



WATER AND RESOURCE CONSERVATION

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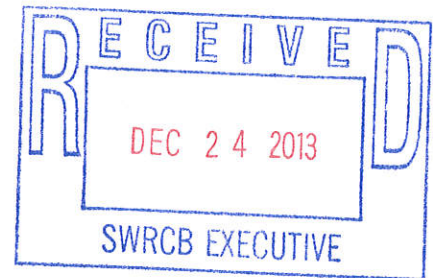
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Paul Gosselin, Director

December 16, 2013

Ms. Felicia Marcus, Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



RE: Discussion Draft – Groundwater Workplan Concept Paper

Dear Chair Marcus:

I appreciated the opportunity to discuss with you and your staff the State Water Resources Control Board (SWRCB) draft document, "Groundwater Workplan Concept Paper" (Groundwater Workplan) at the November 15th meeting hosted by the Rural County Representatives of California (RCRC). At that meeting, we also were able to discuss the draft California Water Action Plan. Butte County agrees with the comments submitted by RCRC in their letter dated November 25, 2013. In addition, I am providing specific comments from Butte County.

The Groundwater Workplan Concept Paper was prepared in response to a request of the Water Board to better characterize the role of the Water Boards in protecting groundwater. While the SWRCB plays an important role in groundwater management, the Groundwater Workplan goes beyond the purview of the SWRCB and captures the responsibilities of other state and local agencies. The result is a Groundwater Workplan Concept Paper that is unclear, inconsistent and inaccurate. An overarching recommendation is that the SWRCB not pursue finalizing the Groundwater Workplan Concept Paper in its current form. Instead, the SWRCB should develop a more focused Groundwater Workplan Concept Paper that is specific to the authority and responsibilities of the Water Boards.

There are areas in the Groundwater Workplan Concept Paper that are worth recognition. The **Implementing the Vision** section accurately depicts the reality of groundwater management in California and a policy foundation for the Water Boards.

While California lacks a comprehensive State groundwater regulatory program, local and regional management of groundwater basins does exist in much of the State. The nature of groundwater and its uses vary widely by area, as does the extent of control. As a result, groundwater management has largely evolved on an as needed basis in a decentralized manner across the State. In spite of this, local and regional groundwater management efforts have produced impressive results in many areas of the State.

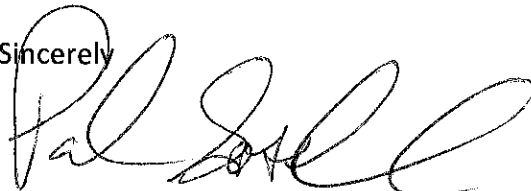
As this statement illustrates, the lack of a centralized, state groundwater management structure should not be equated with a failing system. In most regions, groundwater management decisions, programs and actions have been taken commensurate with local circumstances. The results show that most basins are in a sustainable condition and/or have appropriate mechanisms in place to address unforeseen problems. Unfortunately, in response to a small set of challenges, the solution typically reverts to establishing state regulatory controls. The Groundwater Workplan falls into this trap. The SWRCB should follow its analysis that the proven approach to groundwater management lies with honoring and supporting local agencies.

In finalizing the Groundwater Workplan Concept Paper, the SWRCB should:

- Limit the Groundwater Workplan to those programs and authorities of the Water Boards;
- Focus on implementing existing obligations before embarking on new initiatives.
- Direct Water Boards efforts towards supporting action and discretion of local agencies through technical assistance and funding.

Finally, Butte County offers specific comments on the draft Groundwater Workplan Concept Paper in the attached document.

I would like to thank you, the Board and staff, for the commitment to protect groundwater. Please do not hesitate to contact me (530-538-3804) if you have any questions.

Sincerely


Paul Gosselin, Director

Cc: Eric Oppenheimer, SWRCB
Kathy Mannion, RCRC



**Butte County Comments on
The State Water Resources Control Board's
Groundwater Workplan Concept Paper**

In October 2013, the State Water Resources Control Board (SWRCB) released a draft document entitled, "Groundwater Workplan Concept Paper" (Groundwater Workplan) for comment. Butte County appreciates the effort and desire of the SWRCB to develop the Groundwater Workplan. The following are comments and recommendation on the sections of the Groundwater Workplan:

1 Managing California's Groundwater – Regional Leadership

We support the recognition that this section articulates about the positive role that local and regional agencies take in managing groundwater. The section describes a more limited role of the state to providing support and oversight, where needed. We support these characterizations of the role of state and local agencies. Unfortunately, the majority of the Groundwater Workplan does not consistently adhere to this perspective.

Throughout the document the term, "high use basin" is used and is unclear. We suggest that this term be explained.

2 Implementing the Vision

The SWRCB has the authority to prevent the waste and unreasonable use of the State's water resources (including groundwater). However, we are alarmed that the Groundwater Workplan implies that the SWRCB will exercise its authority over specific groundwater uses that they deem wasteful or unreasonable. This would be a bold and unprecedented move by the SWRCB to exercise its authority in this area. The implications are enormous and would impinge upon local land use authority, agricultural viability and local groundwater management.

While the Groundwater Workplan attempts to be concise, its brevity leaves significant gaps in describing important concepts and issues. For example, in describing groundwater overdraft, the Workplan states, "The greatest challenge for groundwater quantity is overdraft leading to subsidence and the permanent loss of storage capacity." This summation is inaccurate. In parts of California, groundwater overdraft may not likely lead to subsidence and if subsidence did occur to some degree, there may be other more significant challenges from overdraft. Again, the impacts from groundwater overdraft are contingent on local conditions.

We agree with the Groundwater Workplan's perspective that an integrated approach to groundwater management is needed to ensure that appropriate action occurs at all levels of government. To effectively manage groundwater, agencies should adhere to their respective roles and responsibilities.

The Groundwater Workplan presents five key elements to groundwater management that are reasonable concepts. However, the effort to relate these elements to every aspect of groundwater management is more complicated than the Groundwater Workplan recognizes. The Water Boards should focus its attention and assistance on areas within its authority.

3 Management Elements and Potential Actions

3.1 Sustainable Thresholds

The section over-emphasizes how Basin Management Objectives (BMO) are used as thresholds to assess groundwater basins. The criteria used for establishing BMOs are not consistent between basins since they are intended to reflect local conditions and situations. BMOs should not be viewed as a trigger threshold statewide since that may not have been their intent locally. While BMOs provide an important benchmark for many groundwater management plans, there are other planning/assessment tools that are used to characterize the health of groundwater basins. Typically, a suite of tools such as groundwater models and water budget analyses compliment BMOs to more completely characterize basins.

3.1.1 Potential Water Board Actions

1. Clarify how the State Water Board's Antidegradation Policy (Resolution No. 68-16) applies to groundwater (including effects related to quantity, such as recharge).
Comment: This potential action should be clarified since it is being used as an underlying basis for surface water quality regulation by the Regional Water Quality Control Board. In Region 5, Irrigated Lands Regulatory Program coalitions will be required to conduct a Ground Assessment Program to determine a base-line for current quality standards. It may be prudent to evaluate the existing process upon completion.
2. Incorporate into Basin Plans thresholds for salt and nutrients contained in Salt and Nutrient Management Plans.
Comment: The incorporation of Salt and Nutrient Management Plans into Basin Plans may not be warranted at this time. The Groundwater Assessment Program will establish current threshold levels and provide guidance for the development of Farm Management Plans. We recommend that the Water Boards allow that process to be implemented before changing policy direction.
3. Summarize approaches taken towards basin management objectives (BMOs) in existing local groundwater management plans for application in high-use basins where objectives do not exist.
Comment: If the intent is for DWR to provide technical assistance and guidance on the development of BMOs, then the recommendation is acceptable.

3.1.2 Potential Actions for Others

2. The Legislature should require local groundwater management entities to establish thresholds for sustainable groundwater management in their local groundwater management plans and to report their progress.
Comment: The recommendation is well-intentioned but the expectation that "thresholds" would be established for sustainable groundwater management does not reflect the dynamic nature of groundwater. Thresholds (e.g. BMOs) provide an important benchmark for basin planning, but other analytical approaches are better suited to assess the health of groundwater

basins. Typically, a suite of tools such as groundwater models and water budget analyses provide better means of assessing the sustainability of groundwater basins.

3.2 Monitoring and Assessment

The section fails to acknowledge that SB 6X of the 2009 Delta Reform Act addressed groundwater elevation reporting and evaluation requirements. A component of the implementation of SB 6X is the California Groundwater Elevation Monitoring (CASGEM) program. However, the obligations of SB 6X and those of CASGEM have not been fully met. It would not be prudent for the SWRCB to initiate its own evaluation of groundwater elevation data monitoring programs until the obligations of SB 6X and CASGEM are fulfilled.

3.2.1 Potential Water Board Actions

1. Add a basin assessment module to GeoTracker GAMA that provides publicly-accessible information on groundwater quality and is capable of analyzing trends in high-use basins.

Comment: The concept has merit, but the Water Board should wait until the Groundwater Assessment Plan is completed and collaborate with local agencies on how best to develop a module.

3. Require groundwater level data coming to the State Water Board to be submitted directly to CASGEM.

Comment: This action seems reasonable and since it is an internal SWRCB matter, it could be accomplished administratively.

4. Require all groundwater quality data submitted pursuant to Water Board requirements to be in a format compatible with GeoTracker GAMA.*

Comment: This potential action should wait until the Groundwater Assessment Plan process and the On the Farm Management Program are completed.

3.2.2 Potential Actions for Others

1. DWR could create a searchable electronic database to submit well completion reports and associated data.

Comment: Current law limits public access to well completion reports. Is this potential action intended for entities that currently have access to well completion reports? We suggest that this recommendation be clarified or removed.

2. The Legislature could expand the State Water Board's Groundwater Recordation Program, which requires reporting of groundwater pumping, to basins subject to critical overdraft.

Comment: The Groundwater Recordation Program was established for specific basins based on a particular set of circumstances. The suggestion that establishing groundwater reporting requirements for basins subject to critical overdraft fails to capture the range of options to overdraft situations. The reporting of groundwater pumping may be part of a strategy to address overdraft, but should not be dictated as a foundational element. If the desired result is to have data on groundwater pumping, there may be equally viable and less costly means to gather groundwater demand

information. Local agencies should be afforded the discretion to address local groundwater challenges and the means of data collection. State agencies should provide a supportive role to local agencies by providing technical assistance and funding. Specifics as to what characteristics constitute a basin in 'critical overdraft' should be defined.

3. Complete CASGEM Program implementation, including: (1) statewide prioritization of basins; (2) conducting groundwater elevation monitoring in areas where voluntary monitoring is not occurring; and (3) identifying basins subject to critical overdraft.
Comment: We agree. The state should focus on implementing existing obligations before embarking on establishing new programs or requirements.
4. Update assessments and develop projections on the condition of California's groundwater basins, based on current groundwater management practices.
Comment: Many local agencies are undertaking or updating assessments and projections of groundwater basins. We support this action if the SWRCB is suggesting that the State support local efforts and DWR's periodic updates of Bulletin 118.
5. Develop estimates of storm water capture and groundwater recharge potential, and a tracking database to inform water resource planning and permitting decisions.
Comment: This recommendation is unclear on its intent.
6. The Legislature should enact legislation that establishes a framework of statutory authority for the Water Boards, in coordination with other State and local agencies, to improve the coordination and cost effectiveness of groundwater quality monitoring and assessment, enhance the integration of monitoring data across departments and agencies, and increase public accessibility to monitoring data and assessment information.*
Comment: Until the state fulfills its obligations of the Delta Reform Act of 2009, additional legislative mandates should not be pursued. The funding to support the implementation of the Delta Reform Act is inadequate. The pursuit of additional unfunded initiatives would be a formula for continued failure.
7. The Legislature should require State and local agencies to notify groundwater users in nitrate high-risk areas and recommend that the well owners test their wells to evaluate drinking water quality. The Water Boards, California Department of Public Health (CDPH), and local public health agencies will coordinate in identifying private domestic wells and small, unregulated water systems in nitrate high-risk areas.*
Comment: Notifying the public concerning risks posed from unacceptable contaminants is laudable. However, this potential action item would require careful risk communication to the private well owners and should include actions.

3.3 Governance and Management

The section utilizes terms such as "vulnerable" and "high-use basins". These terms are not defined and are subjective.

3.3.1 Potential Options for New Water Board Actions

1. Expand the use of general orders to focus on high priority discharges to improve efficiency of regulation and better protect groundwater.
Comment: This recommendation is unclear on its intent. If it is intended to address non-point discharges, it would undermine the significant investment of time and resources into the Irrigated Lands Regulatory program. A policy shift would increase costs and possibly delay momentum in solving high priority discharges.

3.3.2 Potential Recommendations to Others

2. Assist DWR in conducting an evaluation of local groundwater management programs in high-use basins and identify where gaps in control exist that should be addressed with further action and develop guidelines for best practices in groundwater management.
Comment: The recommendation is unnecessary and misleading. The recommendation assumes that DWR will be evaluating locally developed groundwater management plans in a compliance oriented manner. Statutory requirements and DWR guidelines provide ample details on how groundwater management plans are developed, their components and process. Groundwater management plans are developed at the local level to address specific situations. Approval is subject to public participation and action by the appropriated governing body. This recommendation appears to have DWR and the SWRCB evaluate the decisions of local agencies. This recommendation should be removed.
3. Enact legislation that would allow for the establishment of Active Management Areas with specific requirements governing the management of groundwater including withdrawal, use, storage and monitoring/reporting.
Comment: The need for legislation ignores previous statements that local jurisdictions have utilized existing tools to successfully manage groundwater. The need for additional statutes that govern groundwater withdrawal, use, storage and monitoring/reporting has not been established.
4. Create a standardized set of authorities that districts with groundwater management responsibilities could draw upon to effectively and actively manage groundwater.
Comment: This recommendation is unnecessary. The statutory requirements and guidance for groundwater management plans provide sufficient authorities, programs and actions that local agencies can draw upon. SWRCB should provide more details on information they have gathered that demonstrates that local agencies lack information on groundwater management authority.
5. The Legislature should enact legislation to establish a framework of statutory authorities for CDPH, regional organizations, and county agencies to have the regulatory responsibility to assess alternatives for providing safe drinking water and to develop, design, implement, operate, and manage these systems for small DACs impacted by nitrate.*
Comment: Any type of statutory framework must also provide adequate funding to local agencies to carry out this type of regulatory responsibility.

3.4 Funding

The Groundwater Workplan describes the limitations on funding for groundwater management at the state and local level. Even if a water bond is approved in the future, the reality is that resources will remain scarce. This fact should provide caution to the SWRCB as it develops its Groundwater Workplan. Actions, whether directed at state agencies, local agencies or private entities, should be cast in a light of the reality of limited resources. The choice and design of actions should be focused on those that provide the greatest return. As previously mentioned, before embarking on new actions, efforts should be put into place to meet current obligations.

3.5 Oversight and Enforcement

The Groundwater Workplan calls for oversight and enforcement of thresholds largely related to water quality. The SWRCB should modify this section from "Oversight and Enforcement" to "Compliance". The primary objective of any environmental or public health agency is to assure compliance with thresholds. The ability to achieve compliance encompasses many actions including but not limited to oversight and enforcement. The SWRCB should recognize that in addition to enforcement, actions such as compliance assistance, audits and establishing clear rules are fundamental to obtaining compliance.

Two statements in this section provide the most troubling aspects of the entire Groundwater Workplan. First the section states that the Water Boards would undertake proceedings to prevent waste and unreasonable use. The section also states that the Water Boards would initiate adjudications to protect water quality. While the Water Boards have both of these authorities, there is little precedent to exercise them. The section raises expectations that the Water Boards would exercise their authorities in ways not seen causes considerable concern for two reasons. First, the Water Boards have had an uneven track record carrying out their existing obligations. The Irrigated Lands Regulatory Program is a prime example of the unmet challenges facing the Water Boards. Second, the Water Boards should focus their attention on supporting the local and regional efforts that have been successful in managing groundwater. If the Water Boards sincerely believe that ample examples exist on successful groundwater management, the need for draconian measures is not warranted.

3.5.1 Potential Options for New Water Board Actions

1. Target groundwater quality regulatory program enforcement on legacy sites in hydrogeologically vulnerable areas.

Comment: The term "hydrogeologically vulnerable areas" is unclear and should be defined.

3. Establish an interagency task force to improve the integration of agency authorities that could be used to address groundwater overdraft.

Comment: This recommendation assumes that the SWRCB and other state agencies play a primary role in addressing groundwater overdraft. The primary obligation to address groundwater overdraft rests with local agencies. Previous sections of the Groundwater Workplan accurately states that the many local agencies have successfully managed groundwater. The state can play a role in addressing groundwater overdraft and supporting local agencies through technical assistance and funding. However, before any new initiatives are developed, existing obligations should be met.