



Groundwater Trading: Presentation on Groundwater Rights Law

Introduction

The California Water Commission is leading a process to frame state considerations around how Groundwater Sustainability Agencies might shape well-managed groundwater trading programs. The Commission’s work will focus on holding public conversations via public workshops and at regularly scheduled Commission meetings to solicit input about developing well-managed groundwater trading programs that ensure protections for vulnerable users and stakeholders. By facilitating a robust and inclusive public discussion on groundwater trading, the Commission will support Water Resilience Portfolio Action 3.6. The Commission will develop a white paper that draws on public discussions, and will include a set of conclusions and suggested next steps for how to shape well-managed groundwater trading programs with appropriate safeguards for communities, farms, and the environment. This paper will inform Action 3.6 implementing agencies.

At this meeting, the Commission will hear a State perspective on water rights as applied to the Sustainable Groundwater Management Act (SGMA) and groundwater trading, followed by an overview of groundwater rights law, covering the topics of groundwater rights, managing shortage, reasonable/beneficial uses, and how policy considerations, including the Human Right to Water, intersect with groundwater rights. These presentations will provide important context for the Commission’s considerations, grounding the Commission’s understanding of the factors that contribute to establishing a groundwater trading program.

Background

On July 28, 2020, the California Natural Resources Agency, California Environmental Protection Agency, and the California Department of Food and Agriculture issued the final [Water Resilience Portfolio](#) (portfolio) in response to Governor Newsom’s Executive Order N-10-19, which calls for a “set of actions to meet California water needs through the 21st century.” The portfolio outlines a broad suite of actions designed to move the state toward water resilience. The portfolio includes Action 3.6: Create flexibility for groundwater sustainability agencies to trade water within basins by enabling and incentivizing transactional approaches, including groundwater markets, with rules that safeguard natural resources, small- and medium-size farms, and water supply and quality for disadvantaged communities. Action 3.6 is assigned to the Department of Water Resources, the State Water Resources Control Board, and the California Department of Fish and Wildlife and embedded in a section of the portfolio that is

Agenda Item: 10

Meeting Date: July 21, 2021

Page 2

focused on maintaining and diversifying water supplies, which includes actions designed to help regions secure groundwater supplies by supporting the transition to sustainable use. In a letter dated March 15, 2021, the Secretaries for Natural Resources, Environmental Protection, and Food and Agriculture, requested that the Commission initiate the action by leading a thorough and inclusive public dialog, similar to the Commission's recent effort to assess a state role in financing climate-resilient conveyance.

The Commission's work on water trading will implement Goal One of the Strategic Plan, which calls on the Commission to "serve as a primary public forum for the discussion of improving water management policy to assist regions in achieving climate resiliency ... including those actions of the Water Resilience Portfolio assigned to the Commission."

Meeting Overview

At this meeting, Assistant Executive Officer Laura Jensen will introduce the agenda item. The Commission will hear from Amanda Pearson, Attorney IV at the State Water Resources Control Board, who will offer a State perspective on water rights and SGMA, and then from Valerie Kincaid, Partner at Paris Kincaid Wasiewski LLP, who will provide an overview of groundwater rights law.

This is an informational item.

Contact

Laura Jensen

Assistant Executive Officer

California Water Commission

916-712-7051