An Overview of California Groundwater Law & Management

2011 Water Quality Coordinating Committee (WQCC) Meeting

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Groundwater as a Percentage of Overall Water Consumption in California

- 30% in normal years
- 40+% in drought years
The Unacceptability of California’s Groundwater Status Quo (the “Unmanaged Commons”):

• Groundwater contamination
• Groundwater overdraft
• Groundwater subsidence
• Saltwater intrusion
The Fundamental Disconnect Between Groundwater Science & Law in California

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Groundwater regulation in the Western U.S. California: the Great Exception
3 Types of Water Under California Law:

- Surface water;
- “Subterranean streams”; and
- Percolating groundwater
No Comprehensive California System of:

• Monitoring groundwater pumping; or
• Regulating/limiting groundwater pumping
What Authority Do CA Regulators Have Over:

• Groundwater monitoring?
• Groundwater extraction and use?
Authority Over Groundwater Monitoring:

- SBX7 6 (Steinberg 2009)
- A very modest initial step
Cf. Local Authority Over Groundwater in California

• **Not** preempted by state law
  – *Baldwin v. County of Tehama* (1994)

• Only some cities/counties have adopted

• Most local ordinances focus on efforts to discourage/preclude groundwater export to “outside” users/jurisdictions

• Northern v. Southern California approaches
California State Authority Over Groundwater Extraction & Use

- California Constitution, Art. X, section 2
- Water Code §§ 102-105
- Water Code §§ 100, 275
- The Public Trust Doctrine
Requiring **More** of CA's Groundwater Basins in the 21st Century:

- Replacing snowpack as needed storage (in an era of climate change)
- Increased need to use groundwater basins as CA’s water “insurance policy”/“bank account”
The Role of the State and Regional Boards: Reactive or Proactive?
A Modest, 2-Part Legislative Proposal for Groundwater Reform in California

• Comprehensive, consistent reporting of amounts of groundwater extraction (& groundwater basin levels)
• Local agency regulation, subject to statewide standards set by SWRCB
  – The Orange Country Water District model
Question & Answer Period
For further information:

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