

## Long Term Program Alternative – Potential Impacts to Groundwater

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<p>Supporting Interest Group(s)</p>	<p>Goose Lake Coalition          Merced Irrigation District          Modesto Irrigation District          Northeast California Water Association          Oakdale Irrigation District          Turlock Irrigation District          Upper Feather River Watershed Group          Western Plant Health Association          Western United Dairymen</p>
<p>Executive Summary</p>	<p>The agricultural coalition groups, organizations and supporting interest groups listed above propose that the Central Valley Regional Water Quality Control Board (Regional Water Board) defer groundwater management activities to other appropriate agencies and entities that are responsible for the protection of groundwater resources at the local level. Groundwater quality issues are unique to groundwater basins and subbasins. Thus, such issues are best addressed and managed locally. For example, there are a number of local agencies throughout the Central Valley that have voluntarily developed groundwater management programs with quality objectives pursuant to Water Code section 10750 et seq.,. There also exists within the California Department of Pesticide Regulation (CDPR) a Ground Water Protection Program that regulates the use of certain pesticides found in ground water. (See 3 C.C.R. § 6800 et seq.) CDPR’s program is implemented and enforced by local county agricultural commissioners that are familiar with local groundwater conditions.</p>

	In light of the local agency efforts to manage groundwater resources, and the CDPR regulatory activities that already exist, the agricultural entities recommend that the Regional Water Board recognize these activities and entities as the appropriate programs for addressing groundwater issues, and therefore determine that it is inappropriate, or at least premature, to adopt a new, valley-wide, regulatory program for irrigated agriculture specific to groundwater. The agricultural entities recommend that the Regional Water Board amend the Implementation Chapter in the Basin Plan to recognize these other efforts as the appropriate programs for protecting groundwater resources. It is within the Regional Water Board's authority to identify control actions recommended for implementation by others. (Wat. Code, § 13242(a).) <sup>1</sup>
Statement of Purpose/Objectives	Protect groundwater resources through existing programs, including but not limited to local agency groundwater management programs and the CDPR Ground Water Protection Program.
Program Type	Groundwater
Application of Alternative	Irrigated Agriculture

<b>Program Organization</b>	
<b>Element</b>	<b>Organization</b>
Tailored	The use of local groundwater management programs to address water quality issues must be predicated on the need for such programs, as appropriate and necessary. To determine if it is appropriate for a local groundwater management program to address a localized groundwater quality issue, the local entities responsible for implementation of the groundwater management program need to work with local agricultural organizations and entities where the groundwater quality impact may be related to agricultural activities. In other words, local groundwater management programs should address localized groundwater quality degradation issues when the local entities in consultation with the local agricultural community have determined it appropriate and necessary.

<sup>1</sup> "Water quality objectives, we realize, may not always be readily enforceable. The statutory factors enumerated in section 13242, particularly the provisions for recommended action and time schedule, reflect the Legislature's recognition that an implementing program may be a lengthy and complex process requiring action by entities over which the Board has little or not control and also requiring significant time intervals." (*United States v. State Water Resources Control Board*, 182 Cal.App.3d 82, 122 (1<sup>st</sup> District COA, 1986).)

Likewise, where a specific groundwater quality issue is being addressed by another state regulatory program (i.e., CDPR's Ground Water Protection Program), is it not appropriate or necessary for local groundwater management programs or the Regional Water Board to address those constituents (i.e. pesticides).

With respect to CDPR's program, CDPR's Ground Water Protection Program is tailored to address certain pesticides found in California groundwater due to legal agricultural use, and for conditions and pathways that potentially lead to groundwater contamination. CDPR has tailored this program based on years of study and analysis. Accordingly, it is appropriate to tailor concerns with pesticides in groundwater to those identified and regulated by CDPR in its Ground Water Protection Program.

Finally, the Regional Water Board's regulatory authority with respect to groundwater is limited to regulating "discharges of waste" that could affect groundwater *quality*. (See Wat.Code § 13260 et seq.) The Regional Water Board has no authority to regulate other types of actions or activities that are generally related to management of local groundwater resources. Thus, it is more appropriate for all groundwater management activities, including activities associated with quality issues, to be deferred to local agencies and/or entities. Moreover, there is no legal authority to suggest that agricultural irrigation by itself constitutes a "discharge of waste" to groundwater. In the absence of such authority and evidence, the Regional Water Board should avoid adopting a regulatory program based on an incorrect premise that the act of irrigation constitutes a "discharge of waste."

### Core Requirements

Element	Description
Plan-based	The program proposed by the agricultural entities signatory to this option is best described as a "plan-based" program in that it recommends that the Regional Water Board reference local groundwater management plans voluntarily prepared by local agencies as appropriate vehicles for managing local groundwater resources. Also, the Regional Water Board should reference CDPR's Ground Water Protection Program as the appropriate regulatory program for regulating the use of pesticides that may impact groundwater quality.

To be clear, this alternative does not propose to have the Regional Water Board use its regulatory authority to require farm-based, commodity-based or coalition-based water quality management plans for the protection of groundwater. Nor does this alternative suggest or recommend that the Regional Water Board require the preparation or amendment of local groundwater management plans pursuant to Water Code section 10750 et seq., to address local groundwater quality issues. Instead, with this option, the agricultural entities suggest that there are existing efforts already in-place or underway that address groundwater resources issues and as such, it is not necessary or appropriate for the Regional Water Board to adopt its own regulatory program to address same or similar issues. Moreover, the agricultural entities suggest that where there may be localized groundwater quality issues, it is more appropriate for the local agricultural interests and organizations to work with local agencies responsible for the management of local groundwaters to identify, prioritize and address such issues.

For pesticides, individual management plans are not necessary because CDPR has specific use and management requirements for the application of certain pesticides of concern. CDPR's regulations are implemented and enforced by local agricultural commissioners, who have detailed knowledge of the local conditions and practices that may be at issue.

At most, the Regional Water Board should consider amending the Basin Plan to include the following language in the Implementation Chapter, where it identifies the Regional Water Board's *Recommended Implementation by Other Agencies*. (See Basin Plan at p. IV-29.00.)

#### **Protection of Groundwater Resources**

1. Local agencies and/or entities responsible for the management of local groundwater resources, and/or the implementation of local groundwater management plans prepared pursuant to Water Code section 10750 et seq., should consider localized groundwater quality issues in the preparation and implementation of local groundwater management plans. In its consideration of localized groundwater quality issues, the local agencies and/entities should consult with local agricultural entities, organizations and interests with respect to

	<p><u>groundwater quality issues that may be associated with agricultural activities.</u></p> <p>2. <u>In its implementation of the Ground Water Protection Program, the California Department of Pesticide Regulation (CDPR) should continue to consider the impact that certain pesticides may have on groundwater resources in the Central Valley. The CDPR should continue to consult with the Regional Water Board with respect to the identification of new or different pesticides that may be of concern that are not currently identified by the CDPR in its Ground Water Protection Program.</u></p>
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<b>Lead Entity</b>	
<b>Element</b>	<b>Description</b>
3 <sup>rd</sup> Party	As indicated above, the agricultural entities recommend that the management and protection of local groundwater resources from agricultural activities is more appropriately addressed by local agencies or entities through other programs (i.e. 3 <sup>rd</sup> parties). It is not necessary or appropriate for the Regional Water Board to adopt a groundwater regulatory program that is specific to irrigated agriculture. With this comment, the agricultural entities do not intend to suggest that the local groundwater management entities referenced in this alternative should stand in the place of the Regional Water Board to regulate and/or administer a groundwater quality program.

<b>Monitoring</b>	
<b>Element</b>	<b>Description</b>
Continue groundwater monitoring through existing programs	For the program described above, the agricultural entities recommend that the Regional Water Board rely on existing monitoring programs. For example, the CDPR conducts extensive monitoring of domestic wells for its Ground Water Protection Program. Similarly, where groundwater basins are used for public water supplies, the public water system is required to periodically monitor the groundwater to determine compliance with applicable drinking water objectives. The State Water Resources Control Board also maintains a groundwater monitoring program. Considering the amount of groundwater monitoring that already exists, the agricultural entities do not support additional groundwater monitoring with this program.

### **Implementation Mechanism**

<b>Element</b>	<b>Description</b>
Basin Plan Amendment	The alternative described above recommends that the Regional Water Board rely on other existing groundwater protection programs instead of adopting a new groundwater regulatory program for irrigated agriculture. At most, the Regional Water Board should consider amending the relevant Basin Plans in the manner suggested above to reference local groundwater management programs and the CDPR Ground Water Protection Program. In particular, the Regional Water Board should identify these programs as recommendations for appropriate action by other entities. (Wat. Code, § 13242, see Basin Plan at p. IV-29.00.)