

Groundwater Management in California-- Six Methods Under Current Law

Groundwater and surface water are not treated alike under California law. The permit application process for appropriating surface water in California is contained in the *California Water Code*. By contrast, rights to use groundwater have evolved through a series of court decisions dating back to the late 1800s.

Although surface water and groundwater supplies have been regarded as separate water resources in California, they are the same resource—water.

In some parts of California the relationship between overlying landowners that extract groundwater and local water management agencies is not clear.

This situation has complicated relationships between landowners who use groundwater, and local water agencies and districts which import surface water.

This *Water Facts* describes the six methods of managing groundwater used in California. The methods are listed in the chronological order in which they were developed.

Water Facts are short reports on water resources issues of general interest. They are published periodically by the California Department of Water Resources and can be obtained free by contacting DWR Bulletins & Reports, P.O. Box 942836, Sacramento, CA 94236-0001; 916/653-1097.

1. Overlying Property Rights

Overlying property rights allow anyone in California to build a well and extract their correlative share of groundwater—which is not quantified unless the groundwater basin has been adjudicated. Historically landowners used groundwater to develop a local economy. As the economy grew, the demand for water increased. To meet this increasing water demand, water projects were built to provide more surface water. Although groundwater management may not be closely coordinated under this method, some consider this a form of management.

2. Statutory Authority

There are 22 kinds of districts or local agencies with specific statutory provisions to manage surface water identified in the *California Water Code*. Some of these agencies have statutory authority to exercise some forms of groundwater management. Some agencies have done so; others have not.

3. Adjudicated Groundwater Basins

Some California groundwater basins have been adjudicated. After a lawsuit is initiated to adjudicate a groundwater basin, the court decides the groundwater rights of all the overlayers and appropriators. The court decides who the extractors are, how much groundwater those well owners can extract, and who the Watermaster will be. The Watermaster ensures that the basin is managed according to the court's decree and reports periodically to the court. There

are 18 adjudicated groundwater basins in California. For a description of adjudicated groundwater basins see *Water Facts No. 3 "Adjudicated Groundwater Basins in California."*

4. Groundwater Management Districts or Agencies

In some parts of California, special legislation has been enacted to form groundwater management districts or agencies. This legislation allows these districts to adopt ordinances to limit or regulate groundwater extraction. There are nine groundwater management districts in California, and they have had varying degrees of success at managing groundwater. The statutory authority of three other water districts has been modified to grant them powers similar to legislative groundwater management agencies. For a description of groundwater management districts or agencies see *Water Facts No. 4 "Groundwater Management Districts or Agencies in California."*

5. Groundwater Management Plan (AB 3030 Plan)

Section 10750 *et seq.*, of the *California Water Code* (AB 3030, 1992) provides a systematic procedure for an existing local agency to develop a groundwater management plan. This section of the Water Code provides such an agency with the powers of a water replenishment district. This allows the agency to raise revenue to pay for facilities to manage the groundwater basin (extraction, recharge, conveyance, quality). About 160 agencies have adopted AB 3030 groundwater management plans.

6. City and County Ordinances

California courts have upheld the right of cities and counties to regulate groundwater under their police powers. In *Baldwin v Tehama County (1984)*, the Court of Appeal rejected arguments that the ordinance was pre-empted by State law. The court reasoned that State law does not occupy the field of groundwater management and does not prevent cities and counties from adopting ordinances to manage groundwater. The California Supreme Court declined to review the Court of Appeal's *Tehama* decision. The Tehama County ordinance remains in effect. Butte, Glenn, Imperial, Inyo, Kern, Lake, Napa, San Diego, San Joaquin,

Shasta, Ventura and Yolo Counties have adopted ordinances. Other counties are considering ordinances. However, the full nature and extent of the power of cities and counties to regulate groundwater remains uncertain.

For More Information

For more details about groundwater law, refer to the *California Water Code* or DWR *Bulletin 118: California's Groundwater*. You may also want to contact your local water agency or contact an attorney who specializes in water law. See DWR's Web page at www.dpla.water.ca.gov/cgi-bin/supply/gw/management/hq/main.pl, or contact any of the following:

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