

Groundwater Recharge/Extraction Permits

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March 25, 2019

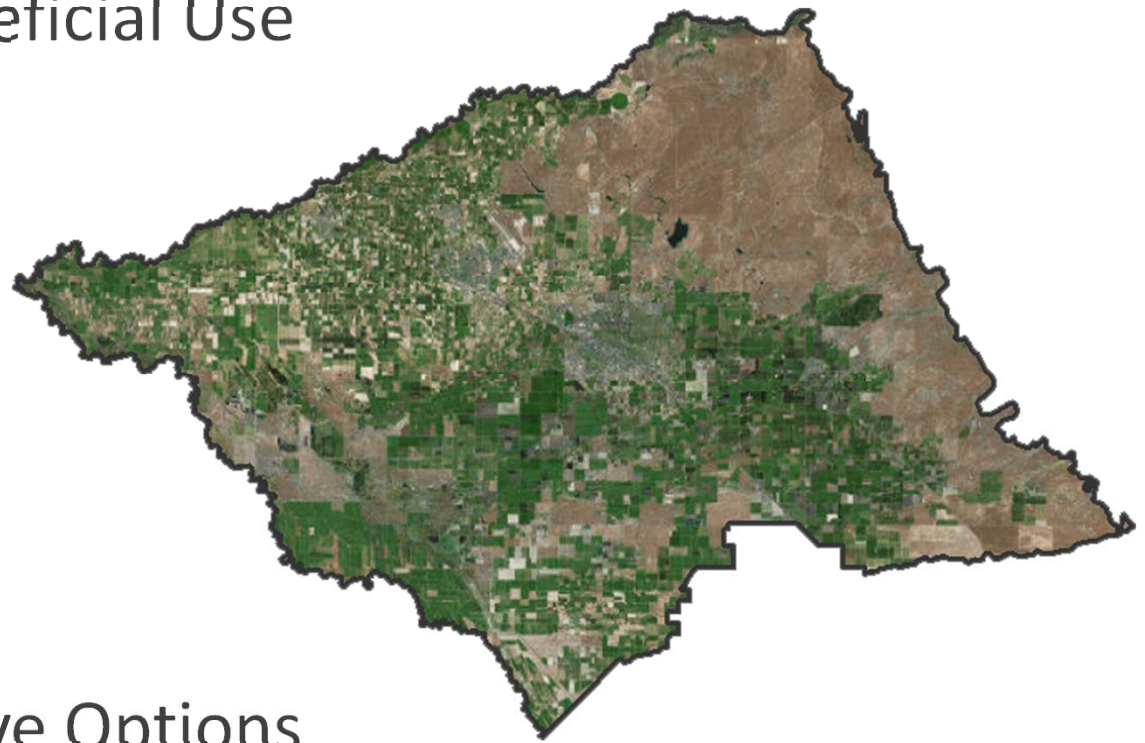
Topics for Discussion

Background & Beneficial Use

Standard Permit

Temporary Permit

Potential Alternative Options



Background

An appropriative water right is needed for any surface water diversion to groundwater recharge and subsequent beneficial use of water

To obtain a water right for diversion to underground storage, there must be a subsequent beneficial use (i.e., withdrawal from underground storage)

Groundwater recharge alone is not currently recognized by the SWRCB as a beneficial use

Note that under a riparian water right/claim, surface water cannot be diverted during wetter periods, stored underground, and extracted during a drier period

Beneficial Use

Beneficial use typically occurs through extraction

- Irrigation, municipal, industrial, etc.

Beneficial use may also occur in place by leaving the water underground for:

- Water quality protection (preventing saline water intrusion)
- Fish and Wildlife Preservation & Enhancement (supporting stream baseflow or enhancing groundwater dependent ecosystems)
- Other documented uses such as mitigating subsidence, protecting/enhancing groundwater levels for domestic wells, etc.

Standard Permit

Standard Permit

Appropriate for long-term projects

- SWRCB estimates permitting process to take five to seven years

A standard permit for underground storage may also include other diversions or uses such as direct diversion of surface water for stockwatering or municipal use

A permit will include terms and conditions that will, for example, limit the season and rate of diversion

Standard Permit Process

Prepare and Submit to SWRCB:

- Application to Appropriate Water, and
- Underground Storage Supplement

Submittal includes water availability analysis to demonstrate “reasonable likelihood” of water at the point(s) of diversion

Complete environmental documentation pursuant to CEQA

- SWRCB will either be in the role of Lead Agency or Responsible Agency

Standard Permit Process

SWRCB will notice the Application, and any person may file a protest based on potential injury to other legal users or the environment

If protests are not resolved, a SWRCB hearing may be required

The SWRCB must make the following findings:

- Unappropriated water is available
- The appropriation is in the public interest
- To ensure these findings are met, SWRCB will impose conditions in the permit

The applicant is required to submit information to support the findings above

Monitoring and accounting required by SWRCB will depend on project details

Key Considerations

Permanent, provided terms and conditions are met

May include diversions other than to underground storage

Ensures a water right priority date (junior to existing rights)

Application fee is \$1,000 plus \$15 per AF greater than 10 AF for the annual amount of diversion sought, up to maximum of \$534,155

- For example, application fee for 20,000 AF is \$300,850
- Application fee for amount greater than 35,554 AF is limited to maximum

Environmental Documentation

Will require years to obtain

Temporary Water Right Permit

Temporary Permit

Temporary permits expire within 180 days of issuance

Executive Order B-39-17 directs SWRCB to prioritize temporary permits to capture high runoff events for local storage/extraction

Temporary permits may be applied for while awaiting issuance of a standard permit; and may be renewed

The Order suspends CEQA provisions for these permits

SWRCB filing fees are substantially reduced as compared with standard application

Temporary Permit Process

Prepare and Submit to SWRCB:

- Application to Appropriate Water, and
- Underground Storage Supplement

Submittal includes water availability analysis to demonstrate “reasonable likelihood” of water at the point(s) of diversion

Important to engage with SWRCB staff prior to filing

SWRCB will generally notice the Temporary Application, and any person may file a protest based on potential injury to other legal users or the environment

If protests are not resolved, a SWRCB hearing may be required

Temporary Permit Process

SWRCB must make the following findings:

- Applicant has an urgent need for the water proposed to be diverted
- The water may be diverted and used without injury to lawful users
- The water may be diverted and used without unreasonable effect on fish, wildlife, or other instream beneficial uses
- Proposed diversion and use are in the public interest

The applicant is required to submit information to support the findings above

Monitoring and accounting required by SWRCB will depend on project details

Key Considerations

Provides flexibility to alter the project based on annual conditions

Application fee generally ranges between \$2,000 and \$5,000 plus \$0.10 per AF for the annual amount of diversion sought

- For example, application fee for 20,000 AF is \$7,000

Permit is valid for a maximum of 180 days

Permit needs to be renewed for future periods; renewal fee is \$1,500 plus \$0.20 per AF (e.g., \$5,500 for 20,000 AF)

Permits generally issued within three months of filing with SWRCB

Potential Alternative Options

Alternative Options

SWRCB staff are considering an expedited standard permit process for applicants diverting high flows for groundwater recharge/extraction

- Unknown when SWRCB will allow for process
- Qualifying projects will likely be prioritized for staff review
- Currently considering the diversion of flows that exceed the 90th percentile
- Potential reduced application fee for qualifying projects

Alternative Options

For existing post-1914 water rights, a Change Petition may be submitted to SWRCB to include diversion to underground storage

- SWRCB process and mandatory findings are similar to standard permit process
- SWRCB process may take 3 to 5 years to complete
- Filing fees to SWRCB are up to \$6,710 per water right
- Preserves priority of existing water right

Pre-1914 water rights/claims may be relied upon for underground storage if the project is within the historical season and diversion quantities

- Cannot result in injury to other water users
- SWRCB approval is not required
- Environmental Documentation

Alternative Options

Other supplies available from recycled water, contract water, or transfer water may be pursued

Diversions for flood control may result in incidental groundwater recharge and may not require a water right

- Multi-benefit project providing flood control and groundwater recharge for later use will need a water right

Questions?



WATER RESOURCES ♦ FLOOD CONTROL ♦ WATER RIGHTS

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