CALIFORNIA FARM BUREAU FEDERATION
OFFICE OF THE GENERAL COUNSEL
2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5665 · FAX (916) 561-5691

Sent via E-mail
eric.oppenheimer@waterboards.ca.gov

December 18, 2013

Eric Oppenheimer
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

RE: **Comments on Discussion Draft - Groundwater Workplan Concept Paper**

Dear Mr. Oppenheimer:

The California Farm Bureau Federation ("Farm Bureau") is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing approximately 78,000 agricultural, associate, and collegiate members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

Farm Bureau appreciates the opportunity to provide more detailed comments on the State Water Resources Control Board's ("State Water Board") Discussion Draft - Groundwater Workplan Concept Paper ("Workplan"). The first part of this letter includes general comments on the Workplan, while the second section includes specific responses to individual sections of the Workplan.

GENERAL COMMENTS

A. Surface Water Management and Storage

A primary cause of recent groundwater overdraft in many areas is the altered management of surface water supplies. This demonstrates that it is not feasible to effectively manage groundwater in California without simultaneously addressing the recent disruptions of surface water supplies. The Workplan must acknowledge the critical role that additional surface water storage, conjunctive use, groundwater recharge, groundwater banking, and imported water play in achieving sustainable management of groundwater.

In many areas of California, the lack of reliable surface water supplies, often caused by drought and increasing regulatory demands, threatens to make groundwater not a supplemental dry-year supply, but rather a significant component of the overall water supply portfolio in all years. To achieve meaningful progress on groundwater, California must make progress on the adequacy and reliability of the state's surface water supplies to meet current and future demands. To address some of the state's most urgent groundwater problems, California's larger water supply-demand storage gap must also be addressed. To do this, California must add additional above and below ground storage, reorient regressive policies, and improve operational efficiencies.

B. Water Quantity and Quality Should Not be Interchangeably Linked

The Workplan discusses groundwater quality objectives alongside groundwater quantity objectives so interchangeably that the two become linked. While groundwater quality and quantity may be integrally related in certain circumstances, they are not entirely synonymous and should not be intertwined for regulatory purposes. For example, when the Workplan discusses "hydrogeologically vulnerable areas" it is not clear whether this refers to quality, quantity, or both. To resolve this issue, the Workplan should clearly separate groundwater *quality* from groundwater *quantity,* and acknowledge that the Workplan is not intended to chart a path for the State Water Board in regulating groundwater *quantity*.

C. Water Quality Focus

With respect to groundwater quality, the Workplan's primary concern appears to be in the area of nitrates without giving sufficient consideration of legacy and naturally occurring contaminates. In nitrate high-risk areas, nutrients are actively addressed through the existing Central Valley Dairy Program and the Irrigated Lands Regulatory Program in the Central Valley and Central Coast Regional Water Quality Control Boards' regions. While legacy nitrate issues do remain in some areas, these existing programs are taking steps to minimize additional nitrate loading of California's groundwater aquifers in the future. We believe the State and Regional Water Boards' current focus on nitrate high-risk areas does not require additional activity on groundwater rights.

Additionally, drinking water quality and supplies for communities that rely on groundwater for their drinking water are being actively addressed through existing authorities of the California Department of Public Health, U.S.EPA, Cal/EPA and the State and Regional Water Boards, along with recommendations from the Governor's Drinking Water Stakeholder Group.

D. Terminology

The Workplan uses several phrases, such as "hydrogeologically vulnerable areas" and "high use areas," that are not generally familiar to water users in the state. This new terminology

should either be explained, or exchanged for terms such as “safe yield” and “overdraft” that have better understood meanings.

SPECIFIC COMMENTS

3.1 – Sustainable Thresholds

A. Antidegradation Policy

The Antidegradation Policy should not be used to regulate groundwater quality from irrigated agriculture. As a tool specially devised to protect pristine surface waters from new sources of waste discharge, it is inappropriate to import and superimpose that policy in the wholly different context of often intensively managed and utilized groundwater sources that are often impacted by both naturally occurring and legacy water quality issues. Additionally, the State Water Board is working with stakeholders and the regional boards to provide guidance on future applications of the Antidegradation Policy to groundwater.

3.2 – Monitoring

A. Additional Monitoring

Given the current monitoring network throughout the state and the corresponding information on groundwater issues, additional monitoring is not needed. Requiring additional monitoring will only divert limited resources from working on solutions to gathering more information about a problem that is already known to exist. The area of greatest need now is to provide local groundwater users and managers with the support needed to engage in the process of developing and implementing solutions. Since there already is adequate information about groundwater basins to know what areas have issues that need to be addressed, as evidenced by this Workplan, what is actually needed is support for voluntary local action. While additional information may be needed in the future, such information will be most usefully developed in the context of on-going local management solutions going forward.

3.3 – Governance and Management

A. Local Management is Essential and Effective

Farm Bureau agrees with the State Water Board that groundwater is most effectively and appropriately managed at the local (basin and sub-basin) level. The Workplan should also recognize that California’s approach to groundwater governance and management has not developed haphazardly. Rather, that progression has followed a logical sequence that has been in accordance with the most important needs and related sensitivities surrounding this issue at every step. In 1992, AB 3030 was signed into law and introduced the concept of voluntary local planning and management, based on a menu of various groundwater management options that could in turn be selected and included in a local agency’s plan. In 2002, SB 1938 raised the bar

on the AB 3030 set of elements and requirements considerably, also tying the preparation and approval of such a plan to an agency's eligibility for certain types of state funding. In 2002, the Integrated Regional Water Management Planning Act took water planning beyond the political boundaries of each individual agency to the regional level, again conditioning eligibility for certain state grant monies on prior adoption of such a plan. In this tradition of local planning and management, AB 3030 plans, SB 1938 plans, and integrated regional water management plans have set the course. Any new tools that might be devised to assist local agencies to better manage their groundwater resources should build upon these successful models by preserving the basic elements of local self-governance and control.

It is also important to acknowledge that local jurisdictions have several existing governance models available to utilize in responsibly managing groundwater. The Water Code provides local areas a means to form special districts with specific groundwater management authorities. Water Replenishment Districts, Water Conservation Districts and other special districts, may have authorities to finance infrastructure, conduct recharge actives, and indirectly influence groundwater pumping by assessing pumping charges. Where the existing local agencies lack special groundwater-related authorities, Joint Power Authorities afford local entities a means to jointly pursue coordinated groundwater management activities or projects within the same basin. Among other things, such existing authorities may afford local agencies the ability to transcend political boundaries and manage groundwater activities within the relevant groundwater basin. Such options are consistent with the Workplan's vision of "a future where well-equipped local and regional groundwater management entities use monitoring information and thresholds to manage and maintain groundwater of sufficient quality at sustainable levels over the long-term." Since these existing tools for local management are consistent with the Board's vision of responsible local management, they should be given a chance to work.

B. Statewide Permitting or Regulation of Groundwater is Inappropriate

Direct state regulation, permitting, or management of groundwater is ill-suited and unwarranted at this time given the wide diversity and tremendous complexity of groundwater basins in California. What is needed to improve groundwater management in California is not state control, but rather better tools, incentives, structures, and institutions to support and encourage local interests to manage their areas.

The State Water Board's authority with respect to percolating groundwater should remain confined to the regulation of water quality. As noted, active management and governance of groundwater use should reside at the local level through appropriate mechanisms to enable effective local control. From AB 3030 Plans to groundwater adjudications, a range of tools are available to provide local solutions to groundwater issues.

C. DWR's Role in Providing Technical Assistance Should be Recognized

The Workplan should recognize the Department of Water Resources' expertise on groundwater supply issues and how this can support local agencies' efforts to manage groundwater with technical and financial assistance and regional planning.

3.4 – Funding

A. Local Solutions Should be Supported with State Funding

To improve California's water picture, including surface and groundwater, major statewide projects and smaller, more quickly implementable projects, must be funded and rapidly put in place with state-supported funding. Similarly, planning, project development, and measuring and monitoring activities are essential elements of any local groundwater solution and must also be funded. Where state and federal programs are able to pick up a portion of the costs for such activities, local groundwater management can be significantly improved, with significant associated societal benefits accruing to the public at large.

3.5 – Oversight and Enforcement

A. Adjudications

The State Water Board should not initiate adjudications to protect groundwater quality. Currently, groundwater quality concerns with regard to nitrates and drinking water are being actively addressed through various regulatory and non-regulatory programs. Groundwater adjudication is an inappropriate and inefficient way to address groundwater quality.

B. Waste and Unreasonable Use

The State Water Board should not seek to expand its waste and unreasonable use enforcement authority as a means of regulating groundwater extraction as to quantity-related concerns. Redefining historic groundwater use to meet beneficial needs in this overly intrusive manner is unlikely to produce constructive and proactive momentum toward needed solutions. The Legislature has not committed any authority to the State Water Board to manage groundwater for quantity, and as mentioned previously, there is a framework of local and regional planning and management tools that should instead be relied upon to improve groundwater management.

CONCLUSION

Farm Bureau thanks the State Water Board for its effort to open the dialogue on the important issue of groundwater use and quality in California. We welcome open discussion of the issue and commit to engage in finding ways to achieve significant progress and, over time, work toward practical solutions to this complex and challenging area. As proven by many highly

successful examples of responsible groundwater management around the state, we believe that effective local solutions are not only possible, but that such solutions offer the only workable approach to sustainable groundwater quantity management in our state.

Very truly yours,

CHRISTIAN C. SCHEURING
Managing Counsel

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