

Groundwater Trading: Feedback on Draft White Paper

- Facilitate a robust public discussion on groundwater trading
- Develop a set of conclusions distilled from the public listening process and recommendations on a path forward for State agencies
- Cover how governance, oversight, stakeholder engagement, and protections could be structured to advance well-designed water trading programs that ensure the interests and needs of all stakeholders

Letter from Secretaries

Comment Summary

1. Protecting third parties
2. Small- and medium-sized farms
3. Communities
4. Groundwater Sustainability Plans
5. Accountability and resourcing for implementing white paper
6. Additions to Proposed Next Steps
7. Opposition to groundwater trading
8. Opposition to expanding State authority
9. Transparency
10. Modify Box 7: Measuring Water Use
11. Role for Commission
12. Current State engagement
13. Miscellaneous: water rights, directional trading, modifying legislation, surface water

Protecting Third Parties

Comment: Make it clear in Finding 1 that trading programs should not harm third parties.

Proposed Response: Modify language in Finding 1: *Safeguards for vulnerable users* to make this clear:

“GSAs and local trading entities should ~~strive to~~ design programs that do not harm vulnerable users and to monitor implementation of programs to prevent and mitigate any unintended negative consequences.”

Small- and Medium-sized Farms

Comments:

- Need better definition of small farms: locally-relevant, focus on most vulnerable farms
- Small farms need sufficient allocation to farm normally
- Small farms require an intermediary to participate in trading
- Small- and medium-sized farms not directly addressed in Next Step 4.3: need to fund outreach to small- and medium-sized farm operators; support organizations with existing relationships with these farmers; support Farmer Equity Act; clarify impacts of trading programs to small- and medium-sized farms

Proposed Responses:

- Add new finding that speaks to need for GSAs to identify small- and medium-sized farms within their area using locally-applicable parameters
- Work with CDFA to bring small- and medium-sized farms more directly into Next Step 4.3

Communities

Comments:

- Human Right to Water should be a priority
- Disadvantaged communities need to be exempt from trading
- GSAs need to address data gaps
- Concerns about outreach to and engagement of communities

Proposed Responses:

- Introduction and next step 4.1 address Human Right to Water; bring into Current State Engagement section
- Add new finding that speaks to need for disadvantaged communities to receive an allocation that allows them to pump enough groundwater to meet their needs
- GSA data gaps are addressed in Finding 1: *Characteristics of well-managed local groundwater trading* and Finding 4: *Accurate, reliable data*. Next step 3 notes that the State could assist GSAs with meeting their data needs
- Finding 3: *Stakeholder engagement* covers outreach to and engagement of communities

Accountability & Resourcing

Comments:

- Indicate who is responsible for considering and acting on next steps proposed in white paper
- Acknowledge the need for additional funding and technical expertise for the State to implement proposed next steps.

Likely Responses (Accountability):

1. Include language at the beginning of the next steps section that encourages implementing agencies to, in the near term, develop a workplan for implementation of Action 3.6; and/or
2. Include a next step that suggests that implementing agencies create workplan to move forward with implementation of Action 3.6 that considers the Commission's white paper

Proposed Response (Resourcing):

- Add language about need for resources and expertise to introductory text in Proposed Next Steps for State Engagement section

Additions to Proposed Next Steps

Comments:

- Consider additional State role of augmenting technology developments (e.g., facilitating development of groundwater accounting platform and water measurement standards, including improving ET reliability)
- Create – and prioritize – an incentive program for groundwater trading programs that protect small- and medium-sized farms, natural resources, and disadvantaged communities
- Add information to next step 2 indicating who will convene stakeholders and how often
- Create an external advisory board so that implementing agencies do not rely solely on one consultant or organization for input

Proposed Responses:

- Add language to next step 3: *Identify and assess GSA needs* to capture State role in augmenting technology developments
- Add a new next step focused on creating an incentive program
- Add language about frequency to next step 2: *Convene stakeholders to share information*
- Add a new next step focused on creating a diverse advisory body

Opposition to Groundwater Trading

Comment: Leadership Counsel for Justice and Accountability, a member of the Commission's groundwater trading stakeholder advisory group, opposed groundwater trading because they feel it will exacerbate existing inequities, pumping groundwater out from underneath communities.

Proposed Response: Note opposition in white paper.

Opposition to Expanding State Authority

Comment: The State should engage in groundwater trading efforts through its existing authorities.

Proposed Response: Note in white paper that expanded State authority is not likely to be universally welcome and must be pursued thoughtfully and only if necessary.

Transparency

Comments:

- Price transparency needed for price discovery, which will help with planning capital projects
- Discussion of transparency v. confidentiality in Box 5: *Points of Divergence* needs nuancing: concern is around publishing an exact record of who traded water to whom, how much it is, and the precise timing, which could give a business advantage to competitors. Publishing an average number of trades, the average price, etc. is not as concerning
- Transparency that reveals identifying information may deter participation in trading programs; remove reference to community policing

Proposed Responses:

- Add language to introduction to cover transparency & price discovery
- Modify Transparency vs. Confidentiality language in Box 5

Modify Box 7: Measuring Water Use

Comments:

- Box 7 needs to be nuanced: meters and ET data are not measuring the same thing and may be complementary to one another; ET is not less accurate than metering
- Metering is more accurate than ET and should be used for groundwater trading programs (although ET may be sufficient for other groundwater management strategies)

Proposed Response:

- Work with Stakeholder Advisory Group to revise language so that it is accurate but neutral

Role for Commission

Comment: Offer Commission's continued engagement on groundwater trading.

Proposed Response: Note in Potential Next Steps for State Engagement section that Commission is willing to continue to work with implementing agencies on this topic.

Current State Engagement

Comment: Identify and describe overlapping, non-SGMA-specific engagement by implementing agencies.

Proposed Response: Work with implementing agencies to flesh out language for Current State Engagement Role that describes:

- Human Right to Water policies and programs
- Water Board's racial equity resolution
- Water Board's water rights and public trust mandates
- CDFW's public trust mandate
- CDFW's role as related to the California Endangered Species Act
- CDFA's work with small and at-risk farms

Miscellaneous

Comments:

- Differentiate between trading water rights and actual water and where each would be appropriate
- Describe directional trading and where this would be successful
- Indicate what existing legislation must be modified to support trading and suggestions for modifications
- Need to address surface water transfers

Proposed Responses:

- Note in discussion of groundwater rights when transferring rights generally occurs; we do not have enough information to address where this is more appropriate than trading groundwater allocations
- Directional trading is addressed in Finding 5.2; add more information about where this might be successful
- Next step 8 suggests that implementing agencies examine their existing authorities to see where additional authorities might be needed. Making a more specific statement at this time is premature
- Add language to white paper that notes that GSAs may need to consider different, locally-relevant issues related to groundwater trading, such as surface water transfers

White Paper Next Steps

- White paper is available on the Commission's website:

[Groundwater Trading draft White Paper \(ca.gov\)](#)

- Public comment is welcome through February 28th

- Public comment can be submitted to:

cwc@water.ca.gov

- Questions can be directed to:

Laura Jensen - Laura.Jensen@water.ca.gov

- Final white paper will be brought to the March 16th Commission meeting
- Public comment welcome at all Commission meetings