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GROUNDWATER SUSTAINABILITY PLAN REGULATIONS

The NGO community worked to ensure the passage of the Sustainable Groundwater Management Act (SGMA) in 2014 and has worked closely with the Department since as an advisory group informing the development of the draft Groundwater Sustainability Plan (GSP) regulations. We commend the Department for well-crafted draft regulations that incorporate some of the feedback we've provided. Below is a summary of our major comments and suggestions for improving the draft document.

KEY NGO COMMENTS ON DRAFT GROUNDWATER SUSTAINABILITY PLAN REGULATIONS

The NGO Community strongly **supports**:

- A **communications plan** that clearly describes the processes a GSA will use to interact with other agencies and the public. We offer the following suggestions to clarify the requirements for an effective communications plan:
 - Add language to clarify that the plan must be developed and implemented early in the process
 - Ensure that tribal consultation and communication requirements are included
- **Transparent data** and information that allows local agencies and stakeholders to meaningfully participate in groundwater planning. In particular, we strongly support the language requiring:
 - The use of open source models that are publicly available and therefore do not require expensive licenses to use, and
 - GSAs to demonstrate the financial ability to implement the Plan.
- Requiring GSPs to **identify planning agencies and land use plans** that could impact groundwater sustainability.
- **Local coordination amongst multiple GSAs or GSPs**. A key responsibility of local agencies is to coordinate with other Agencies and planning efforts within a basin.

In order to fulfill the promise of SGMA, the regulations also need to be strengthened in some areas. Our key recommendations to **improve the regulations** include:

- Delete the term “**substantial compliance**” which is used in Article 6 to describe how GSPs will be assessed by the Department. This term (borrowed from contract law) offers so much discretion as to make it impossible for the Commission, implementing agencies, coordinating agencies, stakeholders or the general public to understand on what basis the Department will make a finding of adequacy
 - Importantly, the use of this term could allow DWR to find a plan adequate even if the minimum plan requirements are not met, which would be in violation of the statute.
- Clarify that the Department will **evaluate the sustainability goal**. Article 6 is currently written in a way that may limit the Department’s assessment of a GSP’s sustainability goal itself, which is the main goal of SGMA and what distinguishes it from earlier groundwater planning laws.
- Establish clear requirements for identifying **interconnected surface waters** and establishing minimum thresholds.
 - As written, the regulations allow GSPs to avoid setting a minimum threshold for interconnected surface waters in the initial GSPs, resulting in potential conflicts with other minimum thresholds.
- **Clearly define uncertainty** and require that it be characterized in regards to data and models,
 - Incorporate uncertainty into minimum thresholds in order to create a buffer that allows GSAs to avoid unintended significant and unreasonable results.
 - Use uncertainty to distinguish between good plans and inadequate plans. Reduced uncertainty over time also provides a way to measure progress towards sustainability.