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WATER

KC water leaders: Groundwater law needs clarification

KEY PARTS OF LEGISLATION REMAIN MURKY



Sentinel file photo

Employees for B&B Well Drilling work on an irrigation well on Walnut Avenue near Excelsior Avenue in December 2013.

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November 25, 2014 6:00 am • [Seth Nidever](#) staff reporter

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Question: If you're a Kings County water leader, what do you do to implement the new state groundwater sustainability law?

Answer: Wait for the state to clarify exactly what you have to do.

That was the gist of Monday night's Kings County Water Commission meeting, where commissioners and an

[Meet Doug Verboon, reluctant groundwater activist](#)



Doug Verboon has gotten himself into an interesting

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audience of growers, political leaders and county employees heard Dave Orth give his take on what's ahead as the San Joaquin Valley grapples with the new requirement that groundwater overdraft must be brought into balance by 2035.

Orth, general manager of Kings River Conservation District, sees plenty of road bumps on the horizon.

His first sticking point? The California Environmental Quality Act. Orth thinks that local agencies attempting to form a basin-wide groundwater management agency -- as required by the law -- need more protection from lawsuits that environmentalists or landowners could file under the act.

The clock is ticking. If local authorities can't form a comprehensive groundwater management agency by 2017, the state can impose its own plan -- a scenario the local water community dreads.

Gov. Jerry Brown, who supported the law, has promised legislation in 2015 to "clean up" ambiguities and provide an expedited adjudication process for lawsuits.

Some issues will be cleared up by the state Department of Water Resources, which faces rule-making deadlines. By June 1, 2016, the department must clarify the required components of groundwater sustainability plans. By Jan. 1, 2017, the department must define best practices.

Orth hopes that clarification comes earlier so that local agencies trying to agree on a basin-wide strategy don't run up against the 2017 deadline.

He expects the department to begin offering technical assistance in early 2015.

Four entities -- Kings River Conservation District, Tulare Lake Basin Water Storage District, Kings County Water District and Kings County itself -- will be the major local players as implementation moves forward. Orth suggested that each entity could grant certain powers to an oversight agency but still retain a degree of autonomy.

"We are going to have to get involved very quickly in a discussion of what kind of a groundwater sustainability agency we want to have," he said.

Legal questions loom about whether a groundwater sustainability agency can actually tell growers not to grow certain crops, or to fallow land, or to take some other action necessary to end chronic, severe overdraft.

The law seems to contradict itself by saying both that existing groundwater rights will be protected and implicitly giving management agencies the power to infringe on those rights in the name of sustainability.

Orth believes that growers, water managers and county leaders can agree on an implementation strategy, but he acknowledged that many think he's way too optimistic.

Ceil Howe Jr., managing partner of Westlake Farms in western Kings County, offered a more blunt assessment of what he thinks will happen if and when a groundwater management agency tells growers what they can and can't grow or how much they can and can't pump.

For farmers who have access to surface water, it might not be so bad. But for growers without surface water rights, it could be disastrous.

"Who's going to kill who?" Howe said. "I'm serious."

Howe said in an interview that the law was "not thought out at all." He predicted that farmers

groundwater law



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would go to court to get final clarification from judges on exactly what their rights are under the new law.

The downside? They may get clarity, but they also might hate the outcome.

“That’s the only way it’s going to be resolved,” Howe said. “This groundwater legislation is scary. It really is.”

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