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Summary of Allocations Structures

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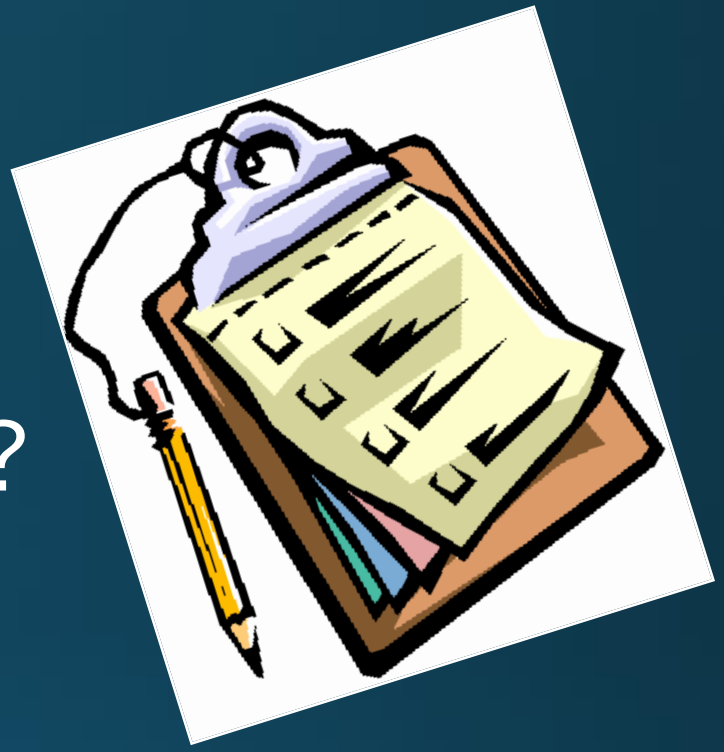
Agenda

1. What is meant by allocations?
2. What is the purpose of allocations?
3. What are we allocating?
4. Who is included?
5. What should guide the structure?
6. What are the limitations?
7. Examples



Allocations – What is an allocation?

- Not a water right determination
- Quantification of how much each beneficial user is entitled to extract from the subbasin based on sustainability

Allocations – What is the purpose?

- SGMA requires sustainability
- GSP must include a sustainable yield (amount of water that can be pumped without causing undesirable results)
- The goal of an allocation structure is to figure out how this sustainable yield is divided up amongst/between beneficial users; (who gets what when)

Allocations – What are we allocating?

- Native common supply of groundwater
- Native common supply DOES include:
  - Seepage from natural channels
  - Recharge from precipitation
  - Subsurface flows from adjacent subbasins

- This does NOT include:
  - Imported water (water brought from outside the subbasin)
  - Developed water (treated wastewater)
  - Salvaged water (water saved from flowing into the ocean, improving efficiencies)
  - Stored surface water (seepage from non-natural facilities, such as canals and reservoirs, recharged surface waters, overapplication of irrigation for purpose of storing)

Allocations – Who is included?

- Overlying water right holders
- Appropriators (municipal users)
- Prescriptive users
- Environmental claims

Allocations – What should guide structure?

Consensus increases options

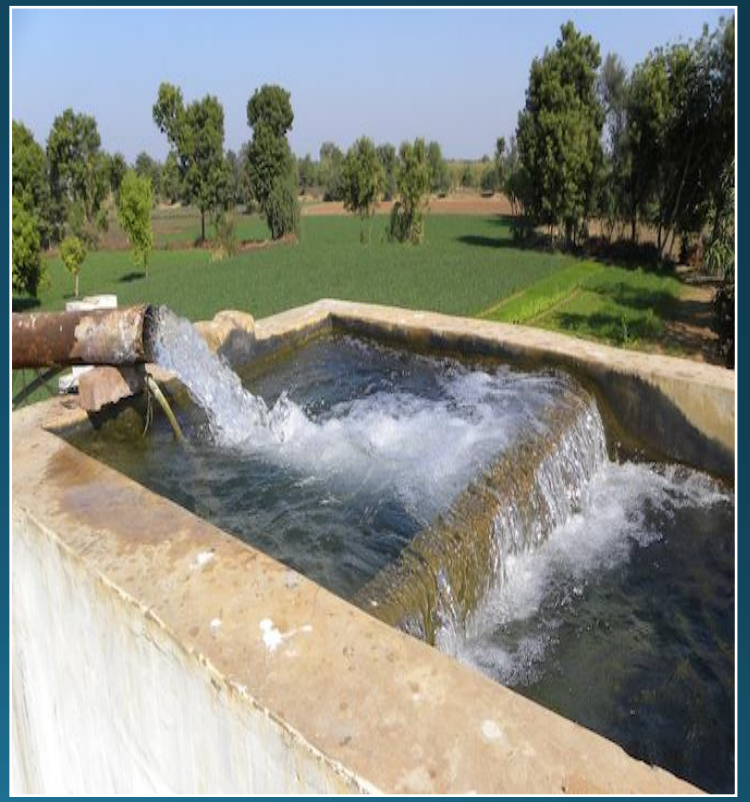
- Identify all categories of beneficial users (know your audience)
- Obtain and respond to feedback (Indian Wells)
- Only takes one stakeholder to challenge

Guidance from prior adjudications

- Must consider water rights
- Reasonable use reduces rigid application
- Departure from water rights must be supported

Based on basin circumstances

- Prescription
- Municipal users
- Non-irrigated agriculture
- Surface water supplies (in lieu)



Allocations – What are the limitations?

Cannot determine a water right
- Prohibited by statute
- Structure should be driven by sustainability
- Avoid factual determinations
- Create rules that apply to categories of users (not individual water right holders)

Cautious with regard to municipal supply
- Human right to water
- Water Code 106
- Prescription (one way street)

Cautious with regard to dormant water right holders
- No allocation could be viewed as extinguishing rights

Allocations – Management Areas

Pre-SGMA categories

- Water rights (overlying, appropriative, prescriptive)
- Historic water use

New Categories Post-SGMA

- Impact on sustainability indicator (management area)
- Cautious with regard to water rights – correlative nature is built on bathtub approach, rather than management area
- Need data to support
- May need to consider possibility of alternate supplies
- Environmental demands

Allocations – Examples

1. Net Acreage
2. Irrigated Acreage
3. Historic Pumping
4. Hybrid

Allocations – Net Acreage

Summary: Divide sustainable yield by the total acres in the subbasin.

Pros
- Simple formula
- Does not subordinate dormant users

Cons
- Does not address claims of prescription
- May not put water to full beneficial use
- Could result in stranding assets or monetizing unused water

Allocations – Irrigated Acreage

Summary: Divide sustainable yield by the irrigated acres in the subbasin.

Pros
- Simple formula
- Puts water to full beneficial use

Cons
- Does not address claims of prescription
- Subbordinates dormant users

Allocations – Historic Pumping

Summary: Divide sustainable yield by historic pumping ratios

Pros

- Puts all water to beneficial use
- Recognizes the rule of prescription during overdraft

Cons

- May not respect priority between overliers and appropriators
- Rewards parties who have caused overdraft
- Applies "use it or lose it" rule to overliers, which is not consistent with common law

Allocations – Hybrid Approach

Summary: Use more than one of the previous approaches

Examples:

- Allocation is based on irrigated acreage, with a set aside for dormant land uses and a pre-set for historic municipal use
- Half the allocation is based on historic pumping and the remaining half is based on total acreage, with a market that allows non-irrigated acres to market allocation

Pros

- May address the limitations of other methods

Cons

- Complexity increases
- Management of a hybrid system can be difficult
- Potential to make no one happy; no "winners"

Allocations – Case Studies

Example 1:

- Allocation based on historic pumping
- Long term overdraft, municipals demand and not a lot of non-irrigated acreage
- Court reviewed and said had to consider water rights

Example 2:

- Base allocation set on correlative share of native common supply (total acreage)
- Option to purchase water above base supply; purchase price set through tiered cost tied to acquisition of surface water
- No municipal, conjunctive use system with access to a surface water supply

Example 3:

- Base allocation set on common supply and district banking/imports
- Option to trade water among participants
- Individuals report back to central repository regarding participant trades