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VIA ELECTRONIC MAIL

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Eric Oppenheimer
State Water Resources Control Board
1001 I Street, 15th Floor
Sacramento, CA 95814
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Subject: State Water Board's Discussion Draft Groundwater Workplan Concept Paper

Dear Mr. Oppenheimer:

The Western States Petroleum Association (WSPA) is a non-profit trade association representing twenty-six companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California, Arizona, Nevada, Oregon, and Washington.

WSPA appreciates the opportunity to provide comments on the Discussion Draft Groundwater Workplan Concept Paper ("draft Concept Paper"), dated October 4, 2013.

The draft Concept Paper presents many concepts and suggestions to enhance management of groundwater in the State of California. This is an important and timely project, and participation by stakeholders will add significant value to the project. WSPA looks forward to participating in the process and supporting these efforts.

Preparing comments on the draft Concept Paper was challenging, in that each of California's groundwater basins is unique and faces a distinct set of challenges. Some groundwater basins are in a state of overdraft, while others are under-utilized. Some basins are effectively managed by locally controlled programs, while in other basins groundwater management plans and authority may be needed. These individual challenges will likely require individual, tailored solutions, such that a single, comprehensive groundwater management strategy may not be the most feasible—or the most efficient—way to address these issues.

It is in this spirit that WSPA offers the following comments and recommendations.

1. **Section 3.1, “Existing THRESHOLDS” table.** The table in Section 3.1 identifies OEHHA’s Public Health Goals (PHGs) as thresholds to assess water quality. This reference should be removed. PHGs are non-regulatory goals based on precautionary risk assessments. OEHHA’s own technical support documents acknowledge that PHGs “are not developed as target levels for cleanup of ground or ambient surface water contamination, and may not be applicable for such purposes, given the regulatory mandates of other environmental programs.”

WSPA recommends that the reference to OEHHA Public Health Goals be removed from the “Existing THRESHOLDS” table.

2. **Section 3.1.1, reference to State Water Board’s Antidegradation Policy (Resolution No. 68-16).** WSPA requests that the State Water Board clarify how the anti-degradation policy should be applied to groundwater. As WSPA noted in our comments on the prior anti-degradation policy review (dated December 17, 2008), supplemental guidance in this area could be beneficial. For example, the Water Board should clarify that application of the Low Threat Closure Policy to high quality groundwater sources may be appropriate under certain circumstances and is not de facto inconsistent with Resolution 68-16.

3. **Local Groundwater Management Should Focus on Quantity, not Quality.** Section 3.1.2 recommends that the Legislature should require local groundwater management entities to establish thresholds for sustainable groundwater management in their local groundwater management plans. This action may be appropriate for managing groundwater use and recharge, but local agencies should not be required or encouraged to develop thresholds for chemical contaminants. That process requires scientific expertise and resources beyond the capabilities of most agencies. This recommendation encourages a patchwork of inconsistent standards that do not reflect risk to public health and the environment.

WSPA encourages the State Water Board to clarify that local agencies shall not be encouraged or required to develop thresholds for chemical contaminants.

4. **Definition of Terms.** Certain terms are not defined in the draft Concept Paper. For example, Section 3.3.1 recommends that cleanup cases should be prioritized based on threat and whether they are located in a “hydrogeologically vulnerable area.” The same section recommends expanded use of general orders to focus on “high priority discharges.” Failure to define such terms could invite varying interpretations that lead to inconsistent regulatory actions at regional and local levels. This is not a recipe for improved management of groundwater resources.

WSPA recommends that the State Water Board work with stakeholders to define key terms before development of the final Concept Paper in order to promote consistency in regulatory actions across the state.

5. **Prioritization of Cleanup Cases.** Section 3.3.1, Item 2 suggests that the State Water Board could take action to prioritize cleanup cases based on threat and whether they are located in

hydrogeologically vulnerable areas. WSPA suggests also that remediation programs could be better aligned with one another. Thus, WSPA suggests the following:

- WSPA recommends a new Water Board action for a review and update of the DTSC's Interim Advisory for Green Remediation (December 2009) to be more aligned with the more recent Interstate Regulatory Technology Council's GSR-2 document (November 2011), of which California was a member.
 - WSPA recommends a new Water Board action to consider expansion of the Low Threat Closure Policy to all California remediation programs.
 - WSPA recommends a new Water Board action to consider use of a tier-based, risk-based program across all California remediation programs.
6. **Revenue Sources.** Section 3.4.2 makes several recommendations for new revenue sources to implement the groundwater management framework, including imposition of new fees. The Water Board recently initiated a stakeholder inquiry to address the rising cost of compliance with water quality programs (the "Cost of Compliance Program"), and increasing program fees have been identified as a significant cost driver.

Accordingly, the Workplan should characterize the imposition of new fees as a last resort, emphasizing instead the importance of collaboration among groundwater stakeholders to identify opportunities to leverage and prioritize expenditure of existing revenue sources for maximum impact/benefit. In addition, WSPA recommends continuation of the UST Clean Up Fund to continue to cover historic releases.

7. **Groundwater Cleanup Actions.** Section 3.5.1 recommends targeting groundwater quality regulatory program enforcement on "legacy sites in hydrogeologically vulnerable areas." WSPA believes that enforcement resources should be concentrated on sites that present a meaningful risk to public health and the environment, regardless of their "legacy" status, and not just because they are located in "hydrogeologically vulnerable areas." Both criteria should guide investment of limited regulatory resources.

WSPA recommends that the State Water Board develop clear criteria for identifying high priority sites, to focus on sites that present a meaningful risk to public health and the environment.

WSPA appreciates the opportunity to comment on the draft Concept Paper. We look forward to continuing to work with you on this important issue. Thank you.

Sincerely,

