AFRICAN-AMERICAN FARMERS of CALIFORNIA

CALIFORNIA FRESH FRUIT ASSOCIATION

California Citrus Mutual

California Cotton Ginners and Growers Associations

NHAF National Hmong American Farmers

NFL Nisei Farmers League

WAPA Western Agricultural Processors Association

WPHA Western Plant Health Association

California Department of Water Resources
Attn: Lauren Bisnett, Public Affairs Office
P.O. Box 942836
Sacramento, CA 94236

Dear Ms. Bisnett:

The undersigned organizations appreciate the opportunity to comment on the Department of Water Resources' ("DWR" or "Department") Draft Groundwater Sustainability Plan Emergency Regulations ("draft Regulations"). Our organizations have been actively involved in DWR's implementation of the Sustainable Groundwater Management Act ("SGMA"), including participating as members of DWR's Agricultural Advisory Group, and are currently working with our local agencies, members and communities to educate the public on SGMA and encourage participation in its implementation. We are committed to continue working with DWR, our members and our local agencies to ensure the final GSP Emergency Regulations are workable and that our basins achieve successful management under SGMA.

We appreciate the substantial effort that has been dedicated by the DWR staff to ensure that the draft Regulations are consistent with the requirements and intent of SGMA. The draft Regulations set the stage for the most significant change in California water law in the last century. For the first time California's groundwater will be regulated and the support and investment of the local communities and individuals that will be impacted by management under SGMA is essential. Because of this, the final GSP

Regulations must be drafted to 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.

We are encouraged by the draft Regulation's overall goal of preserving local control and management as a fundamental principle SGMA and the draft Regulations' acknowledgement of adaptive management as a key tool in achieving sustainable management. However, we are concerned many of the provisions of the draft Regulations are over prescriptive and will undo or do away with much of the work that has already been done throughout groundwater basins. As will be discussed in more detail below, the mandatory provisions of Articles 3, 5 and 7 remove the necessary flexibility required for GSAs to successfully develop and implement GSPs and create an excessive regulatory burden on both the local agencies and regulated community.

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 plan uncertainties and use adaptive management techniques to improve groundwater management over time. As DWR advances toward timely adoption of the draft Regulations, it should focus on ensuring compliance with the requirements of SGMA and providing a workable framework for local agencies to utilize when developing their GSPs. To help realize these objectives, we encourage DWR to revise the draft Regulations consistent with the comments and suggested amendments identified below.

1. Section 350.2 (General Principals) should establish the overall requirements of the GSP Regulations while maintaining flexibility in the development and implementation of SGMA.

We support DWR's acknowledgement that GSAs may not have all the information or data needed to complete a GSP by the initial GSP submittal date through the "substantial compliance" standard in § 350.2(c). We also support DWR's ability to determine a GSP is adequate even if the GSA has identified deficiencies in the GSP and allowing the GSA to prioritize filing these data gaps and deficiencies. (§ 350.2(d).)

We are concerned with the language "sufficient reliable information" (§350.2(b)) and "sufficient credible information" (§ 350.2(d)). It is unclear why these standards are different and what the implications of the different standards are. Because of this, we suggest the word "reliable" and the word "credible" are removed from these sections to maintain consistency in the standards DWR applies to its analysis of GSPs.

Suggested Amendment # 1: As proposed, section 350.2(b) of the draft Regulation would provide:

(b) The Plan shall describe a process for the collection, interpretation, and reporting of sufficient ~~reliable~~ information to permit the Department to evaluate the adequacy of the Plan.

Suggested Amendment # 2: As proposed, section 350.2(d) of the draft Regulation would provide:

(d) The Department may determine that an initial Plan is adequate, notwithstanding identified deficiencies, provided that the Plan contains sufficient ~~credible~~ information to support reasonable interpretations about basin conditions and describes all of the following:

The General Principals Chapter also does not provide any flexibility in enforcement or compliance with the GSP Regulations. This is inconsistent with the intent of SGMA to maintain flexibility and control at

the local level in how data will be collected, groundwater will be managed and GSPs will be developed. We request DWR amend this Chapter to encourage GSAs to use of existing groundwater plans, programs and data to develop GSPs and allow DWR to waive any requirement of the GSP Regulations if appropriate.

Suggested Amendment # 3: As proposed, section 350.2(d)(2) would be amended to provide:

(d) The Department may determine that an initial Plan is adequate, notwithstanding identified deficiencies, provided that the Plan contains sufficient ~~credible~~ information to support reasonable interpretations about basin conditions and describes all of the following:

(1) A process for prioritizing and filling data gaps throughout the course of Plan implementation.

(2) The specific actions and projects that will bring the Plan into compliance ~~within minimum standards and best management practices~~ on a reasonable schedule.

Suggested Amendment # 4: A new section would be inserted between section 350.2(e) and section 350.2(f) as provided:

(f) The Department may waive any requirement or provision of these Regulations if in its discretion it determines the waiver of the requirement or provision would not materially impair the ability of the Agency to achieve the sustainability goal for the entire basin within 20 years of Plan implementation or if the Agency can demonstrate the waiver of the requirement or provision would not materially impair the ability of the Agency to achieve the sustainability goal for the entire basin within 20 years of Plan implementation without adversely affecting the ability of an adjacent basin to implement their Plan or achieve their sustainability goal.

2. Requiring GSAs to adopt best management practices is outside the scope of SGMA and should not be mandated.

Section 352.4 of the draft regulations require a GSA to include best management practices for management actions, data collection and analysis, and other necessary elements of the GSP. This mandate is outside the scope of the requirements of SGMA. Water Code section 10729 requires DWR to publish best management practices for the sustainable management of groundwater by January 1, 2017. However, SGMA does not require a GSA to adopt these best management practices or to develop and adopt its own best management practices. We request DWR amend Section 352.4 to remove language requiring the adoption of best management practices by the GSA.

Suggested Amendment # 5: As proposed, section 352.4 would be amended to provide:

§ 352.4. Best Management Practices

(a) Each Plan ~~shall~~ may include best management practices adopted by the Agency for management actions, data collection and analysis, ~~and~~ or other necessary elements of the Plan. The Agency may rely on best management practices developed by the Department or ~~shall~~ may adopt their own best management practices.

~~(b) Best management practices shall be reviewed at least every five years as part of the~~

~~periodic evaluation of the Plan and modified as necessary.~~

~~(c) If best management practices developed by the Department are modified, an Agency shall not be required to amend the Agency's best management practices until the next five-year review.~~

3. The Data and Reporting Standards should not be absolute and should allow GSAs to use existing data and reporting standards from existing monitoring programs.

Section 352.6 of the draft Regulations establish mandatory data and reporting requirements for GSPs, without consideration of data and reporting standards from existing groundwater monitoring programs or flexibility in data and reporting standards for management areas developed under section 354.20 of the draft Regulations. We understand the need for GSPs to be supported by adequate data that is consistent and coordinated with other GSPs in the same basin. However, the data and reporting standards should not be absolute. These prescriptive requirements would impose an unreasonable and unnecessary burden on GSAs and the regulated community.

Section 354.20 of the draft Regulations allow a GSA to create Management Areas for portions of the basin that do not require as much monitoring or data collection based on a number of factors. We request section 352.6 include a provision stating a GSA is not be required to apply the same data and reporting standards to areas of the basin designated as a Management Area pursuant to section 354.20.

We further request the section 354.6 include a provision similar to sections 354.8(c) and 354.18(g) of the draft Regulations allowing a GSP to be developed using existing regulatory programs in the basin and to utilize existing data in lieu of DWR requirements if sufficient. A GSA should be able to utilize the data, reporting standards and structure contained in existing programs and not be required to collect and report additional data.

Suggested Amendment # 6: As proposed, section 352.6(a) would be amended to provide:

(a) A Plan must establish reporting standards consistent with or substantially similar to the ~~The following~~ reporting standards ~~of this Subarticle apply to all information required of a Plan~~, unless otherwise indicated. A Plan may establish different data and reporting standards for management areas as defined by section 354.20of this Regulation. In lieu of the data and reporting standards identified in this Subarticle, a Plan may incorporate and utilize data or management standards of existing water monitoring programs or other data and reporting standards demonstrated by the Agency to produce data and reporting of sufficient quality.~~:~~

We are also concerned with section 352.6(b) as it could be construed to require all monitoring sites be constructed in accordance with the specifications of this section when existing monitoring wells that do not meet the specifications could be utilized. Requiring all monitoring wells to meet the requirements of this section would impose a significant and unnecessary burden on local agencies and the regulated community. Current local agency groundwater monitoring networks have been deemed sufficient by state agencies to conclude that long-term overdraft is occurring in many groundwater basins and therefore that SGMA implementation should be a priority in these areas. However, the draft regulations require significant improvements beyond what many local agencies have for the majority of their monitoring networks. Mandating monitoring wells meet the standards in section 352.6(c) will first require local agencies to conduct investigation into existing production wells used for monitoring to

determine if the existing wells meet the requirements of this section, and second, require significant investment in newly constructed facilities if existing wells do not meet the requirements of this section. Currently due to the depth and the competition for well drillers, new wells in the San Joaquin Valley cost roughly $100,000 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.

We request clarification that existing wells may be utilized even if they do not meet the standards established in section 352.6(b).

Suggested Amendment # 7: Section 352.6(b) of the draft Regulations should clarify existing groundwater wells may be used as monitoring sites even if they do not meet the standards established in section 352.6(b).

4. A public comment should not be precluded if an electronic mail address cannot be provided by the commenter.

Section 353.8(c)(1) requires all comments be submitted online and include the electronic mail address of the commenter. Individuals that do not have access to electronic mail should not be precluded from commenting on a GSP.

Suggested Amendment # 8: As proposed, section 353.8(8)(c)(1) would be amended to provide:

(a) The following guidelines apply to all public comments:

(1) Public comment shall be submitted by written notice, and shall include the name, address, and electronic mail address, if available, of the person or entity providing the comments and information, with a duplicate copy of the comment provided to the Agency at the same time.

5. We support the draft Regulation's flexibility in allowing a GSP to incorporate data from existing monitoring programs and encourage DWR to apply this standard to other sections of the draft Regulations.

We support section 354.8(c) of the draft Regulations, which allows a GSP to incorporate data from existing monitoring programs, including agricultural management plans, CASGEM Program and the Irrigated Lands Regulatory Program, to the extent existing programs require similar information to section 354.8. This is an important component of GSP development as it will significantly reduce the burden on the GSA from collecting duplicative data and reduce the expense that would be caused by requiring the collection of already available data.

We request DWR allow a GSA to use and incorporate data from existing programs in all portions of the GSP, not just the description of plan area. We further request DWR allow a GSP to not only incorporate data, but also adopt existing monitoring programs as part of a GSP if the GSA. For example, a GSP could adopt the Irrigated Lands Regulatory Program for the region to satisfy certain monitoring and reporting requirements. A GSA could work with an Irrigated Lands Coalition to receive the aggregated data collected and summarized by the Coalition for use in water monitoring and reporting requirements. Allowing existing programs to be incorporated into the GSP 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 or expense.

Suggested Amendment # 9: As proposed, section 354.8(c) would be amended to provide:

(c) A description of existing water resource monitoring programs including, but not limited to, agricultural water management plans, urban water management plans, the California Statewide Groundwater Elevation Monitoring Program, the Irrigated Lands Regulatory Program, and the Groundwater Ambient Monitoring Assessment Program, Salt Nutrient Management Plans. To the extent existing programs require information similar to that required by this ~~Subchapter~~Subarticle, the Plan may incorporate data from existing programs. The Agency may coordinate with the existing water resource monitoring program to incorporate and adopt the program as part of the Plan.

6. The requirement of a GSP to include a summary of land use plans outside of the basin and how implementation of land use plans is overly burdensome.

Sections 354.8(g)(5), (7) and (8) of the draft Regulations requires a summary of land use plans outside the basin for any area the GSA determines to be linked to the hydrology of the basin governed by the GSP. This requirement is excessive and would require any GSP in the Central Valley to potentially include a summary of land use plans in the Central Valley because of linked hydrology. It is also outside of the scope of what is required by Water Code 10727.4(l). We request DWR amend this requirement to be consistent with the Water Code.

Suggested Amendment # 10: As proposed, section 354.8(g)(5), (7) and (8) would be deleted and the following substituted as section 354.8(g)(5):

(5) A summary of land use plans outside the basin the Agency determines may affect the ability of the Agency to achieve sustainable groundwater management and how the Plan addresses potential effects. ~~, for any area the Agency determines to be linked to the hydrology of the basin governed by the Plan.~~

(6) A summary of the process for permitting wells in the basin.

~~(7) How implementation of existing land use plans may affect the ability of the Agency to achieve sustainable groundwater management, and how the Plan addresses potential effects.~~

~~(8) How implementation of existing land use plans outside the basin, including a description of how implementation of those land use plans could affect the ability of the Agency to achieve sustainable groundwater management, for any area the Agency determines to be linked to the hydrology of the basin governed by the Plan.~~

7. A GSA should be required to provide notice to beneficial users and interested persons concerning any fees and pumping restrictions that may be included in the GSP.

We support the draft Regulation's emphasis on notice and communication to beneficial users and interested parties. It is important a GSP is well vetted by those that will ultimately be impacted by the components of the GSP and will be required to fund its implementation. Because of this important consideration, we request section 354.10 be amended to include a provision requiring additional notification and communication be provided by a GSA when it will be discussing any fee or pumping restriction as a component of the GSP.

Suggested Amendment # 11: As proposed, section 354.10(f) would be added to provide:

(f) A communication process for identifying and notifying beneficial users of water that may be subject to a fee or pumping restriction under the Plan of public meetings at which the fee or pumping restriction will be considered by the Agency. The Agency is required to provide a response to all beneficial users of water that may be subject to a fee or pumping restriction that submit public or written comments to the Agency concerning a fee or pumping restriction proposed by the Agency as a part of the Plan.

8. The Data and Reporting Standards should not be absolute and should allow GSAs to use existing data and reporting standards from existing monitoring programs.

The requirements for the Hydrogeologic Conceptual Model, Basin Conditions and Water Budget in sections 354.14, 354.16 and 354.18 are mandatory, creating an onerous process that does not consider any data, models or research that has been completed previously. We support DWR offering suggested methods or options a GSA could use to develop its GSP, however, these should not be mandatory. If mandatory, sufficient and comprehensive data that has been collected by local agencies and basins through regulatory and local programs will become obsolete.

We support section 354.18(g) of the draft Regulations, which allows a GSA to utilize other data in addition to or in lieu of information provided by the Department if the Agency is able to demonstrate that the data is of sufficient quality. We request this section be applied to all of Subarticle 2. Basin Setting.

Suggested Amendment # 12: As proposed, section 354.12 would be amended to provide:

§ 354.12. Introduction to Basin Setting

This Subarticle describes the information about the physical setting and characteristics of the basin and current conditions of the basin that shall be included with each Plan.
Information provided pursuant to this Subarticle shall be prepared by or under the direction of a professional geologist or professional engineer. The Agency may utilize other data, studies and models in addition to or in lieu of the data, studies and models identified in this Subarticle to meet the requirements of this Subarticle if the Agency is able to demonstrate that the data, studies and models are of sufficient quality.

9. We support the draft Regulation's acknowledgment of the unique characteristics of a basin by allowing an Agency to designate management areas within a basin.

We support § 354.20 Management Areas. 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 a GSP can be crafted to effectively achieve sustainable management for the basin. A GSP should be able to include recognition of geologic, hydrogeologic, environmental and other unique conditions that justify establishing separate management areas, recognizing that management areas may require different sustainability criteria and monitoring than the basin as a whole.

10. We support the draft Regulation's emphasis on local agencies determining the sustainability goal for the basin, undesirable results of the basin, minimum thresholds for each critical parameter and the measurable objectives for each critical parameter.

Subarticle 3 of Article 5 of the draft Regulations is a key part of the draft Regulations as it will guide a GSA in establishing its plan, process and criteria for achieving sustainable groundwater management. SGMA is clear that these decisions should be left to the locals in the basin and we believe the draft Regulations are in line with this SGMA mandate.

While we support Subarticle 3 of Article 5, we specifically support the following:

- Sections 354.26(b), (c) and (d), which provide GSAs with the necessary flexibility to establish different criteria for management areas and demonstrate one or more critical parameters would not lead to undesirable results in the basin, thus do not need to be analyzed. These sections acknowledge the unique characteristics that occur throughout different basins. SGMA emphasized local control and management because of this uniqueness and we support the draft Regulation's acknowledgement of the necessity of a GSA to establish different criteria and monitoring requirements based on basin conditions.
- The focus in the section 354.28 on GSAs developing minimum thresholds for each critical parameter rather than the draft Regulations prescribing a state-wide number or formula. 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. Section 354.28 accomplishes SGMA's objective of achieving sustainability through local management.
- Section 354.28(e) furthers the necessary flexibility of a GSA in developing minimum thresholds by allowing a GSA to provide evidence to DWR that a minimum threshold is not required to be analyzed and managed in the GSP. This is an important piece of the draft Regulations as it will save GSAs and the regulated community the unnecessary expense of analyzing an undesirable result that does not impact groundwater in the basin or portion of the basin.
- The overall goal of section 354.30 and flexibility it gives to GSAs in establishing measurable objectives and interim milestones. We specifically support section 354.30(c), which specifies a failure to achieve objectives of the measureable objectives shall not be grounds for a finding of inadequacy of the GSP. The draft regulations, and especially this section, acknowledges and promotes adaptive management, which is necessary to achieve the sustainability goal of the basin. Conditions will change over the 20 year implementation period, and a GSP should not be deemed inadequate based only on if it is unable to achieve a measurable objective.

Section 354.28(e) of the draft regulations require the GSA support its determination to not include a minimum threshold for a critical parameter by clear and convincing evidence. As stated, we support this concept, but "clear and convincing" is a defined legal term that is unnecessary to include in the regulations. We request the draft Regulations require the GSA to use sufficient data to support its determination, rather than use an evidentiary standard.

Suggested Amendment # 13: As proposed, section 354.28(e) would be amended to provide:

(e) If the Agency determines that minimum thresholds are not required for seawater intrusion, land subsidence, depletions of interconnected surface water, or water quality, the Plan shall support this determination with ~~clear and convincing evidence~~sufficient data.

11. A GSP should not be required to identify the impacts to the ability of an adjacent basin to meet its sustainability goal.

The GSP's monitoring network should not be required to identify the impacts to the ability of adjacent basins to meet the sustainability goal as required in section 354.34(a)(5). While it is important to ensure basins are not adversely impacting each other, a GSA should not be required to determine the ability of adjacent basin's ability to meet its sustainability goal. We request section 354.34(a)(5) be removed from the draft Regulations.

Suggested Amendment # 14: Section 354.34(a)(5) should be removed from the draft Regulations.

12. **We support the overall flexibility and control granted to local agencies to determine monitoring programs, density of monitoring sites and assessment of monitoring networks as provided in Subarticle 4 of Article 5.**

As discussed in our comments previously, it is critical for the GSP to be developed acknowledging each basin and each portion of the basin is unique and faces its own set of challenges. Because of this, monitoring may be required more extensively in some areas than others. Subarticle 4 of Article 5 accomplishes SGMA's goal of providing GSAs flexibility to manage the basin and portions of the basin as the locals find appropriate to achieve basin-wide sustainability. This flexibility also saves the GSA and regulated community from the excessive burden and expense of monitoring in areas where it is unnecessary.

We specifically support the following:

- Section 354.34(c), which allows a GSP to incorporate site information and monitoring data from existing sources into the monitoring data, including existing groundwater management plans, CASGEM data and the Irrigated Lands Regulatory Program.
- Section 354.34(d), which allows the density and frequency of measuring to be determined on specific factors and conditions in the basin. We suggest this also be utilized in the data collecting, reporting and management area sections.
- Section 354.36, which allows each GSA to designate a subset of monitoring sites of monitoring as representative of conditions in the basin or an area of the basin for the purpose of establishing minimum thresholds, measurable objectives and interim milestones. We support the flexibility of this section to allow a GSA to monitor based on the unique characteristics and conditions of the basin and tailored to the stakeholder interests for that area of the basin.
- Section 354.38, which recognizes basins may not have the ability to collect all data required to fully form or implement its GSP by the initial GSP submittal and implementation dates. We support the draft Regulation's establishment of a section to allow a GSA to identify these data gaps, reasons for the data gaps and a plan to fill data gaps as the GSP is implemented.

While we are supportive of the overall goal of this section, we recommend section 354.34(c) be amended consistent with our previous comments to allow a GSP to utilize the management, program and implementation structures of existing groundwater monitoring networks. For example, if a GSA chooses to utilize data from the Irrigated Lands Regulatory Program, the GSA should be able to work with the Coalition(s) to receive the aggregated data the Coalition compiles for the Regional Board as a part of the GSP. The GSA should not be required to collect the data already collected by existing programs and plans, but should be able to utilize this data to form a GSP in a more efficient and cost effective manner.

Suggested Amendment # 15: As proposed section 354.34(c) would be amended to provide:

(c) A Plan may incorporate site information and monitoring data from existing sources into the monitoring network. Incorporated sources of data may include, but are not limited to, existing groundwater management plans, California Statewide Groundwater Elevation Monitoring data, or other Department programs, Salt and Nutrient Management Plans, the Irrigated Lands Regulatory Program, the Surface Water Ambient Monitoring Program, the Groundwater Ambient Monitoring Assessment Program, the Salt Nutrient Management Plans, as well as other relevant monitoring sites. The Agency may coordinate with the existing water resource monitoring program to incorporate and adopt the program as part of the Plan.

13. The best management practices required in section 354.34 are onerous and should be amended to reflect the requirements of the Water Code.

As referenced in paragraph 2 of our comments, a GSA is not required to develop best management practices under SGMA. Thus, section 354.34(g)-(h) should be amended to remove the requirement of a GSA to create best management practices. Further, the best management practices required under this section are beyond the scope of Water Code section 10727.2(f), which only require a GSP to include "monitoring protocols that are designed to detect changes in groundwater levels, groundwater quality, inelastic surface subsidence for basins for which subsidence has been identified as a potential problem, and flow and quality of surface water that directly affect groundwater levels or quality or are caused by groundwater extraction in the basin. The monitoring protocols shall be designed to generate information that promotes efficient and effective groundwater management."

Suggested Amendment # 16: As proposed, section 354.34(g)-(h) would be amended to provide:

(g) The ~~best management practices developed by each~~ Agency shall include a description of technical standards, data collection methods, and other procedures or protocols pursuant to Water Code Section 10727.2(f) for all monitoring sites or other data collection facilities to ensure that the monitoring network utilizes on the comparable data and methodologies. ~~Best management practices related to construction and completion standards for wells or other monitoring sites developed for this purpose shall apply prospectively.~~

(h) The ~~best management practices~~procedures and protocols developed by the Agency for monitoring ~~developed by each Agency~~ shall ~~include the following minimum standards:~~be designed to generate information that promotes efficient and effective groundwater management and to detect changes in groundwater levels, groundwater quality, inelastic surface subsidence for basins for which subsidence has been identified as a potential problem, and flow and quality of surface water that directly affect groundwater levels or quality or are caused by groundwater extraction in the basin.

~~(1) Groundwater Elevations. The monitoring network shall be capable of demonstrating groundwater occurrence, flow directions, and hydraulic gradients between principal aquifers and surface water features that includes the following:~~

~~(A) A sufficient density of monitoring wells capable of collecting representative measurements through depth discrete perforated intervals to adequately characterize the potentiometric surface for each of the principal aquifer.~~

~~(B) Static groundwater elevation measurements shall be collected at least two times per year, to represent seasonal low and seasonal high groundwater conditions.~~

~~(2) Groundwater Storage. The monitoring network shall be capable of providing sufficient data to enable a reasonably accurate and detailed assessment of the change in annual groundwater storage.~~

~~(3) Seawater Intrusion. The network shall be capable of monitoring chloride concentrations, or other constituents approved by the Department, and be sufficiently dense to calculate the current and projected rate of seawater intrusion for each principal aquifer.~~

~~(4) Water Quality. The monitoring network shall be capable of collecting sufficient spatial and temporal data from each principal aquifer to determine groundwater quality trends for established constituents of concern.~~

~~(5) Land subsidence. The monitoring network shall be capable of identifying the rate and spatial distribution of land subsidence, which may be measured by extensometers, GPS surveying, remote sensing technology, or other method approved by the Department.~~

~~(6) Interconnected surface waters. The monitoring network shall be capable of monitoring surface and groundwater conditions where interconnected surface water exists. Monitoring of interconnected surface water systems shall be sufficient to characterize the spatial and temporal exchanges between surface water and groundwater, as necessary and appropriate, to adequately calibrate and apply the tools and methods selected to identify interconnected surface water systems. The interconnected surface water monitoring network shall be able to characterize the following:~~

~~(1) Flow conditions including, but not limited to, surface water discharge, surface water head, and baseflow contribution.~~

~~(2) Identifying the approximate date and location where ephemeral or intermittent flowing streams and rivers cease to flow, if applicable.~~

~~(3) Monitor the conditions to adequately characterize temporal changes in conditions with varying stream discharges and regional groundwater pumping conditions.~~

~~(4) Any other factor that is necessary to identify potential significant and unreasonable adverse impact on beneficial uses of the surface water.~~

14. A GSP should be allowed more than 180 days to correct any deficiencies identified by DWR.

Under section 355.2(f)(2), if a GSP is found to be conditionally adequate, DWR may allow up to 180 days for the GSA to address GSP deficiencies, unless a greater amount of time remains before the basin is required to be managed pursuant to the GSP. This is a strict standard that may not be reasonable in all circumstances. DWR should maintain discretion to allow a GSA more than 180 days to correct any deficiencies if the GSA is able to demonstrate the necessity for a longer period of time and identify a plan for addressing the identified deficiencies.

Suggested Amendment # 17: As proposed, section 355.2(f)(2) would be amended to provide:

(2) The Department may allow up to 180 days from the date the Department recommends corrective actions to address deficiencies in a Plan, unless a greater amount of time remains before the basin is required to be managed pursuant to a Plan established by Water Code Section 10720.7~~.~~ or the

Agency is able to demonstrate to the Department the necessity for an extended period of time to address deficiencies.

15. The "substantial compliance" standard that will be used by DWR to evaluate a plan affords GSAs the flexibility required to develop a GSP by the implementation deadline and reflects the planning and implementation horizon mandated in SGMA.

We are supportive of the substantial compliance standard in section 355.4 DWR will use to evaluate a GSP to determine whether the GSP will achieve the sustainability goal for the basin and complies with SGMA. It adequately reflects the flexibility that should be afforded local agencies when developing a GSP and recognizes that a GSP will have data gaps that can be filled as the GSP is implemented, but are not necessary for GSP implementation. 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. This standard allows sustainable management to begin without setting an impossible standard for compliance with the requirements of SGMA.

The criteria in section 355.4(b), however, are too extensive. This section should be amended to focus on: (1) if the GSA has substantially complied with the requirements of the regulations and SGMA; and (2) if the GSA adequately considered the interests and input of the beneficial users and uses of groundwater.

Suggested Amendment # 18: As proposed, section 355.4(b) would be amended to provide:

(b) The Department shall evaluate a Plan that satisfies the requirements of Subsection (a) to determine whether the Plan is likely to achieve the sustainability goal for the basin. When evaluating whether a Plan is likely to achieve the sustainability goal, the Department shall consider the following:

(1) Whether the Plan substantially complies with the requirements of this Subchapter.

(2) The quality of information, data, monitoring, and scientific methods upon which the Plan relies.

(3) Whether the assumptions, criteria, findings, and objectives, including the sustainability goal, undesirable results, minimum thresholds, measurable objectives, and interim milestones, are reasonable and supported by the available evidence.

(4) Whether the interests of the beneficial uses and users of groundwater have been adequately considered.

(5) The feasibility of projects and management actions, including contingency projects, and the likelihood that these actions will prevent undesirable results and ensure that the basin is operated within its sustainable yield.

(6) Whether the Plan will adversely affect the ability of an adjacent basin to implement their groundwater sustainability Plan or impede achievement of sustainability goals in an adjacent basin.

~~(7) Whether the coordination agreements ensure the Plans utilize the same data and methodologies specified in Water Code Section 10727.6.~~

~~(8) Whether the Agency has the legal authority and financing plan necessary to implement the Plan.~~

~~(9) Whether the best management practices adopted by the Agency cover the range of projects and management actions anticipated by the Plan or are consistent with the best management practices recommended by the Department or general industry standards.~~

~~(10) Public comments and other information indicating that impacts were not adequately considered in determining undesirable results or in developing the plan.~~

~~(11) Whether the Plan would impair the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.~~

16. A GSA should be allowed to aggregate groundwater extraction data and determine the best process for collecting and analyzing the extraction data.

Section 356.4(b)(2) allows groundwater extraction data to be aggregated before submission to DWR. We support this aggregation, but do not support DWR's specific requirements on how the data be aggregated and presented. A GSA should be allowed the flexibility to determine the best process for collecting, analyzing and aggregating groundwater extraction data. This will allow the GSA to utilize existing data and programs that collect and aggregate this data and manage data based on the specific conditions of the basin and portions of the basin.

Suggested Amendment # 19: As proposed, section 356.4(b)(2) would be amended to provide:

(2) Annual aggregated data identifying groundwater extraction for the preceding water year. Data shall be collected from the best available measurement methods ~~and shall be presented in a table that summarizes groundwater extractions by water use sector, location of extractions, and identifies the method of measurement (direct or estimate) and accuracy of measurements, and a map that illustrates the general location and volume of groundwater extractions.~~.

17. We support the ability of a GSA to modify its GSP to adapt to changing circumstances.

We support §356.12, which allows a GSA to modify a GSP at any time after review of the modification by DWR. This recognizes that conditions will change over the 20 year implementation period and allows the GSA to engage in adaptive management, which will better guarantee GSP success.

18. Multiple GSAs in a basin should not be required to create another regulatory agency through a Coordinating Agency or Submitting Agency and should be able to communicate individually with DWR.

The draft Regulations reference both the requirement for a Coordinating Agency and requirement for a Submitting Agency. SGMA does not require a Coordinating Agency, and requiring a new governing body beyond GSAs in the basin will cause unnecessary conflict and an unneeded expense. GSAs should not be required to choose a competing GSA to be lead GSA in the basin to be the sole point of contact for DWR; compile and rectify all data; and to submit all GSPs, data collected and information to DWR.

Article 8 describes coordinating requirements for coordination agreements between GSAs located within the same basin and between GSAs of adjacent basins. We agree that coordination agreements

are necessary between GSAs located within the same basin because the GSPs will need to be coordinated to meet the requirements of SGMA and the regulations. However, how the GSAs will be coordinated should be left to the GSAs within the basin. We recommend the draft Regulations are amended to remove all references to a Coordinating Agency or Submitting Agency.

Suggested Amendment # 20: As proposed, all references to a Coordinating Agency and Submitting Agency would be removed from the draft Regulations, including in section 351(i), section 355.10 and Article 8.

19. The requirements for alternatives to groundwater sustainability plans are outside the scope of SGMA and the current law. Section 358.4 should be amended to provide separate requirements for each alternative to ensure applicants can provide an adequate alternative.

SGMA allows for three types of alternative plans to be submitted to DWR: (i) an analysis of basin conditions that demonstrates that the basin has operated within its sustainable yield over a period of at least 10 years; (ii) a court adjudication; or (iii) an existing groundwater management plan.

As currently drafted, the requirements for an alternative plan go beyond the scope of SGMA and do not adequately reflect the law. Each alternative is unique, thus requires different compliance mechanisms. Section 358.4 should be amended to adequately reflect this.

Suggested Amendment # 21: As proposed, section 358.4 and section 358.6 would be amended to provide:

§ 358.4. Alternatives to Groundwater Sustainability Plans

(a) ~~A local agency that submits an~~An alternative shall demonstrate that the alternative applies to the entire basin and satisfies the eligibility requirements of Water Code Section 10733.6, including an assessment that the alternative satisfies the objectives of the Act, and that the alternative is within a basin that is in compliance with Part 2.11 of the Water Code (commencing with Section 10920).

(b) An alternative shall be submitted to the Department by January 1, 2017, and every five years thereafter.

(c) ~~A local agency shall include the~~The following information shall be included based on the type of alternative submitted:

(1) An alternative submitted pursuant to Water Code Section 10733.6(b)(1) shall include a copy of the groundwater management plan. The local agency submitting the alternative shall include an explanation of the functional equivalence of terms and concepts used in the alternative with the substantive and procedural requirements of the Act and this Subchapter.

(2) An alternative submitted pursuant to Water Code Section 10733.6(b)(2) that is not an adjudicated area described in Water Code Section 10720.8 shall do the following:

(A) Demonstrate that the adjudication submitted to the Department as an alternative is a comprehensive adjudication as defined by Chapter 7 of Title 10 of Part 2 of the Code of Civil Procedure (commencing with Section 830).

(B) Provide the Department with a copy of the adjudication order and any annual report submitted to the court pursuant to the adjudication.

(C) A local agency or party directed by the court submitting an alternative based on an adjudication action described in Water Code Section 10737.4~~10733.6 (b)(4)(B)~~ may, notwithstanding Water Code Section 10733.6 (c), submit the adjudication action to the Department for evaluation after January 1, 2017.

~~(C)~~(D) A party or group of parties proposing a stipulated judgment pursuant to subdivision (b) of Section 850 of the Code of Civil Procedure may submit the proposed stipulated judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6.

(3) An alternative submitted pursuant to Water Code Section 10733.6(b)(3) shall demonstrate that no undesirable results are present in the basin or have occurred between January 1, 2005, and January 1, 2015. Each subsequent submission shall demonstrate that no undesirable results are present in the basin or have occurred for the preceding ten-year period.

~~(e) A local agency shall include an explanation of the functional equivalence of terms and concepts used in the alternative with the substantive and procedural requirements of the Act and this Subchapter.~~

~~(f)~~(e) If a local agency submits an alternative for a basin that includes areas outside its jurisdiction or service area, the local agency shall enter into agreements with any local agency or other entity from which information will be required to comply with reporting requirements for the alternative and to demonstrate that basin satisfies ongoing requirements of the alternative. An agreement shall include a list and map of all local agencies or entities that are party to the agreement.

~~(g)~~(f) After an alternative has been approved by the Department, if one or more Plans are adopted within the basin, the alternative and any agreements shall be revised, as necessary, to reflect any changes that may have resulted from adoption of the Plan, and the local agency responsible for the alternative and Agency responsible for the Plan shall enter into an agreement that satisfies the requirements of Section 357.4.

~~(h)~~(g) Any person may provide comments to the Department regarding an alternative in a manner consistent with Section 353.8.

§ 358.6. Department Evaluation of Plan Alternatives

(a) The Department shall evaluate an alternative to a Plan submitted pursuant to Water Code Section 10733.6(b)(1) ~~consistent with Article 6 of these regulations~~ to determine whether the alternative satisfies the goals of the Act to achieve groundwater sustainability through local management and avoid undesirable results, including to adjacent groundwater basins.

(b) The Department shall evaluate an alternative to a Plan submitted pursuant to Water Code Section 10733.6(b)(2) to determine whether the alternative satisfies the objectives of the Act for the basin.

(c) The Department shall evaluate an alternative to a Plan submitted pursuant to Water Code Section 10733.6(b)(3) to determine that no undesirable results are present in the basin or have occurred between January 1, 2005, and January 1, 2015. Each subsequent submission shall demonstrate that no undesirable results are present in the basin or have occurred for the preceding ten-year period.

Our organizations appreciate the substantial ongoing efforts of DWR staff related to the drafting of the GSP Emergency Regulations and stand ready to continue to work with DWR as it moves forward. If you

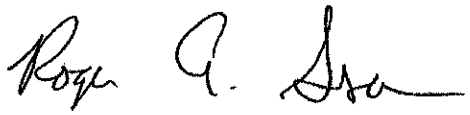
have any questions regarding this matter, please contact Lauren Noland-Hajik of Kahn, Soares, and Conway, LLP at lhajik@kscsacramento.com or (916) 448-3826.

Sincerely,

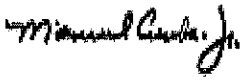
Barry Bedwell
California Fresh Fruit Association

Joel Nelsen
California Citrus Mutual

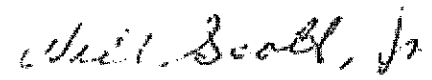
Renee Pinel
Western Plant Health Association



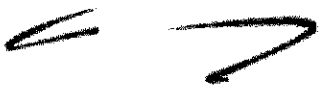
Roger Isom
California Cotton Ginners and Growers Associations
Western Agricultural Processors Associaiton



Manuel Cunha
Nisei Farmers League



Will Scott
African American Farmers of California



Chukou Thao, Executive Director
National Hmong American Farmers