

Workplan for A State Role in Guiding Groundwater Trading that Safeguards Communities, Ecosystems, and Small Farms

Background

At the request of the Secretaries of the Natural Resources Agency, Environmental Protection Agency, and Department of Food and Agriculture, the California Water Commission is initiating a thorough and inclusive public dialog to frame state considerations around how to shape well-managed groundwater trading programs. This work fits with the Commission's Strategic Plan Goal 1, which is to serve as a primary public forum for the discussion of improving water management policy. By facilitating a robust and inclusive public discussion on groundwater trading, the Commission will support Action 3.6 of the Water Resilience Portfolio, which calls on the Department of Water Resources, the State Water resources Control Board, and the Department of Fish and Wildlife to 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. For the sake of this effort, the Commission will use the term "groundwater trading" as a synonym for groundwater markets, cap and trade, credit programs, banking, pooling, and exchanges.

To implement the Sustainable Groundwater Management Act of 2014, local Groundwater Sustainability Agencies (GSAs) have formed across the state. GSAs for critically overdrafted groundwater basins have already developed Groundwater Sustainability Plans (GSPs) that outline how they will bring their groundwater basins into sustainable conditions. In many cases, GSAs plan to use groundwater trading as a tool to help balance pumping and recharge within their basins. Some are already developing trading programs. Groundwater trading may reduce the economic impacts of water scarcity by giving water users flexible, voluntary mechanisms to shift available water to where it is needed most. But groundwater trading programs must be thoughtfully designed and governed, with robust stakeholder input, to achieve multi-benefit outcomes and prevent harm to disadvantaged communities and farmers, groundwater-dependent ecosystems, and existing water right holders, and to avoid other unintended negative consequences.

Local and state agencies recognize that groundwater accounting and clear groundwater allocations are the first steps in the development of well-managed groundwater trading programs. Without understanding how much water is available within a management area and then carefully allocating groundwater to users within that area, trading has no basis. Well thought out groundwater allocations are necessary to support the development of water trading programs that in turn must be designed to ensure protections for communities and ecosystems. If groundwater is allocated thoughtfully and inclusively, it will ensure that trading does not undermine a community's access to safe, clean, affordable water adequate for human consumption, cooking, and sanitary purposes, and that groundwater dependent ecosystems are not overlooked.

The Commission's work will focus on holding public conversations that will help guide well-managed groundwater trading programs that ensure protections for vulnerable users and stakeholders. "Well-managed groundwater trading" programs are based on sound water accounting, well thought out

groundwater allocations, strong stakeholder engagement, and carefully developed trading rules that protect the interests of communities, ecosystems, and small farms, and avoid negative impacts. The Commission will consider the necessary precursors to launching a groundwater trading program, such as developing systems for measuring, tracking, and accounting for groundwater use and movement, and developing well thought out water allocations and budgets, and will consider the state's role in enabling well-managed, locally-designed, and locally-led trading programs. The Commission will not consider the trading of water futures as part of this effort.

Product

Drawing on public discussions, the Commission will develop a white paper that guides the continued work on Action 3.6 by the Department of Water Resources, the State Water Resources Control Board, and the Department of Fish and Wildlife. The white paper will include a set of conclusions and next steps around how to shape well-managed groundwater trading programs with appropriate safeguards for communities, ecosystems, and farms. The Commission's work product will build on work done to date, will be vetted by stakeholders, and will address engagement, oversight, governance, and other topics of importance identified during this process, considering the role the state could play in advancing well-managed groundwater trading.

Workplan

Step 1: Frame the Issue and Establish Working Groups (*July-August 2021*)

Commission staff will engage stakeholders in small-group discussions to frame the Commission's consideration of well-managed groundwater trading and will establish an advisory group to guide the implementation of the Commission's workplan.

- A. **Convene Small-Group Discussions. (July-August)** Engage small groups of stakeholders to discuss critical framing questions for the Commission's work. This information will be presented to the Commission in aggregate as a starting place for understanding the topic at hand. Stakeholders will include representatives from conservation and environmental advocacy non-profits, social and environmental justice groups, community-based organizations, tribes, water districts and GSAs, the agricultural industry, state and federal land-holding agencies, and academia and think tanks.
 - a. Discussion questions may include:
 - i. What is happening with groundwater trading currently? What parties are engaged with this work? What parties need to be engaged in this work?
 - ii. At what scale should groundwater trading occur? Within districts? GSAs? Within basins?
 - iii. What are the biggest opportunities surrounding groundwater trading? What are the barriers?
 - iv. What are the most pressing considerations related to ecosystems, farms, and communities? Are there other potential impacts of groundwater trading that should be considered (other than ecosystems, farms, and communities)?
 - v. How do you feel about groundwater trading? (If applicable) Do you see trading as a viable management strategy for your community/district/GSA/basin? Why or why not? Are you ready to participate in trading? Why or why not?

- vi. What needs to be in place for groundwater trading to proceed? Conditions? Processes? Information? Resources?
 - vii. What role should the state play in creating flexibility for groundwater sustainability agencies to trade water within basins and in enabling groundwater trading programs? How can the state ensure that programs are well-designed with appropriate safeguards?
 - viii. What are the questions that we should pose at workshops and at other meetings? What other meetings should we be attending? Who should we be inviting to the workshops?
- B. Establish Advisory Group. (August)** Establish a stakeholder advisory body that will guide the Commission’s work through regular engagement in implementation of the workplan, including helping to design and host workshops, planning for and attending roadshow events, speaking to the Commission, and reviewing the final white paper.

Work products:

- A draft roadshow schedule, and draft presentation and discussion materials.
- A draft strategy and timeline for engaging members of the public in workshop-style conversations.
- A draft framing document (workbook) to discuss issues at public workshops.

Step 2: Hold Public Discussions (June-October 2021)

To advance an inclusive, informed approach for discussing well-managed groundwater trading, the Commission will work with its state partners and stakeholder advisors to hold public discussions surrounding groundwater trading, using the information gathered to inform its conclusions.

- A. Invite Expert Panels to present at Commission Meetings. (June-September)** Invite panels of experts to present foundational information to the Commission, using the Commission meetings as a public forum for discussion of these topics. A proposed schedule is:
- a. June: Discussion of markets and groundwater trading – different kinds of markets, why markets are being considered in the context of groundwater, what problem(s) they seek to solve, and how they can be designed to change behavior; what groundwater trading is and is not, how it is connected to water accounting and water allocations and sustainable groundwater management, what it can do, and what pitfalls to avoid.
 - b. August: Exploring groundwater trading – What is being done in regards to groundwater trading by water managers in the state and outside of the state?
 - c. September: The future of groundwater trading – Who is likely to trade and why? Who or what will benefit or be impacted and how? How can well-managed groundwater offer protections for vulnerable stakeholders?
- B. Engage Stakeholders and the Public at Local Meetings. (September-October)** Do a “roadshow”-style engagement campaign by developing a short presentation and discussion guide to deliver at established local meetings in the Sacramento, Salinas, and San Joaquin valleys, and in Southern California. This approach will engage stakeholders at the venues where they are

currently gathering, targeting key populations that might not participate in workshops, such as under-represented communities and small farmers. This effort will collect information needed to shape workshop materials and will encourage people to attend workshops.

- C. **Conduct Public Workshops. (October)** Hold virtual public workshops to discuss the workbook developed as part of Step 1. The workbook will identify key issues and questions and feature large-group and break-out discussions intended to gather information and test assumptions around opportunities and concerns around groundwater trading, potential impacts to ecosystems, farms, and communities, and an appropriate state role in groundwater trading. The Commission will host virtual workshops targeting key areas in Northern, Central, and Southern California.

Work products:

- A summary of roadshow activities.
- A final workbook used to discuss issues at public workshops.
- A summary of information presented at expert panels.
- A synthesis of feedback received at workshops.

Step 3: Draft Conclusions *(November 2021-March 2022)*

The Commission will work with its state partners and stakeholder advisors to draft conclusions based on expert panels and public discussions. A proposed schedule is:

1. November-December: Meet with advisory body to review results of Step 2; tease out themes and conclusions. Draft preliminary conclusions. Advisory body holds discussions with constituents to discuss. Commission staff reviews with experts and brain trust.
2. January: Present preliminary conclusions to the Commission. Integrate Commission and public feedback into draft document.
3. March: Present final draft conclusions, including next steps, to the Commission for approval.

Work products:

- Draft and final conclusions document

Commission Meeting Schedule

- **May** – Present workplan to Commission.
- **June** – Host first expert panel.
- **July** – Groundwater rights law presentation.
- **August** – Host second expert panel.
- **September** – Present results of small-group discussions to Commission; host third (final) expert panel.
- **October** – Present synthesis of expert panels.
- **November** – Present results of workshops and roadshow.
- **January '22** – Present preliminary conclusions.
- **March '22** – Present final draft conclusions.