



December 18, 2013

Via E-mail

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Mr. Eric Oppenheimer
Chief, Office of Research, Planning &
Performance
State Water Resources Control Board
Post Office Box 100
Sacramento, California 95812-0100

Re: Draft Groundwater Workplan Concept Paper – Comments of
Yuba County Water Agency

Dear Mr. Oppenheimer:

Yuba County Water Agency (YCWA) appreciates the opportunity to comment on the State Water Resources Control Board's (SWRCB) draft groundwater workplan concept paper. YCWA applauds the staff for the draft paper's emphasis on supporting and enhancing local and regional management of groundwater. Over a well-documented period of several decades, YCWA's actions clearly demonstrate that local agencies can and do responsibly and successfully manage their surface-water and groundwater resources to ensure sustainable groundwater conditions. As explained in greater detail below, YCWA encourages the SWRCB to further refine the concept paper to:

- Further emphasize support for the efforts of local and regional agencies to address groundwater issues;
- Identify what specific changes in law, policy and management practice would promote those efforts; and
- Focus any new state actions or laws on areas where there are demonstrated groundwater problems that have proven resistant to local solutions, while avoiding potentially counterproductive "one size fits all" proposals that would not be sensitive to the unique local conditions that are central to groundwater management across California.

1. YCWA's Demonstrated Leadership In Integrated Water Management

The Legislature created YCWA by a special act in 1959, finding that:

[W]ater problems in the County of Yuba require countywide water conservation, flood control and development of water resources . . . that the solution of these problems lies within and is peculiar to the area to be included in the Yuba County Water Agency; that the county for many years has made investigations and engineering surveys of the county's water resources by private, public and United States engineers; that county water districts, municipalities, irrigation districts and reclamation districts now exist within portions of the county, have acquired property and works, developed a limited water supply, and have incurred indebtedness, but have been and are unable alone to economically develop an adequate water supply and control the floods of said county, and for such reason it is necessary to have a political entity at least as extensive with the geographical limits of the entire county. (*Statutes of 1959, Chapter 788, § 26.*)

Under its special act, YCWA constructed the Yuba River Development Project, whose main facility is the New Bullards Bar Reservoir on the North Yuba River. As early as the 1940's, the south Yuba River basin was determined to be in overdraft, and groundwater levels in this basin continued to decline for the next forty years. It was not possible to make surface water deliveries from YCWA's project to the south Yuba River basin until the mid-1980's. Surface water deliveries to lands overlying this basin began then, and the south Yuba River basin has since fully recovered. In the 2009 California Water Plan, the Department of Water Resources (DWR) recognized the success of YCWA's conjunctive management, specifically identifying the south Yuba River basin as a success story. (DWR, Bulletin 160-09, *Cal. Water Plan, 2009 Update*, vol. 2, p. 8-20 (copy attached).)

More recently, YCWA has continued its leadership in the conjunctive management of surface water and groundwater by developing and implementing the landmark Lower Yuba River Accord. The Accord is an integrated set of three agreements that: (A) establish streamflows to improve habitat for Chinook salmon and steelhead, and other fish and wildlife species; (B) conjunctively manage YCWA's irrigation deliveries and Yuba County's groundwater; and (C) transfer a portion of the water released to satisfy the Accord's streamflow requirements, and water from other supplies, to the State Water Project (SWP) and the Central Valley Project (CVP).¹ YCWA negotiated these agreements to resolve 20 years of controversy over the Yuba River's streamflows and the SWRCB approved the aspects of the Accord within the SWRCB's jurisdiction in Corrected Order WR 2008-0014. For its development and implementation of the Accord, YCWA received the State of California's highest environmental honor, the Governor's Environmental and Economic Leadership Award in 2009.

The Accord provides water-supply reliability to Yuba County farmers that receive surface water from the Yuba River through conjunctive use. As part of the Accord, YCWA negotiated agreements with seven of its "member unit" irrigation districts under

¹All of the agreements that constitute the Yuba River Accord are available on-line on YCWA's Web site at <http://www.ycwa.com/projects/detail/8>.

which farmers will pump groundwater in some critical years in order to make 30,000 acre-feet of water available for streamflows to support fisheries. YCWA is able to defray farmers' costs for pumping that groundwater with the proceeds from its transfers to the SWP and CVP under the Accord's water purchase agreement. The Accord conjunctive use agreements also provide for funding the conversion from diesel-powered to electrical groundwater pumps utilized in the Accord. This program is reducing fossil-fuel consumption and greenhouse gas emissions. As part of the management of the conjunctive use operations of the basin, the Accord and YCWA's Groundwater Management Plan include an extensive array of monitoring and technical work to support management decisions that ensure a healthy basin. Stated more comprehensively, YCWA's active, constructive and voluntary management of the region's groundwater resources have resulted in real economic and environmental benefits not only in Yuba County but throughout California.

A healthy groundwater basin is not only important to Yuba County's agricultural industry it is critically important to the municipal and industrial water customers in Yuba County. This is because a healthy groundwater basin is the only water source for the municipal water purveyors. Maintaining a reliable water supply for Yuba County is a critical function for the Yuba County Water Agency. It is the surface water deliveries to the farmers that have provided a reliable water supply for the residents and businesses in Yuba County.

2. *Comments on Draft Groundwater Workplan Concept Paper*

Preliminarily, YCWA joins in the Northern California Water Association's (NCWA) comments on the draft paper. As NCWA's comments explain in more detail, it is very important that any actions or recommendations by the SWRCB concerning both groundwater and surface water support the Sacramento Valley's sustainable management practices.

In addition, as discussed above, YCWA's specific comments on the draft paper all flow from our beliefs that: (a) the SWRCB has correctly identified robust local and regional management of groundwater as the key to statewide success, (b) the SWRCB should encourage actions to enhance that management, and (c) the SWRCB should avoid taking or recommending actions that could impede such management. The SWRCB also must be careful to focus on those areas where there are groundwater problems and to avoid recommendations that could unnecessarily provoke controversy that would at best delay actions to correct those real-world problems.

A. *Emphasize Local Authorities And Development Of Useful Information*

The draft paper includes several ideas that YCWA encourages the SWRCB to explore further to determine whether they could fulfill what appears to be their significant potential. YCWA believes that the following ideas in the draft paper have this potential:

- "DWR could create a searchable electronic database to submit well completion reports and associated data" (draft paper, § 3.2.2);
- "Assess legal obstacles and associated liability for groundwater recharge with sources that contain low level contaminants" (draft paper, § 3.3.2); and
- "Create a standardized set of authorities that districts with groundwater management responsibilities could draw upon to effectively and actively manage groundwater" (draft paper, § 3.3.2).

i. Well Data

Easing access to well data – provided that the access would involve appropriate security safeguards – would increase local agencies' capacity to analyze conditions in their local basins, which is central to meeting information needs for good management.

ii. Recharge With New Water Supplies

YCWA's history shows that access to additional water supplies can be the key factor that enables sustainable groundwater management. Few agencies in California may be able to implement large-scale surface-water projects as YCWA did, but other sources of water like injections of drinking water or recycled water or percolation of storm water may be crucial to improving groundwater conditions in some areas. Such new sources of water may be particularly crucial in areas that rely on water exported from the Delta so that all Californians are ensured of adequate water supplies while respecting water rights and area-of-origin interests.

iii. Standardized Authorities

Where there are groundwater problems, YCWA's experience demonstrates that legislation enabling local agencies can be important in promoting specific regions' sustainable management of water. Careful development of new groundwater-management authorities that local or regional agencies could opt to exercise if they can meet well-defined conditions could be important in not only allowing those agencies to act where and when necessary, but also could encourage more regional cooperation and discourage massive and extraordinarily expensive groundwater adjudications. However, careful crafting of triggers for these local actions would be needed to avoid misuse of this local authority.

B. Discourage Actions That Could Generate Controversy And Expense Without Improving Management

Depending on how they might develop, several ideas in the draft paper would be unlikely to promote better groundwater management where needed, but could stoke controversies

that could at least delay implementation of actions necessary to fix real-world problems. We believe that the following ideas in the draft paper could present these issues:

- "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" (draft paper, § 3.1.2);
- "The Legislature could expand the State Water Board's Groundwater Recordation Program, which requires reporting of groundwater pumping, to basins subject to critical overdraft" (draft paper, § 3.2.2); and
- "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" (draft paper, § 3.3.2).

i. Groundwater Thresholds

As discussed in the draft paper, the concept of "establishing groundwater thresholds" is not well-defined and could present serious technical, financial and political problems for local and regional agencies. For example, a simplistic threshold under which average pumping in a basin would be compared to average recharge and the basin declared to be overdrafted when pumping exceeds recharge would not reflect the realities of California's hydrologic cycles, would require very large investments of financial resources, would create enormous controversy over the monitoring of at least thousands of individual wells in the basin and would do little to improve the basin's management. As long recognized in California groundwater practice and law, exercising a basin's storage capacity through wet and dry cycles is key for good management.² What might be a reasonable threshold in wetter years might not be reasonable in dry years. In part because of the enormous controversy that could be generated by the mandated development of thresholds throughout the state – which would be viewed as "caps on groundwater pumping" in many places – the SWRCB should not advocate for legislation that would require local and regional management agencies to develop thresholds according to a single set of criteria.

YCWA's experience proves the value of exercising a basin's capacity, as indicated by the excerpt from DWR's 2009 California Water Plan that discusses the southern Yuba River basin, its recovery from its historic lows and its condition during the wet and dry cycles that have occurred since YCWA began to deliver surface water to that area. Based on this experience, and experience with many years of groundwater substitution transfers,

²For example, its landmark 1975 decision concerning groundwater in the San Fernando basin, the California Supreme Court recognized that not allowing the use of a basin's "temporary storage" capacity could actually cause a waste of water. (*City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 277-281.)

YCWA believes that any thresholds for groundwater management must be sensitive to local conditions and reflect the following considerations:

- Access to the resources for all groundwater users, including third parties;
- Allowance for the utilization of groundwater resources in dry conditions under good conjunctive use practices;
- Recovery in wet years following dry years; and
- Maintenance of basin levels that avoid significant impacts to the environment.

Each local or regional agency that participates in managing its basin will need to assess these considerations for itself and to develop management practices that fit the basin's unique characteristics, whether they involve water in fractured-rock formations, multiple vertically-stacked aquifers, faulting, migrating contamination or any of the other numerous characteristics that define California's groundwater basins.

ii. Groundwater Recordation Program

Significantly expanding the SWRCB's recordation program would be unlikely to improve groundwater management. Initially, the political controversy that such a legislative proposal would generate probably would be an obstacle to any legislation that could improve management. If such a program were enacted, it probably would generate very large amounts of paper and data that would be difficult to organize, at least in the short term. A large amount of energy that could be dedicated to developing and implementing groundwater management plans by local agencies instead would be dedicated to preparing, filing and organizing possibly hundreds of thousands of new filings with the SWRCB. Moreover, as discussed in NCWA's comments, current legislation (SB7X-6) already requires that a significant amount of monitoring data be provided to DWR.

iii. Active Management Areas

The idea of "active management areas" is not well-developed in the draft paper. If it were to reflect an idea similar to the creation of standardized authorities discussed above, then the idea might be worth pursuing. Its inclusion in the draft paper as a separate item, however, suggests that "active management areas" would be something different. In particular, the draft paper's description of the idea suggests that it would involve state-level management entities that could reorder groundwater rights, similar to the Active Management Area entities that exist in Arizona. If this is the concept behind the draft paper's "active management areas" discussion, then YCWA encourages the SWRCB to focus instead on how to support improved local and regional programs where improvements are necessary. Given the geographic, hydrologic, geologic and political diversity of California's regions, a proposal to enact legislation to establish state-level

active management areas probably would impair the development of the local and regional programs that are necessary to address groundwater problems where they exist.

3. *Conclusion*

YCWA looks forward to participating in the SWRCB's continuing development of a groundwater workplan and again applauds the SWRCB for its focus on supporting local and regional management of this crucial resource.

Very truly yours,



Curt Aikens
General Manager

Enclosures

7021/L121713rsb SWRCB GW Paper

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