

CALAVERAS COUNTY WATER DISTRICT LEGAL AFFAIRS COMMITTEE MEETING

AGENDA

Monday, May 15, 2017
3:00 p.m.
CCWD Board Room

Calaveras County Water District
120 Toma Court (PO Box 846)
San Andreas, California 95249

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administration Office at (209) 754-3028. Notification in advance of the meeting will enable CCWD to make reasonable arrangements to ensure accessibility for this meeting. Any documents that are made available to the Board before or at the meeting, not privileged or otherwise protected from disclosure, and related to agenda items, will be made available at CCWD for review by the public.

ORDER OF BUSINESS

CALL TO ORDER / PLEDGE OF ALLEGIANCE

1. **PUBLIC COMMENT:** Comments limited to 5 minutes per person.

2. **NEW BUSINESS**
 - 2a *Update on federal legislative policy matters, e.g. implementation of Water Infrastructure Improvements for the Nation (WIIN) Act (P.L. No.: 114-322 (12/16/2016)), infrastructure funding bill and federal budget
(Dave Eggerton, General Manager)

 - 2b *Update regarding state legislation concerning implementation of new conservation and drought planning requirements of Executive Order B-37-16 including, AB 968 (Rubio), AB 1654 (Rubio), AB 1667 (Friedman), AB 1668 (Friedman) and AB 1669 (Friedman)
(Joel Metzger, PIO/Customer Relations Manager)

 - 2c *Update regarding planned Upper Mokelumne River Watershed Authority (UMRWA) / Sierra Nevada Conservancy (SNC) legislative tour
(Joel Metzger, PIO/Customer Relations Manager)

 - 2d Discussion regarding AB 1427 (Eggman) Water: Underground Storage
(Joel Metzger, PIO/Customer Relations Manager)

2e *Update on Little Hoover Commission's ongoing studies of special districts and forest management and associated hearing on Thursday April 27, 2017
(Dave Eggerton, General Manager)

2f Information on park bonds for Sierra Nevada Conservancy
(Dave Eggerton, General Manager)

2g *Discussion regarding other state and federal legislation, regulations and policies of interest
(Dave Eggerton, General Manager)

3. **GENERAL MANAGER COMMENTS**

4. **DIRECTOR COMMENTS**

5. **FUTURE AGENDA ITEMS**

6. **NEXT COMMITTEE MEETING**

7. **ADJOURNMENT**



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AB-1427 Water: underground storage. (2017-2018)

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AMENDED IN ASSEMBLY MARCH 21, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 1427

Introduced by Assembly Member Eggman

February 17, 2017

~~An act to amend Section 66518 of the Government Code, relating to transportation.~~ *An act to amend Section 1242 of the Water Code, relating to water.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1427, as amended, Eggman. ~~Metropolitan Transportation Commission.~~ *Water: underground storage.*

Under existing law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Existing law provides for the reversion of water rights to which a person is entitled when the person fails to beneficially use the water for a period of 5 years. Existing law declares that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

This bill would revise the above declaration to additionally provide that certain uses of stored water while underground constitute beneficial use. The bill would provide that the forfeiture periods of a water right do not apply to water being beneficially used, as provided, or being held in storage for later beneficial use.

~~Existing law designates the Metropolitan Transportation Commission (MTC) as the regional transportation planning agency for the 9 county San Francisco Bay area, with various powers and duties relative to transportation planning, programming, and funding. Existing law requires the California Transportation Commission, when allocating funds for construction on the state highway system within the region under the jurisdiction of the MTC, to conform to the regional transportation plan and the schedule of priorities adopted by the MTC, but authorizes the California Transportation Commission to deviate from the MTC's plan and schedule because of an overriding statewide interest. Existing law describes the authorized routes in the state highway system, which includes the routes in the interstate highway system in California.~~

~~This bill would, in this regard, delete a specific reference to the interstate highway system and instead refer solely to the state highway system.~~

Vote: majority Appropriation: no Fiscal Committee: noyes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 1242 of the Water Code is amended to read:*

1242. The storing of water underground, including the diversion of streams and the flowing of water on lands necessary to the accomplishment of ~~such~~ *that* storage, constitutes a beneficial use of water *for which an appropriation may be made* if the ~~stored water so stored~~ is thereafter applied to *beneficial use, consistent with this division, or if beneficial use of water, including, but not limited to, the* ~~beneficial purposes for which protection of water quality or recovery of groundwater levels, is made while the appropriation water is underground. The forfeiture periods described in this article do not apply to water being beneficially used in the aquifer or being held in storage for storage was made; later beneficial use.~~

~~SECTION 1. Section 66518 of the Government Code is amended to read:~~

~~66518. When allocating funds for construction on the state highway system within the region, the California Transportation Commission shall conform to the regional transportation plan and the schedule of priorities for construction included in the plan. The California Transportation Commission, however, may deviate from the regional transportation plan and the schedule of priorities established for construction on the state highway system within the region because of an overriding statewide interest.~~

AB 1427 Water: underground storage

Author: Eggman

Introduced: 02-17-17

Amended: 03-21-17

Sponsor:

Supporters:

Opposition:

Assigned to: Whitnie Wiley/Adam Borchard

Current Position: NYC

Summary: Under existing law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Diversion to groundwater storage is not a beneficial use and is only allowed under current law if the water will be withdrawn and put to an existing beneficial use within the five-year forfeiture period.

As introduced on February 17, 2017, this bill was a spot bill related to transportation.

Summary of Amendments: As amended March 21, 2017, this bill would provide that certain uses of water stored underground constitute a beneficial use. The bill would provide that the forfeiture period of a water right do not apply to water being beneficially used or being held in storage for later beneficial use.

Staff Comments: AB 1427 is a reintroduction of AB 647 (Eggman, 2015). That bill passed out of the Assembly but ultimately died in the Senate.

ACWA's 2011 report, "Sustainability from the Ground Up: Groundwater Management in California," identified the use of surface water for groundwater recharge as a beneficial use. The report states that the designation should apply even when there is no plan for future

extraction of the water, as long as it is consistent with a local groundwater management plan. Because of the implementation of the Sustainable Groundwater Management Act in the next decade, a more structured system of local groundwater basin management and more comprehensive collection of information on the status of groundwater aquifers will be put into place. Allowing recharge for water quality and recovery of groundwater levels will be a valuable tool for sustainable management.

In 2012, ACWA's Groundwater Committee submitted a proposal that sought to encourage the conjunctive use of surface water and groundwater supplies and the practice of groundwater recharge whenever water supplies permit, regardless of whether there is a plan for future extraction of the water, for purposes such as mitigation of overdraft, seawater intrusion, water quality problems, and land subsidence. While the State Legislative Committee at that time was supportive of the concept, the committee did not decide to sponsor legislation because of the concern raised by ACWA members about substantial misuse and adverse impacts if surface water is permanently stored without appropriate review and approval by an independent party, such as the State Water Resources Control Board (State Water Board). ACWA staff from both the State Legislative and State Regulatory departments worked over a year with a work group comprised of ACWA members interested in this issue and failed to reach agreement on the appropriate language.

One of the contentious issues regarding AB 647 was the proposed expansion of State Water Board jurisdiction (and subsequent permit administration) over pre-1914 water rights holders if those rights holders sought the new use of storage. Under existing law, the State Water Board does not have jurisdiction over pre-1914 rights that change from one beneficial use to another. The jurisdiction of the State Water Board may be an issue again as AB 1427 moves forward.

As the experience with AB 647 demonstrated, groundwater storage as a beneficial use is an important issue that has the potential to create a fracture between junior and senior water rights holders. While internal discussions at ACWA did not yield a positive result for this issue in 2012 – 13, disparate parties remain interested in this matter that could enhance groundwater management.

The general rule when ACWA has members on both sides of an issue is for ACWA to remain neutral, unless the legislative action will, when applied statewide, create a negative precedent. Staff recommends that a work group be formed to once again try to find amendments to the bill that would allow ACWA to be supportive.

Recommended Position: Pending Committee Input