) to comply with SGMA and to achieve sustainable groundwater management. (Code Civ. Proc. § 850(b); Wat. Code § 10737.8)

- 8) 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 of water per year) would not have a material effect on the groundwater rights of other parties, to do either of the following:
 - a. exempt those claimants, but a person who is exempted may elect to continue as a party to the comprehensive adjudication;
 - b. treat those claimants separately from other parties to the comprehensive adjudication by separately processing and entering orders with respect to those persons, in order to reduce their burden of participation and more efficiently administer the case. (Code Civ. Proc. § 833(d).)
- 9) 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, complaint, and form answer to all holders of fee title to real property in the basin. (Code Civ. Proc. § 836(d).)
- 10) Requires the plaintiff, after completing the notice required in 9, to file with the court a notice of the completion of the mailing. (*Id.* at subd. (e).)
- 11) Provides that 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. (*Id.* at subd. (i).)

This bill:

- 1) Requires a plaintiff to include in the notice of the completion of mailing described under 10, above, to also include an affidavit of the person who mailed the mailing notice stating the date, time, and place of mailing for each parcel, and the notice must include as an attachment any certified or registered mail delivery receipts received as of the date of the filing.
- 2) Requires, if return receipt is not received for a parcel of real property, the mailing notice to also include an affidavit of the person who posted the notice in a conspicuous place on the real property specifying the date, time, and physical location of each parcel where the posting occurred, accompanied by a photograph depicting the posted notice.
- 3) Clarifies that the court may require the plaintiff to utilize restricted delivery of all mailed notices.

Comment

The adjudication of water rights in the state can be complex and involve many parties. According to the State Water Resources Control 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.”¹ 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. This bill is focused on addressing concerns with the adjudication of groundwater rights and the sustainability of groundwater basins.

In 2014, the Legislature passed SGMA,² which put in place a statewide framework for groundwater management for the first time but specified that it did not alter surface or groundwater rights. The purpose of SGMA was to address overdraft and other adverse effects of excessive pumping of groundwater. SGMA 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).) After the enactment of SGMA, the Legislature passed SB 226 (Pavley, Chapter 676, Statutes of 2015) and AB 1390 (Alejo, Chapter 672, Statutes of 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 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 Civ. Proc. § 837 & 837.5.) Last session, AB 779 (Wilson, Chapter 655, Statutes of 2023) was enacted to, among other things, to ensure that the water use of small farmers and disadvantaged communities have been considered by a court before a judgment is entered.

Under state law, every overlying property owner has a potential right in an unadjudicated groundwater basin, which makes adjudication of those rights

¹ 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.

² 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).

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, Chapter 672, Statutes of 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 judgement 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).)

In the Las Posas Groundwater Basin adjudication, the notice method provided for in AB 1390 was used. The author argues that over 15,000 landowners were

involved and some of the return receipts were defective, which led to some farmers not receiving notice of the adjudication. However, the court in the Las Posas Groundwater Basin adjudication did not find that proper notice under existing law was not met. (*Las Posas Valley Water Rights Coalition et al v. Fox Canyon Groundwater Management Agency et al*, Case No. VENC100509700, Statement of Decision, Evid. Hearing on 4/8/2025, a. p. 18-19.) As failure to answer the notice of the adjudication is equivalent to a default judgment, the author posits that too many landowners, especially small farmers and landowners, are losing their water rights in proceedings they did not know were occurring. This bill seeks to bolster the notice requirements in order to ensure that all affected parties in a groundwater basin adjudication are able to secure their water rights.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 7/6/26)

Community Alliance with Family Farmers

OPPOSITION: (Verified 7/6/26)

None received

ARGUMENTS IN SUPPORT: The author writes:

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.

ASSEMBLY FLOOR: 72-0, 5/11/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Macedo, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Ramos, Ransom, Rogers, Blanca Rubio,

Sanchez, Schiavo, Schultz, Sharp-Collins, Stefani, Ta, Tangipa, Valencia,
Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Arambula, Lowenthal, McKinnor, Quirk-Silva, Celeste
Rodriguez, Michelle Rodriguez, Solache, Soria

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
7/30/26 14:49:24

**** **END** ****