Stanislaus County
Water Advisory Committee

Memo To:	Wayne Zipser, Chairman	**Date:**	**3/20/2015**
From:	Walt Ward	**Time:**	**7:56 AM**
Subject:	Assembly Bill 647 (Eggman:Olsen/Berryhill)		

MEMORANDIUM

THIS BILL

This bill would define groundwater recharge as a beneficial use under California State law. Current regulations define beneficial uses of water to include domestic use, irrigation, power generation, and municipal and industrial use.

The need for managed aquifer recharge, for reasons other than for later recovery and use, needs to be recognized as a fundamental factor in achieving and maintaining sustainable groundwater management. The bill seeks to clarify that a beneficial use of water does not require that water to be withdrawn from underground storage, if the purpose for storing it in an aquifer is a specified beneficial use. Therefore, this bill would also protect a party from forfeiting a right to water for keeping it in an aquifer longer than five years.

BACKGROUND

Groundwater is a part of a diversified water supply in California. Groundwater storage is an alternative to above ground surface storage (lakes and reservoirs) and serves as a buffer for agricultural and urban uses during prolonged dry periods. The current drought, as well as decades of chronic overuse of groundwater, is depleting these levels across the state.

Groundwater recharge refers to rainfall and water flowing over the earth that infiltrates below the land surface into aquifers. An aquifer can be recharged naturally or artificially, and is critical to managing groundwater sustainably and preventing groundwater aquifers from being permanently damaged by overdrafting which reduces water supply, increases pumping costs, and may lead to high costs of replacing or deepening supply wells, which disproportionately affects rural landowners and small-scale farmers.

SUMMARY

This bill clarifies that water diverted to underground storage does not need to be withdrawn in order to be considered a beneficial use. It would also prevent the forfeiture of a water right from storing water underground in anticipation of an extended drought (the five year “use it or lose it” scenario).

Staff recommends that the WAC vote in favor of the Stanislaus County Board of Supervisors including this position in their 2015 Legislative Projects and Issues platform.

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 647**

Introduced by Assembly Member Eggman (Principal coauthor: Assembly Member Olsen) (Coauthor: Senator Berryhill)

February 24, 2015

An act to amend Section 1242 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 647, as introduced, Eggman. Beneficial use: diversion of water underground.

Under existing law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Existing law provides for the reversion of water rights to which a person is entitled when the person fails to beneficially use the water for a period of 5 years. Existing law declares that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

This bill would declare that the diversion of water underground constitutes a beneficial use of water for which an appropriation may be made if the diverted water is stored and thereafter applied to beneficial use or if beneficial use of the water, including, but not limited to, protection of water quality or recovery of groundwater levels, is made while the water is underground. This bill would provide that the period for the reversion of a water right does not apply to water being beneficially used in the aquifer or being held in storage for later beneficial use.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1242 of the Water Code is amended to read:

1242. The ~~storing~~ *diversion* of water underground, including the diversion of streams and the flowing of water on lands necessary to the accomplishment of ~~such storage~~ *that diversion*, constitutes a beneficial use of water *for which an appropriation may be made* if the *diverted* water ~~so~~ *is* stored ~~is~~ *and* thereafter applied to ~~the beneficial purposes for which the appropriation for storage was made.~~ *beneficial use, consistent with this division, or if beneficial use of the water, including, but not limited to, protection of water quality or recovery of groundwater levels, is made while the water is underground. The forfeiture periods described in this article do not apply to water being beneficially used in the aquifer or being held in storage for later beneficial use.*