



May 18, 2016

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California Water Commission  
P.O. Box 942836  
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Attention: CWC Commissioners

**Subject: Proposed Groundwater Sustainability Plan Emergency Regulations regarding limitation on use of proprietary software**

We write to you regarding our ongoing concern with the requirement of the Draft and Proposed Groundwater Sustainability Plan Emergency Regulations to limit the choice, at the local level, of surface and ground water simulation software to “Open Source Public Domain” software (Draft Emergency Regulations, Section 352.6 Data and Reporting Standards, clause (e); Proposed Emergency Regulations, Section 352.6 Data and Reporting Standards, clause (f) (3)).

We raised the concern, following due process, during the Draft Emergency Regulations consultation process. A copy of our submission, for your information is attached. A number of similar comments were also submitted by other parties on the issue of restriction in choice of simulation software.

We were pleased to observe that the section defining the restriction on software choice (Draft Emergency Regulations Section 352.6 Data and Reporting Standards, clause (e)) was struck out of the proposed regulations. However, we were concerned to see the requirement, albeit in a slightly amended form, reappearing in in the same section of the Proposed Regulations (Proposed Emergency Regulations Section 352.6 Data and Reporting Standards, clause (f) (3)).

The slightly modified requirement in the proposed regulations in fact accepts models using software that is not “Open Source Public Domain” and we do not understand why this acceptance should change after June 1, 2016.

Given the seriousness of the water issues in California and the strong desire to arrive at a sustainable water management solution under these emergency regulations, we believe that the use of state of the art software encapsulating best available science, without restriction, is necessary to address the water resources management challenges faced in California.

DHI understands that DWR, as the agency to review the Groundwater Sustainability Plans, requires access to the model applications without committing to procure such software. This access requirement is often used to justify a need for Public Domain software. Globally DHI has recognized this need for review and we therefore provide full review licenses to approving authorities through the maintenance agreements of our clients and software users.

We would therefore suggest the following alternative language which meets the review requirement whilst ensuring access to best available technologies:

“Open Source Public Domain or Proprietary Software with freely available review licensing to approving authorities”

We hope that the Commissioners take the opportunity to re-consider this restriction in order to help local communities meet the water resource challenges facing California.

Best Regards,

A handwritten signature in black ink, appearing to read "T. Foster", written in a cursive style.

Tom Foster

President, DHI Water & Environment Inc.