

ISSUE BRIEF

WHEN IS GROUNDWATER RECHARGE A BENEFICIAL USE OF SURFACE WATER IN CALIFORNIA?

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SUMMARY OF KEY CONCLUSIONS AND RECOMMENDATIONS

This issue brief considers whether groundwater recharge currently qualifies, or should qualify, as a beneficial use of surface water under a California water right. Currently, the lack of an explicit policy regarding recharge for non-extractive purposes — that is, for purposes such as combatting subsidence, raising regional groundwater levels, or supporting baseflow or ground-water dependent wetlands — creates uncertainty and confusion. To bring much needed clarity, the State Water Resources Control Board (the Board) should provide guidance explaining that recharge for non-extractive purposes can be a beneficial use of water. That guidance should explain the conditions under which recharge for non-extractive purposes is beneficial and the evidence water managers should provide to support a beneficial use determination.

INTRODUCTION AND OVERVIEW

In order to appropriate surface water in California, a potential diverter must demonstrate that the water will be put to a beneficial use. A beneficial use is a “useful purpose” to which water is applied.¹ While a wide variety of water uses are well established as beneficial, the relationship between beneficial use and groundwater recharge is less clear. Specifically, it is not currently clear that water rights can or will be granted for certain types of groundwater recharge projects, despite direction from the Governor to encourage action on water rights requests related to recharge² and suggestions from the Board that such water rights could be approved.³ This confusion may be hindering the implementation of recharge projects that could provide substantial benefits in groundwater basins that are overdrafted or are at risk of becoming overdrafted.

The use of surface water to recharge groundwater can be divided into two categories based on the purpose of use under the surface water right: 1) extractive use (*e.g.*, for storage and recovery activities, such as groundwater banking), and 2) non-extractive use (*e.g.*, to mitigate subsidence, improve water quality, or support ecosystems).⁴ The law surrounding storage and recovery is clear and needs no modification. Storage alone is not a beneficial use.⁵ Parties wishing to store water underground for a later extractive use must identify in their water right application how the water will be put to a beneficial use once extracted.⁶ In