

The Dawn of a New Era

Groundwater Regulation in California

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In January 2014, Governor Brown declared a state of drought emergency in response to record low water levels of rivers and reservoirs throughout California. For example, according to the Monterey County Water Resources Agency's quarterly report on Salinas Valley water conditions of the first quarter of Water Year 2013-2014, water storage in Nacimiento Reservoir as of December 31, 2013 was 87,117 acre feet less than in December 2012, while storage in the San Antonio Reservoir was 165,233 acre feet less. In April 2014, after several more months of below average rainfall, Governor Brown issued a proclamation of continued state of emergency. Due to the lack of surface water and reservoir storage, farmers, water agencies, and other water users have increasingly relied on groundwater, which has created further strain on groundwater basins that are

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currently in an over drafted condition. A basin is in overdraft when the amount of groundwater pumped from the basin exceeds the amount of water recharging the basin over a period of time. When overdraft continues for a number of years, significant impacts may occur, including land subsidence, water quality degradation, dry wells, seawater intrusion and increased extractions costs.



Salinas Valley lettuce field.

In September 2014, the California legislature passed and Governor Brown signed the Sustainable Groundwater Management Act (SGMA), which will govern the future use and management of groundwater in California. The new law, which the California Farm Bureau Federation and other agricultural organizations urged Governor Brown to veto, consists of three bills. First, SB 1168 mandates, among other things, the establishment of local groundwater sustainability agencies, who are tasked with creating groundwater management plans. Second, AB 1739 establishes when the state government can intervene if the local agencies don't comply with their obligations and deadlines relating to the creation of groundwater management plans. Finally, SB 1319 seeks to address the concerns of farmers and delays the state's ability to intervene in certain regions where surface water has been affected by groundwater pumping. According to the stated legislative intent in the three bills, the bills were passed for a number of reasons, including

but not limited to, California's high reliance on groundwater to meet its water needs and incidents of failed wells, deteriorated water quality, environmental damage, and irreversible land subsidence when groundwater is not properly managed.

Governor Brown has hailed the SGMA as providing a strong local component, presumably recognizing every groundwater basin is different, and that solutions must be tailored to the basin and its users. As Governor Brown explained in his signing statement, "[a] central feature of these bills is the recognition that groundwater management in California is best accomplished locally. Local agencies will now have the power to assess the conditions of their local groundwater basins and take the necessary steps to bring those basins in a state of chronic long-term overdraft into balance." What remains to be seen is whether these new local agencies will work collaboratively with local stakeholder groups and become effective vehicles for responsible groundwater management as opposed to

another costly, ineffective, and largely political bureaucracy based on the broad powers that the SGMA delegates to these local agencies. These agencies are empowered to allocate groundwater supplies between users within their boundaries and regulate, limit or suspend groundwater extractions. The agencies may adopt rules, regulations, ordinances and resolutions related to groundwater management, monitoring and the construction and operation of new and existing wells. These agencies may impose fees to fund the cost of a sustainability program, including permit fees, groundwater extraction fees and fees imposed as ad valorem property taxes.

The Monterey County agriculture community recently convened to discuss the history of water regulation in Monterey County, the meaning of groundwater management and water rights. As is typical after any discussion of California Water Law, including the complexities of the SGMA, attendees at this meeting may have left with more questions than answers, and more anxiety than assurances regarding a long term sustainable groundwater supply. However, this initial mobilization and meeting of agricultural leaders, who have a history of collaborative success in the Salinas Valley on similar governance issues, is a critical and important first step in opening a dialogue on the meaning of “sustainable groundwater management” of the Salinas River groundwater basin and understanding the requirements of the SGMA.

Not long ago, a similar group of agricultural leaders frequently met to assist in the formation and approval of such projects as the Castroville Seawater Intrusion Project, the Salinas Valley Reclamation Project and the Salinas Valley Water Project. Those projects were ultimately approved, and are paid for, by the rate-payers of Monterey County. Many in

the same group were instrumental as strong advocates for agriculture during Monterey County’s General Plan Update process to ensure that land use policies would not inappropriately limit or constrain “routine and ongoing agricultural activities” and to ensure the adoption of the Agricultural and Winery Corridor Plan.

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tural interests. It will be important for agriculture leaders, not just in Monterey County, but in other predominantly agricultural areas of California, to dedicate time – monthly, perhaps even weekly – to thoughtfully craft a strategy regarding the new requirements of the SGMA, including the initial step of creating a local groundwater sustainability agency, to ensure that agricultural interests are well represented and protected throughout the SGMA implementation process.

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“The greater danger for most of us lies not in setting our aim too high and falling short; but in setting our aim too low, and achieving our mark.”

– Michelangelo

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