



May 17, 2016

Sent via ELECTRONIC MAIL to cwc@water.ca.gov

Chairman Joseph Byrne, and Members
joseph.byrne@cwc.ca.gov
California Water Commission
P.O. Box 942836
Sacramento, CA 94236-0001

Re: Department of Water Resources' Draft GSP Regulations

Dear Chairman Byrne and Members:

The undersigned organizations appreciate the opportunity to comment on the Department of Water Resources' ("DWR" or "Department") Revised Draft Groundwater Sustainability Plan Emergency Regulations ("Regulations"). Our organizations are actively involved in DWR's implementation of the Sustainable Groundwater Management Act ("SGMA"), including participating on DWR's Agricultural Advisory Group and working with local agencies and communities on its implementation. We are committed to continuing this effort to ensure the final Regulations achieve their intended purpose.

As was expressed at the Water Commission's ("Commission") meeting on April 20, 2016, we appreciate the substantial effort by DWR staff to ensure that the Regulations are consistent with the requirements and intent of SGMA. The Regulations set the stage for the most significant change in California water law in the last century, and the support and investment of the local communities and individuals that will be impacted under SGMA is essential. Because of this, the Regulations must maintain a Groundwater Sustainable Agency's ("GSA") ability to craft a Groundwater Sustainability Plan ("GSP") that is tailored to the specific conditions and unique needs of the basin it governs.

DWR has conducted substantial local outreach, and thereby gained considerable knowledge and an understanding of the intricacies of groundwater aquifers and the challenges local communities will face with the implementation of SGMA.

A fundamental principal of SGMA is preservation of local control and management through stakeholder outreach. While the initial draft Regulations acknowledged this, we were concerned many of the provisions were over prescriptive and would adversely affect much of the work already done in basins subject to SGMA. As discussed below, we are encouraged by many of the revisions to the Regulations. They eliminate or revise many of the prescriptive measures while upholding the principals of requiring agencies to rely on the best available information in formulating their initial plans and evaluating progress.

The Regulations must allow flexibility in groundwater management so locals can create a plan that successfully addresses characteristics of the basin.

It is critical to provide maximum flexibility to GSAs to propose options for identifying and addressing management areas, including subsurface zones that have unique conditions, so GSPs can be crafted to effectively achieve sustainable management for basins. GSPs should be able to include recognition of geologic, hydrogeologic, environmental and other unique conditions that justify establishing separate management areas, that require different sustainability criteria and monitoring than the basin as a whole.

The Regulations acknowledge the need for this flexibility with the revised definition of “Management area.” This revised definition allows GSPs to identify different minimum thresholds, measurable objectives, and monitoring, project and management actions for portions of the aquifer to best manage the basin without placing undue and costly burdens on those governed by the GSP.

It is critical the Regulations allow existing monitoring plans, networks and programs to be included in GSPs to avoid unnecessary costs from collecting duplicative data and conflicts between GSPs and existing monitoring programs.

Many landowners, especially in agriculture, are complying with several regulatory mandates and monitoring programs or local groundwater programs that accomplish goals of SGMA, or collect and analyze data required to be collected and analyzed under SGMA. GSPs will require extensive data which will be costly, so it is important for GSAs to incorporate this existing information wherever appropriate.

Several revisions in the Regulations address this need by allowing incorporation of existing programs. Allowing existing programs to be incorporated into the Plan will ease the burden on the regulated community by allowing the regulated community to continue with the existing programs they are required to participate in without additional regulatory burdens, duplicative collection and submission of data or unnecessary expense.

We also support the portions of the Regulations that allow flexibility in monitoring. Section 354.34(f) relieves GSAs from establishing certain monitoring networks if it can demonstrate an undesirable result is not and will not occur in a basin. Further, Section 354.36(a) allows for representative monitoring sites to establish quantitative values for a GSP. New wells in the San Joaquin Valley cost roughly between \$100,000 and \$250,000 to construct. This is a large expense for local agencies to take on, especially when existing monitoring sites will provide the data required by SGMA. Allowing for use of existing monitoring sites and for representative monitoring will cut costs and ease the burden on local agencies and the regulated community as they work to develop a GSP.

GSAs must be able to develop a GSP that fits the unique characteristics of the basin.

Subarticle 3 of Article 5 of the Regulations is a key part of the Regulations as it will guide a GSA in establishing a GSP's process and criteria for achieving sustainable groundwater management. We continue to support section 354.26(d), which provides GSAs with flexibility to establish different criteria for management areas and demonstrate one or more sustainability indicators that would not lead to undesirable results in the basin, thus do not need to be analyzed. This section acknowledges the necessity of a GSA to establish different criteria and monitoring requirements based on basin conditions.

The focus in section 354.28 on GSAs developing minimum thresholds for each sustainability indicator rather than a prescriptive state-wide number or formula is key to the success of SGMA. Because each basin and portions of each basin vary greatly between groundwater conditions and land use, it would be impossible and unreasonable to apply a state-wide minimum threshold to all basins.

The “substantial compliance” standard used to evaluate GSPs adequately reflect the flexibility afforded locals under SGMA while assuring GSPs are well supported and will achieve sustainability over the planning and implementation horizon.

We are supportive of the substantial compliance standard DWR will use to evaluate GSPs to determine whether they will achieve sustainability goals for basins and comply with SGMA. It adequately reflects the flexibility that should be afforded local agencies when developing GSPs and recognizes that GSPs will have data gaps to be filled as GSPs are implemented. SGMA does not require a basin to be managed sustainably on day one. Rather, it sets a 20 year goal and 50 year implementation horizon to fully achieve sustainable management.

DWR staff and our organizations have a shared interest in ensuring that the SGMA process allows local agencies flexibility in defining the problems in their basins and provides local agencies the authority to address uncertainties and use adaptive management techniques to improve groundwater management over time.

We encourage the Commission to approve the Regulations and allow locals impacted by SGMA to move forward in developing plans that fit their basin and addresses the needs of those that will be governed by the plan.

Letter to the California Water Commission
DWR Draft GSP Regulations
May 17, 2016

Sincerely,



Roger Isom
California Cotton Ginners and Growers Associations
Western Agricultural Processors Association



Joel Nelsen
California Citrus Mutual



Barry Bedwell
California Fresh Fruit Association



Steven Kost
Far West Equipment Dealers Association



Richard Matoian
American Pistachio Growers

Cc: Joe Del Bosque, Vice-Chair
Carol Baker, Member
Andrew Ball, Member
Daniel Curtin, Member
Paula Daniels, Member
Maria Herrera, Member
David Orth, Member
Armando Quintero, Member
Paula Landis, Executive Officer, California Water Commission
David Gutierrez, SGM Program Manager
Trevor Joseph, SGM Section Chief