



PARAMOUNT

FARMING

December 18, 2013

VIA E-MAIL AND U.S. MAIL

Attn: Eric Oppenheimer
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
eric.oppenheimer@waterboards.ca.gov

Re: Comments on Discussion Draft Groundwater Workplan Concept Paper (October 2013)

Dear Mr. Oppenheimer:

The State Water Resources Control Board ("Water Board") recently released for comment the Discussion Draft Groundwater Workplan Concept Paper ("Workplan"). Paramount Farming Company LLC along with its related entities ("Paramount") is the largest grower and processor of almonds, pistachios, pomegranates, and citrus in California. Paramount appreciates the opportunity to comment on the Workplan and looks forward to working with the Water Board and other interested entities on issues involving groundwater management in California.

First, Paramount acknowledges that groundwater is a critical component of the state's water supply that should be efficiently and sustainably utilized. Paramount feels strongly that while there is a need to more actively manage the state's important groundwater resources that for such regulation to be effective it must be done at the local level with consideration given to the unique climate, topography, geology, hydrology and uses that impact each individual groundwater basin. A 'one-size-fits' all approach to groundwater management is unlikely to achieve the desired result of improving the overall condition of groundwater in the state. The Long-Term Irrigated Lands Regulatory Program ("ILRP") is a prime example of the failure to take into account region-specific conditions in implementing regulation.

Many areas throughout the state have effective groundwater programs in place, however certain areas could likely benefit from assistance from the state in establishing the authority for regulation, enforcement and funding mechanisms. Paramount supports the state adopting tools to enhance the abilities of local entities to properly manage groundwater in a manner that takes into account local conditions.

Any effort to more effectively manage groundwater should acknowledge and consider the connection between surface water and groundwater. Through a variety of regulatory actions, including those imposed to protect water quality and for species protection, the export of water conveyed through the Delta to the San Joaquin Valley has been greatly reduced over the past twenty years. In part, those water projects were designed to remedy overdraft conditions recognized many years ago. Reduced

exports from the State Water Project and Central Valley Project have severely diminished the supplemental supplies intended for recharge and conjunctive use in the service areas of these projects. Any effort to address concerns regarding groundwater should also take into account surface water deliveries and look at the state's water supply system in a more holistic fashion.

While we support a sustainable approach to groundwater management, the Workplan impermissibly expands the authority of the Water Board and its Regional Water Quality Control Boards ("Regional Boards"). The Water Board and Regional Boards' involvement should be limited to actions to protect the quality of waters for reasonable and beneficial uses and should not be expanded to include monitoring and enforcement related to groundwater quantity. A number of specific comments are provided below.

- The introduction of the Workplan, which identifies the Water Board's key elements of an effective groundwater management program should include "recognition of unique basin/area conditions" as an additional key element for an effective groundwater management program. The lack of such recognition in the Central Valley Regional Board's recently adopted ILRP has established burdensome monitoring and reporting requirements across the Central Valley in the interest of a "one size fits all" approach, including areas that have little to no potential to impact water quality for beneficial uses, creating an economic burden on growers with no corresponding water quality benefits. Each basin has unique uses, geology, climate and other conditions that impact the effectiveness of individual groundwater management programs. This is recognized in Section 2 of the Workplan which states the challenges of groundwater management, "do not lend themselves to a 'one size fits all' solution, given the varying physical and institutional characteristics of California's groundwater basins." State level involvement, including that of the Water Board should be limited to actions that further support execution of the key elements by local entities.
- Section 3.1 Sustainable Thresholds states, "Many local, regional and State agencies have statutory responsibility or authority to collect water quality and water use/level data and information...", yet the Workplan goes on to list various state level reporting that the Water Board believes should be required. The Workplan should analyze, with input from local groundwater management entities, the existing authority regarding reporting and determine what additional reporting should be required. Reporting by local entities to the state should be limited to trends and progress towards sustainability thresholds.
- Section 3.2.2.1 states, "DWR could create a searchable electronic database to submit well completion reports and associated data." Private landowner well information should be collected and used by local entities to the extent needed for basin-wide groundwater management efforts, however the state should ensure this information is protected and only made available to the general public after consent by the well owner or landowner.
- Section 3.2.2.6 should be limited to the integration of monitoring data applicable to water quality and those data already required under CASGEM for water level monitoring.

- Section 3.3 Governance and Management states as an existing Water Board activity the “Expert Panel review of agricultural nitrate programs.” Although the Water Board committed to the Legislature to convene this panel, to date no further progress has been made. The recommendations of the panel are critical as the ILRP general orders move forward throughout the state and are needed to inform future actions to address groundwater quality issues. The Water Board should focus on convening the panel and assessing the recommendations of the panel as a primary and immediate goal that can provide useful information to aide in nitrate management and efforts to more effectively manage groundwater.
- Section 3.3.2.3 recommends enacting, “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.” We recommend clarifying throughout the Workplan that any legislative, regulatory or administrative action regarding groundwater management should enhance the ability of appropriate local entities to implement the key elements necessary to effectively and sustainably manage groundwater, and state-level involvement should be limited to support of the local entity management.
- Section 3.3.2.4 should clarify the need for local entity participation in creating standardized authority for groundwater management. We recommend stating, “The state will convene local groundwater management entities to create a standardized set of authorities that districts with groundwater management responsibilities could draw upon to effectively and actively manage groundwater.”
- Section 3.4 should discuss potential state funding sources, including bond funds that could be used to provide local entities with funding sources to conduct groundwater management, regulation and monitoring activities. In addition, section 3.4 should address other potential funding mechanisms to adopt and implement groundwater management programs. As an agricultural entity, Paramount is severely impacted by the expense of the recently adopted ILRP, which requires onerous monitoring and reporting requirements regarding groundwater quality. Until an assessment of the local entity monitoring and reporting activities and the information gathered from existing programs, like the ILRP, is conducted and deficiencies are found, no additional state fees or taxes should be imposed for groundwater management related activities or state level monitoring and reporting, as contemplated in Sections 3.4.2.1, 3.4.2.3 and 3.4.2.5. To do so would be redundant, and depending on the structure of the funding mechanism, could impose an additional undue burden on agriculture, industry and other groundwater users.
- Section 3.5 Oversight and Enforcement is a key element to successful groundwater management, however many local agencies and counties have strict standards on well construction, abandonment and drilling. Section 3.5.1.2 should reflect this fact and “encourage or require local entities to establish well construction, abandonment and drilling requirements and enforcement mechanisms,” rather than task the Water Board with evaluating and reporting on the effectiveness of such efforts.
- As stated in Section 3.5.1.3, addressing groundwater overdraft is critical to groundwater basin sustainability. If formed, the “interagency task force” contemplated within the Workplan should

include members of appropriate local entities and focus on the state-level actions that will enhance the abilities of local entities to properly conduct, monitor and enforce groundwater management activities.

- Section 3.5.1.4 states the Water Board will “use Porter-Cologne authority to order parties responsible for nitrate contamination to provide replacement water.” Many sources of nitrate contamination cannot be specifically identified. Because existing nitrate contamination can be from multiple non-point sources or legacy activities, the Water Board’s authority to “order” responsible parties should be limited to verified point source waste dischargers.
- Finally, with respect to Section 3.1.1.1’s treatment of the anti-degradation policy (Resolution 68-16), this policy does not provide the Water Board any additional authority with regard to regulation of groundwater supply.
- The Water Board should focus its effort on improving its performance in areas within its authority. In September 2013, the Water Board released its fifth Performance Report for fiscal year 2012-2013. The Performance Report is designed to provide information on the Water Board’s progress toward specific targets covering its authorized duties including among other things; setting water quality standards, regulating pollutant sources, enforcing compliance with regulatory requirements and allocating water. In the statewide areas of Permitting and Inspection the Water Board achieved only 30% and 60% progress respectively towards its established targets. Given the importance of the Water Board’s role to statewide water supplies and regulations, it should properly focus on improving its performance in areas under its existing authority.

Paramount supports the state adopting tools to enhance the abilities of local entities to properly manage groundwater in a manner that takes into account local conditions, however the Workplan improperly expands the Water Board’s authority with respect to groundwater and fails to adequately take into account in its approach the unique characteristics of individual basins. An effective groundwater management program should be conducted at the local level and should be capable of considering the unique characteristics and needs of the individual groundwater basins in the state. If you have any questions or would like to discuss these comments in greater detail, please contact me at the contact information listed above.

Sincerely,



William D. Phillimore
Executive Vice President

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