



December 18, 2013

(Via e-mail to: eric.oppenheimer@waterboards.ca.gov)

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

Re: Discussion Draft Groundwater Workplan Concept Paper

Dear Chair Marcus:

The San Luis & Delta-Mendota Water Authority¹ appreciates the opportunity to provide the following comments in response to the October 4, 2013 discussion draft Groundwater Workplan Concept Paper (Workplan). While there is much to concur with in the Workplan, we caution that the limits of the State Water Resources Control Board's (Board) jurisdiction in relation to groundwater are narrow and any potential actions must be mindful of those constraints.

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Before delving into some of the specifics of the Workplan, it is important that the Board acknowledge key drivers that have contributed to some of the management challenges intended to be addressed by the Workplan. First and foremost, and an area that the Board has direct impact upon, is the substantial reduction in the volume and reliability of surface water supplies. Regions such as the Authority's, that have been stable and sustainable after a period of significant overdraft prior to the delivery of surface water from the federal Central Valley Project and the State Water Project beginning a half-century ago, have seen old problems reemerge. Surface water that has been essentially reallocated to regulatory requirements has resulted in an unmitigated, adverse impact upon local groundwater resources and management capabilities. As the Board goes forward in its processes related to surface water management in the context of this Workplan, it must account for the adverse impacts of its

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¹ The Water Authority submits this comment letter on behalf of its member agencies. The Water Authority was formed in 1992 as a joint powers authority and consists of 28 member agencies; 27 of which contract with the Bureau of Reclamation (Reclamation) for supply of water from the federal Central Valley Project (CVP). The Water Authority's member agencies collectively hold contracts with Reclamation for the delivery of approximately 3.3 million acre-feet of CVP water. CVP water provided to the Water Authority's member agencies supports approximately 1.2 million acres of San Joaquin Valley agricultural land, as well as more than 100,000 acres of privately and publicly managed wetlands. The Water Authority's member agencies also serve well over 1 million people in the Silicon Valley and the San Joaquin Valley with CVP water.

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prior decisions related to surface water and reconcile those with the now expressed desire to facilitate and encourage improvements in “sustainable” groundwater management.

Another key element contributing to some of the more recent overdraft situations is that wells are being drilled on lands where there is no management entity jurisdiction, but which by the nature of groundwater, affects lands within an existing, neighboring water agency’s jurisdiction. While water management concerns may be present in these situations, this is more an issue of governance and authorities, as acknowledged in the Governor’s California Water Action Plan statement related to groundwater and in the Workplan too. It is important to discern where there is a need for facilitating better governance, which should seek to enhance the powers and authorities of existing local water management agencies, versus more technically targeted recommendations regarding actual groundwater management protocols, as they are distinguishable and should be treated as such.

We appreciate that there is a repeated emphasis in the Workplan, consistent with the language in the Governor’s draft California Water Action Plan, that it is desirable to further empower local and regional entities to manage groundwater sustainably, rather than presume a large State imposed regulatory structure is either preferred or necessary:

“The administration will take steps, including sponsoring legislation if necessary; to define local responsibilities and to give local agencies the authority necessary to manage groundwater sustainably and ensure no groundwater basin is in danger of being permanently damaged by over drafting.” [p. 12]

The context and construct of potential efforts by the State to exercise “oversight” or to intervene to “protect” a basin will be critical to define in more detail if going forward. We appreciate the Board’s expressed sensitivity to the controversy such a process will involve. However, for many parts of the State, groundwater sustainability cannot be achieved without mitigating the adverse impacts of reduced surface water supplies upon groundwater and the communities which rely upon it, otherwise, even more severe socio-economic disruption should be expected.

Regarding the Workplan more specifically, the vision statement on page 1 of the Workplan is laudable with the caveat regarding the inclusion of “oversight” outlined above. Still, as identified in the statement, we agree it is the local and regional agencies that are best suited and situated to “manage and maintain” groundwater basins.

Statements on page 2 are welcome and accurate: “The nature of groundwater and its uses vary widely by area....local and regional groundwater management efforts have produced impressive results in many areas of the State....challenges do not lend themselves to a ‘one size fits all’ solution, given the varying physical and institutional characteristics of California’s groundwater basins.” We could not agree more. Consequently, the focus of activity should be, consistent with the variability identified, to facilitate and provide support for continuing the “impressive results” into the future and ensuring flexibility in approaches and strategies to ensure areas with different levels of technical and governance capabilities, as well as variable basin characteristics, can implement programs to achieve similarly impressive results.

The five key elements identified in the Workplan as necessary for effective groundwater management make sense, but the concept of “sustainable thresholds” needs significantly more discussion going forward. What are they? Who establishes them? What levels trigger a response?

What external factors will affect them? These questions are not fleshed out in the Workplan and need to be developed in much more detail if this process moves forward.

Furthermore, the Workplan states that the Board will focus attention and assistance on “high-use basins where thresholds are being exceeded.” What a “high-use basin” is not defined and needs to be.

Sections 3.1, 3.1.1.2 pertain to incorporating Salt and Nutrient Management Plan (SNMP) thresholds into Basin Plans. While this could be an appropriate potential action for the Board, there should be some indication in the draft Workplan that the State-wide process to develop SNMP approaches is not yet complete. Furthermore, at least some of the mechanisms for implementing SNMP’s, such as through the Irrigated Lands Regulatory Program, are currently still in process of being adopted and likely subject to legal challenge. Therefore, the Board will need to assess the results of the ongoing SNMP planning process and also to coordinate with the Regional Boards to determine whether or not it is appropriate and if appropriate, when to incorporate such thresholds into basin plans.

The question of how to fund programs is one that water agencies struggle with on a daily basis. Value for the dollar and actual pertinence to improved management are “thresholds” that water district boards grapple with when confronted by numerous needs, regulatory demands, and the limits of what ratepayers will accept. We appreciate that in the discussion of funding in the Workplan that the obstacle of Proposition 218 is recognized as just that – an obstacle that can stymie the ability to raise the revenues to fund the improved management even when an agency Board desires to undertake the responsible approach but necessary rate increases are not accessible to do so. Again, it is important in the context of the Workplan scheme for seeking to improve groundwater management that in the Board’s or others’ pursuit of it that local agencies are not held accountable for circumstances outside of their control. And for those within their control, the specific conditions, authorities, water needs, and general management capabilities must be taken into account.

The potential option for Board action at 3.5.1.3, regarding the establishment of an interagency task force to “address groundwater overdraft” makes some sense, but we do not believe the Board is the proper convener of such a group because of its limited jurisdiction with respect to groundwater management, particularly as it relates to quantity, which is the most prevalent nexus to the overdraft issue. Consequently, we suggest this potential option be moved to section 3.5.2 as a potential recommendation to others.

The Workplan appropriately focuses the potential Board actions in the water quality arena and makes recommendations to others regarding broader water management issues that implicate groundwater sustainability. Even so, the Board should exercise its existing authority to ameliorate surface water supply reductions and facilitate expedited water transfers to buffer the loss of other surface water supplies, to promote conjunctive use and in-lieu recharge where feasible.

Going forward, we strongly encourage the Board to continue to ensure robust stakeholder involvement and transparency. In addition, we believe much of what can be done to enhance groundwater management capabilities and sustainability where a true need exists does not and will not require legislative enactments but can be achieved through identifying funding sources, such as grants or loan programs, to assist higher prioritization and more complete implementation of existing groundwater management authorities and the adoption of appropriate administrative policies.

Thank you for your consideration of these comments. We look forward to further engagement as you continue to revise and refine the Workplan and develop strategies for moving recommendations forward.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Nelson". The signature is stylized and cursive.

Dan Nelson
Executive Director