



Grower-Shipper Association of Central California
“OUR MEMBERS: PARTNERS PRODUCING PROSPERITY”

April 1, 2016

Lauren Bisnett, Public Affairs Office
California Department of Water Resources
P.O. Box 932836
Sacramento CA 94236

Subject: Draft GSP Emergency Regulations Public Comment

Dear Lauren:

Thank you for the opportunity to provide comments on the Draft GSP Emergency regulations. Please find comments, questions and concerns from Grower Shipper Association of Central California (GSA), an agricultural trade association representing over 350 agricultural businesses throughout Monterey, San Benito, Santa Clara and Santa Cruz counties. These comments are submitted on behalf of our membership, who are largely composed of vegetable, strawberry, and wine grape growers throughout the Salinas and Pajaro Valleys.

For more than ½ a Century, the Central Coast has been focused on Sustainable Groundwater Management:

Reasonable and Sustainable management of groundwater resources are critical for the Central Coast because of the reliance of groundwater for drinking water and irrigation water. Between 80-90% of all water use is from groundwater on the Central Coast and around 95% of all irrigation water is from groundwater.

Consequently, growers and landowners in the Salinas Valley have been actively working on securing sustainable water infrastructure for more than 60 years. Growers and landowners have been the primary funders of infrastructure and maintenance projects including the Castroville Seawater Intrusion Project, the Salinas River Stream Maintenance Program, the Salinas Valley Water Project and the Nacimiento/San Antonio Reservoirs, which allow water storage and controlled water releases.

Additionally, in partnership with the City of Salinas, Monterey County Water Resources Agency and Monterey County Water Pollution Control Agency, water that is being used to wash produce in our processing plants is also now being recycled and sent back to irrigate crops in the Castroville area through a pilot project that began in 2014.

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With the Interlake Tunnel project linking the Nacimiento and San Antonio Reservoirs currently in development with the County of Monterey and the Monterey County Water Resources Agency, landowners and growers will likely be asked to fund some or a majority of the project costs through a Proposition 218 vote. Estimates show that the Interlake Tunnel project alone could bring at least 16,000 – 20,600 acre feet of water into the basin, the larger amount occurring if an additional spillway modification at the San Antonio Reservoir is made. Growers and landowners realized decades ago that funding infrastructure and conserving water was needed to preserve our water resources and have led the charge on this project, working with the County and local representatives.

We have a number of projects in place to create more storage and recharge and more are on the horizon, but precipitation, which leads to basin recharge through percolation and via the Salinas River, is very important in our County. Growers and landowners have focused much attention on finding solutions that allow for maintenance in the Salinas River Stream via a re-engineered Maintenance Program, in partnership with Monterey County Resource Conservation District, The Nature Conservancy and Monterey County Water Resources Agency. A pilot project in 2014 and 2015 has shown a way to maintain the river in a way that protects habitat and reduces flooding risk, and growers have been able to once again remove invasive *Arundo donax* and other vegetation that sucks up water, keeping it from recharging the aquifer. Conservative estimates river-wide of vegetative “suck” of water start at 30,000 acre feet of water lost each year. Just think of how quickly we will be able to begin bridging gaps when we can conduct maintenance work on the entire river channel. Permits have been submitted and are under review for work to begin in fall 2016.

Growers have also been working for many years to make good use of the water they have using Best Management Practices (BMPs). Since 1993, growers have reported pumping information for ground water extraction facilities (wells) and service connections to the Monterey County Water Resources Agency. The most recent report shows a significant increase in the use of drip irrigation, a practice that reduces water use. In 1993, we used drip on 25,080 of 173,610 acres in Monterey County. In 2014, we used drip on 124,285 of 182,150 acres in Monterey County. Although drip irrigation is a great tool, it doesn’t work in every circumstance, or on every crop. Growers have also incorporated other best management practices, such as the use of time clocks, water flowmeters, sprinkler improvements, micro irrigation systems, reducing leakage, and reduced sprinkler spacing in recent years, on a significant amount of acreage in Monterey County. Since the 1960’s, we’ve seen a decrease in groundwater pumping while irrigated acreage has increased, due to many of these practices.

This system of infrastructure development, conservation on-the-ground and innovation has done a lot to sustain our water system, but agriculture is not stopping there. Growers and landowners in the Salinas Valley are focused on solutions for the long term, and continue to look for ways to increase water storage and recharge opportunities, which will benefit our community for many years to come, just as they’ve done for more than half a century.

General Comments

It appears that both the Sustainable Groundwater Management Act (SGMA) and the Draft GSP Emergency regulations were written with the Central Valley in mind. Neither SGMA as written nor the GSP draft regulations readily fit the Central Coast.

This Central Coast dependence on groundwater coupled with a regulation that is designed for other parts of the state begs the question, “what happens if implementation of SGMA impairs the local economy or the delicate balance of previous work to conserve and protect groundwater?” What is the community’s fallback position?

GSA is concerned about the ambiguity of the regulation and the ultimate use of “undesirable effects”. Based upon recent history and precedence, we fully expect that “undesirable effects” will be manipulated by special interest groups until the Groundwater Sustainability Plan is anything but representative of diverse interests and/or “reasonable”. This concern once again begs the question asked in the paragraph above.

In general, GSA is strongly opposed to the degree of public access to all information that is proposed by the Draft GSP Regulations. We believe that trade secrets are defined in the Uniform Trade Secrets Protection Act and Proprietary Information is protected under the Public Records Act. Submission of crop reports, crop yields, and the timing, frequency, and amount of inputs are unique to each agricultural operation and each piece of ground and constitute one grower competitive advantage. We believe data may be analyzed in aggregate, so that individual information is not necessary in order to protect the public’s interest. In fact, we fully expect that divulging individual information to public interest groups will result in expensive lawsuits that will be counter to the public interest, as the public will be required to fund the Groundwater Sustainability Agency’s legal defense.

There is substantial regulation related to supporting beneficial uses. However, there is little guidance as to what beneficial use baseline we are addressing. What are the environmental baselines that will be used? A baseline generally has a time component, but water quality objectives generally lack a time component. They are reasonable for determining if a point-source discharge is compliant with a water quality permit. But, they are not very useful in a larger scale, non-point-source setting. Will there be an effort to compare baselines on a similar time scale? Will the Agency use the same baselines (last 10 years) and projections (next 20 years) as they apply to beneficial uses and land uses?

Questions/Comments related to the Draft GSP Emergency Regulations Guide

- **Figure 1.** It appears that stakeholder input is only sought at discrete points along the project timeline. For example, In Phase 1, it appears that there is no stakeholder input into a Coordination Agreement. In Phase 2 it does not appear that stakeholder input will be sought between Phase II Technical & Reporting Standards, BMPs, and Data Management and Record Keeping, even though all of these, if not appropriately designed, could be very expensive to stakeholders. In Phase 3, there needs to be stakeholder input into potential corrective actions.
- GSA is concerned with using January 1, 2015 as the baseline for historical basin conditions, as we are concerned about how the baseline could be manipulated or misconstrued due to current drought conditions, especially as it relates to aquatic habitat and aquatic life populations.
- GSA does not believe that a 60-day public comment period is long enough for the Draft GSP Regulations. Regulations that will have such broad impact and potentially devastating consequences deserve lengthy and thoughtful public discourse. This time frame is too rushed.

- **Phase 4:** Agriculture on the Central Coast has requested modeling of groundwater upwelling of shallow and historically brackish waters in coastal estuaries, lagoons and confluence sites. There is a record of comment expressing concerns that surface waters in these areas are not truly surface waters and ensuing regulations and proposed management practices are not appropriate for these areas.
- Will reported data need to meet conform to the uniform reporting requirements such as Geotracker or a SWAMP compatible format?

Questions/Comments regarding SGMA Draft Emergency Regulations for GSPs and Alternatives:

§ 350.2. General Principles

Adaptive management is a key tool. GSA supports the incorporation of adaptive management into the GSP regulations, and encourages the Department to take seriously the importance of building flexibility into the GSP. Over the course of 20 years significant new technologies and opportunities may arise – we shouldn't limit ourselves to what we see and understand in 2020 or 2022.

§ 352.6. Data and Reporting Standards – We understand the need in this plan to rely on wells that lack information about casing perforations, borehole depth, and total well depth information to monitor groundwater conditions as part of an initial plan. In our experience, many wells along the Central Coast have limited information as it relates to casing perforations. We encourage the Department to allow for reasonable timelines to understand produced data and/or find better alternatives.

§ 354.14 Hydrogeological Conceptual Model, (c)(3) - While GSA supports the use of soil characteristics such as hydraulic conductivity in models, it should be noted that agricultural soils in many areas have been highly modified throughout the Salinas Valley. In some areas, after heavy flooding, soils have been heavily “rebuilt from borrowed topsoil” from other areas of the ranch or the Valley. In general, soils have been repeatedly laser leveled and deep ripped over time, so that the soil profile has been reconstituted down to about 3-4 feet. In some areas, production practices have modified, both positively and negatively, the ability of rainwater to runoff, infiltrate or be retained.

§ 354.18 Water Budget

(a) “The water budget shall quantify the following: (2) “...evapotranspiration, groundwater extraction...” Current technologies are too expensive and most ETO models and calculations may be challenging to implement for growers and staff that haven't used these methods and have little training or understanding of them. It's also important to note that there is a shortage of qualified third parties. Consequently, the quality of the data that will be reported will be suspect. These activities need to be phased in over time. A GSP with an extremely short time-line has built in failure.

(b) (2) (A) The use of a most recent 10 year of surface water supply information has built in biases since about 7 of the last 10 years have been in drought conditions. A longer time frame would lead to more normalized data. Data needs to be presented as the minimum, maximum, average AND median data points.

(b) (3) What mechanisms are in place to correct inaccurate 20 year GSP projections?

(d) (1) and (2) These do not make sense. Why would a Central Coast Groundwater Sustainability Agency provide water budget information for Central Valley Land use or Statewide Land Use?

§ 354.22 Introduction to Sustainable Management Criteria – Criteria for Sustainable Management criteria are problematic if you are looking retrospectively at groundwater levels for the past 10 years or have a projected 20 year event horizon for addressing groundwater quality.

§ 354.26. Undesirable Results

The term “reasonable” is used multiple times in this topic. Who determines what is “reasonable”? According to DWR, “it is assumed the definition of “significant and unreasonable” will be highly variable depending upon geographic, water management economic, and environmental considerations.”

DWR states “Sustainability will likely occur if there is a demonstration of long-term, basin-wide balance between supply and demand” Where has this occurred? Is there precedence? Are there watersheds in California, the United States or the world that have demonstrated this type of sustainability balance? These types of examples would be helpful to note and illustrate.

§ 354.28 Minimum Thresholds

(a) (1-5) – If the GSP is relying on existing Water Quality federal, state and local standards, how can minimum thresholds be limited to numeric values when many of the water quality objectives are narrative?

(a)(6) – Will additional surface water monitoring sites need to be added in order to capture surface water/groundwater interconnections?

(b)(1)(C) – In general, GSA supports management of the groundwater basins so that curtailment of extractions is a last resort. If curtailment becomes necessary, then it should vary over time to reflect climatic and groundwater conditions.

(b)(5) – Is this section focused on the Central Valley? If not, then, there needs to be further and robust discussion about permanently hydromodified watersheds. There is an unfairness to impose land use restrictions and possible curtailments of extractions when the water system may be permanently modified so that desirable beneficial use cannot be achieved.

§ 354.3. Measurable Objectives - What if the undesirable effects are completely irreversible or cannot be reversed within the 20 year event horizon?

§ 354.32 Introduction to Monitoring Networks – It should be noted that the Central Coast Water Quality Preservation, Inc. Cooperative Monitoring Program purposefully focuses on problem surface waters. In general, it does not characterize high quality waters. Hence, it is not truly representative of waters in the region, but rather, only impaired waters.

§ 354.34 Monitoring Network

Note: Everything hinges on quantitative values of the minimum thresholds and measurable objectives for the basin. Yet, with so many existing data gaps and challenges to fill data gaps, how reliable and credible will any quantitative values be? How grounded in reality?

(a)(2) It would be beneficial to divide this subsection further. (2)(A) currently reads “Identify impacts to the beneficial uses or users of groundwater”. (2)(B) adds new language “Identify and quantify beneficial uses to groundwater, including the value of the ecosystem services, the externalized costs of protecting and/or supporting those beneficial uses.”

§ 355.10 Resolution of Conflicts by Department (d) – Quite simply, all a special interest group would have to do is refuse to agree to resolve disputes to cause a GSP to be deemed inadequate. There needs to be measures of controls built into the regulation or this provision will be misused.

§ 356.4 Annual Report (b)(4)

What is involved in an Agricultural Water Management Plan? Will data collected also include transpiration of groundwater from mandated and unmanaged riparian habitat and other conservation practices? Is this a regulatory requirement inherent to plans in other areas of the state?

§ 357.2. Interbasin Agreements

The draft notes that “two or more Agencies may enter into an interbasin agreement to establish compatible goals and understandings regarding fundamental elements of the Plans of each Agency as they relate to sustainable groundwater management. Interbasin agreements should facilitate the exchange of technical information between Agencies and include a process to resolve disputes concerning the interpretation of that information.”

It is reasonable to expect that one or more interbasin agreement could occur in many areas of the state. How might the Department handle a situation in which one agency works in good faith to meet the objectives listed here (i.e. common understanding, measurable criteria, conflict resolution) and the other doesn't? Or, what if, due to conflicts within an agency, there is no agreement on procedures, while the neighbor agency doesn't have such challenges? What is the neighbor agency's opportunity to ensure that their actions and activities aren't hampered if their neighbor agency is unable or unwilling to work collaboratively?

Thank you for the opportunity to comment on this plan. We encourage you to take these comments into consideration and allow for second draft review before finalizing the final regulation. The rules you set today will have ramifications for generations to come; they deserve more time for thoughtful analysis and consideration by stakeholders.

Sincerely,



Abby Taylor-Silva
Grower-Shipper Association of Central California