Groundwater Recharge – State and Federal Programs and Initiatives

The following are various state and federal programs and initiatives related to managed groundwater recharge in California.

State Water Resources Control Board Water Rights Permitting

As explained in detail on the SWRCB "Water Rights for Groundwater Recharge" webpage, "[c]apturing and storing surface water generally requires an appropriative water right. Parties can obtain new water rights or change existing water rights to authorize groundwater recharge projects."

Depending on a project's planned duration, intended use, and urgency, there are two different water right types that can be secured for groundwater recharge: *standard* and *temporary*. Applicants for new water rights for groundwater recharge have four application pathways available (see embedded links for additional information):

1. Standard Water Right Application – The SWRCB's traditional water rights permitting and licensing program.
2. Streamlined Standard Water Right Application – Publicly announced in November 2019, the streamlined permitting process is the product of administrative adjustment in SWRCB priorities and processes. According to the SWRCB: "No statutory or regulatory changes were necessary to implement the streamlined permitting process, except for lowering of the associated fee schedule. Streamlining is primarily achieved through identifying eligibility criteria and a simplified water availability analysis targeting diversion of high flow events during winter."
3. Five-Year Conditional Temporary Permits – Authorized under AB 658 (Arambula, 2019), beginning January 1, 2020, a groundwater sustainability agency or a local agency may secure a temporary permit for diversion of surface water to underground storage for beneficial use that advances the sustainability goal of a basin. These permits are conditioned on a number of requirements defined in statute, automatically expire after five years (but may be renewed), may be subject to modification or revocation, and do not result in the creation of a temporary or permanent vested right.
4. 180-day Temporary Permits – Most temporary permits for groundwater recharge granted under Water Code §1425 or other authorities expire within 180 days after the date of issuance. Temporary permits can usually be processed more quickly than standard permits and may be renewed, but are subject to change or revocation at any time. Executive Order B-39-17 directed the SWRCB to prioritize temporary water right permits to accelerate approvals for projects that enhance the ability of a local or state agencies to capture high runoff events for local storage or recharge, consistent with water rights priorities and protections for fish and wildlife.

Similar application processes and requirements apply to petitions for a change to an existing water right for purposes of groundwater recharge. The SWRCB has posted a Groundwater Recharge Permit Type webpage that includes a table and more information on when each type of permit can be used.

Several related SWRCB processes will inform these various permits, including:

- The SWRCB factsheet on "Purposes Of Use For Groundwater Storage Projects," which clarifies the beneficial use issues associated with a recharge program;
- The SWRCB Fully Appropriated Stream System orders regarding when water is available for appropriation;
- SWRCB Term 91, which is designed to protect stored water releases from the Central Valley Project and State Water Project;
- The 2019-2020 Water Rights Fee Schedule, which details the fees associated with each type of application and change petition.

Department of Water Resources Flood-Managed Aquifer Recharge (Flood-MAR) Planning

Flood-MAR is a DWR-coordinated planning process that describes the potential value, opportunities, and obstacles associated with "an integrated and voluntary resource management strategy that uses floodwater resulting from, or in anticipation of, rainfall or snowmelt for groundwater recharge on agricultural lands and working landscapes." To date, DWR has developed a June 2018 Flood-MAR White Paper that details elements of the Flood-MAR strategy and an October 2019 Flood-MAR Research and Data Development Plan that identifies priority actions to expand implementation of Flood-MAR projects.

Executive Order N-10-19 – California Water Resilience Portfolio

In April 2019, Gov. Newsom issued Executive Order N-10-19 which initiated the development of a Water Resilience Portfolio based on principles that include the use of "natural infrastructure such as forests and floodplains" and the prioritization of "multi-benefit approaches that meet multiple needs at once" to "meet the needs of California's communities, economy, and environment through the 21st century." The draft Water Resilience Portfolio released for public comment in January 2020 includes a number of proposed actions for the state to advance, including to "[e]xplore ways to further streamline groundwater recharge and banking efforts and provide technical assistance to facilitate the redirection of water during periods of extended high flows to allow water to sink into aquifers, including on agricultural land" and "[m]ake funding available for groundwater recharge projects with multiple benefits."

US Bureau of Reclamation Groundwater Banking Guidelines

Reclamation's Groundwater Banking Guidelines for Central Valley Project Water outline when Reclamation may approve banking and recovery of Central Valley Project water outside of a contractor's service area. The guidelines detail water banking criteria that must be met in order to undertake water banking activities as authorized by the Central Valley Project Improvement Act and allowed under certain federal contracts. The criteria are intended to provide consistency for Reclamation's approval of CVP water being banked in groundwater banking facilities for later beneficial use and set forth the standards under which Reclamation may approve banking and recovery of CVP water outside of a contractor's service area. The current guidelines were first released in November 2014 and draft changes to the guidelines were posted for public comment in May 2019.