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Research Brief

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Comparing Local Groundwater Withdrawal Permitting Laws in the Southwest and California

Background

For the first time in California's history, the Sustainable Groundwater Management Act of 2014 (SGMA) aims to empower local agencies to sustainably manage the pumping of groundwater. A notable, but often unremarked, aspect of SGMA is that it provides Groundwater Sustainability Agencies (GSAs) with the power to adopt rules and regulations to establish "groundwater extraction allocations" (i.e., a permitting regime). California is the last of the seven southwest states — Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah — to introduce a permitting power, suggesting that the other southwestern states can inform GSAs looking to promote sustainability through the use of their new power to establish extraction allocations.

Although the SGMA implementation process is still in an early phase, it is not too soon for GSAs to consider permitting models. GSAs have a number of models they can look to in the southwest. In many states, permitting authority can be exercised across the state (i.e., "default" state permitting regime), as well as in more locally focused areas much like GSAs. We use the term Special Permitting Areas (SPAs) to represent geographically delineated areas within a state aimed at regulating groundwater extraction in a way that differs from the "default" state permitting regime (or lack thereof). SPAs are usually created because the areas are recognized to be in need of more intensive groundwater management than elsewhere in the state.

Key Findings

We identify and characterize one type of SPA in each of the southwestern states (Figure 1)[1] in an effort to inform GSAs about how they might use their permitting power. Overall, we find that:

1. permitting regimes in the selected southwestern SPAs share several almost universal elements: criteria that must be met to enable a pumping permit to be granted, metering requirements, penalties for violating a permit and exemptions from permit requirements;
2. the policy settings that apply to these elements vary widely across our sample of southwestern SPAs; and
3. by not detailing many of these elements, SGMA grants GSAs a degree of discretion in how to carry out permitting that is unprecedented in the southwest.

GSAs should consider the wide variation of permitting policies in the southwest in exercising their significant discretion to tailor permitting policies to local needs.

1 Many states have more than one type of SPA, and we select the type that corresponds most closely to California's GSAs under SGMA.

About the Researchers

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