

Attachment D



AB 560: Groundwater Adjudication

SUMMARY

Assembly Bill 560 strengthens existing statute regarding groundwater adjudication determinations by requiring proposed settlements be forwarded to the State Water Resources Control Board (Water Boards) for review, in partnership with Department of Water Resources (DWR).

This bill also requires both agencies to comment on any effects the proposed settlement will have on small farmers and disadvantaged communities.

BACKGROUND

In 2014, the Sustainable Groundwater Management Act (SGMA) was passed to establish local Groundwater Sustainability Agencies (GSAs) as responsible for bringing their over-drafted groundwater basin into sustainable yield. However, SGMA does not apply to adjudicated basins, making it more appealing to many to basins to seek adjudication.

Historically, the basin adjudication process could take more than a decade for water rights holders and basin managers to come to an agreement. During the adjudication process, judges only need to consider “safe yield” for the basin, rather than future basin sustainability. A “safe yield” determination merely necessitates that the amount of water coming into the basin equals the amount of water going out. But, since the judgement is made during a single point in time, adjudicated basins have no way of considering future changes in basin sustainability without relitigating the adjudication agreement.

There have been instances of judges making determinations that go against the sustainable water allocations determined by the Groundwater Sustainability Agency. These plans were approved by the Department of Water Resources during the

Groundwater Sustainability Plan review process outlined under SGMA.

Judgement determinations that rule in favor of higher use allocations prevent the basin from reaching future sustainable yields, and also run the risk of rendering SGMA ineffective by setting precedent in court.

Current law (W.C. § 2001) already grants judges the option of having their determination reviewed by Water Boards for consistency with current water law.

THIS BILL

To protect the sustainability of the basin, AB 560 mandates parties to an adjudication to have their final proposed settlement confirmed by the Water Boards and DWR for consistency with SGMA code and to ensure they align with the approved GSP. Recent amendments to the bill will also require both state agencies to comment on the effects the proposed settlement may have on small farmers and disadvantaged communities.

The adjudication process also affects more people than just the local agency and rights holders. Because the process can take many years, only those who can afford to pay for representation are able to have a seat at the table during lengthy negotiations. This often excludes farmworkers, nearby disadvantaged communities, and low-income homeowners with a single domestic well from having their welfare taken into consideration.

SUPPORT

California Environmental Voters
CivicWell
Community Alliance with Family Farmers
Indian Wells Valley Groundwater Authority

Assemblymember Steve Bennett

38th Assembly District



OPPOSITION

African American Farmers of California
Agricultural Council of California
Association of California Water Agencies
California Apple Commission
California Association of Winegrape Growers
California Blueberry Association
California Blueberry Commission
California Chamber of Commerce
California Farm Bureau Federation
California Food Producers
California Fresh Fruit Association
California State Association of Counties (CSAC)
California Walnut Commission
Kings River Conservation District
Kings River Water Association
Nisei Farmers League
United Water Conservation District
Valley Ag Water Coalition
Western Growers Association
Western Plant Health Association

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