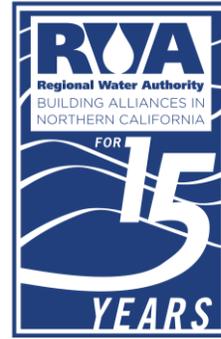




**NCWA**  
Northern California Water Association



March 31, 2016

California Department of Water Resources  
Attn: Lauren Bisnett, Public Affairs Office  
P.O. Box 942836  
Sacramento, California 94236  
Sent via e-mail to: [SGMPS@water.ca.gov](mailto:SGMPS@water.ca.gov)

**Subject: Sacramento Valley Comments--Draft GSP Emergency Regulations**

Dear Ms. Bisnett:

The Northern California Water Association (NCWA) and Regional Water Authority (RWA) offer the following comments on the draft Groundwater Sustainability Plan Regulations (Regulations).

The Department of Water Resources (DWR) will be receiving various detailed comments from Sacramento Valley entities and their representatives in both the urban and rural areas. We strongly encourage you to review these detailed comments and include their recommendations in your next version of regulations. This letter is intended to provide some context for these other comments by providing a very broad perspective on the Sacramento River Hydrologic Region (hereafter “Sacramento Valley”) and how we believe DWR can best approach the Sustainable Groundwater Management Act (SGMA) process for this region over the next decade. Our mutual goal is to assure that the regulations better reflect the purposes of SGMA and more effectively facilitate the local development of Groundwater Sustainability Plans (Plans), with the ultimate goal of sustainably managed groundwater basins in the Sacramento Valley and other parts of the state.

**The Setting – Sustainable Water Management in the Sacramento Valley**

The Sacramento Valley does not have critically over-drafted basins and the groundwater resources are currently sustainable throughout the Sacramento Valley. (See the attached January 2016 final map prepared by DWR and the supporting information in California’s Groundwater Update 2013.) In many parts of the Sacramento Valley, conjunctive management of the surface and groundwater resources has been instrumental in “sustainable groundwater management” and is an integral part of serving water for multiple beneficial uses in the region for cities and rural communities, farms, fish, birds and recreation. In this spirit, water resources managers and the Groundwater Sustainability Agencies (GSA) will continue their concerted efforts to manage water resources to avoid “undesirable results” to the groundwater resources in the region. It is

important that DWR, when considering sustainability in the regulations, recognize the unique dynamic in the Sacramento Valley and facilitate these important local efforts.

Additionally, the Sacramento Valley has a strong record of local agencies working well together, including both special districts and counties, toward a common objective to advance sound groundwater management and preserve the groundwater resources for future generations. It is critical that the regulations foster these working relationships that will be essential for the successful implementation of SGMA.

## **The Regulations Should Defer to Effective Local Management**

In enacting SGMA in 2014, the Legislature declared the over-arching theme that groundwater resources are “most effectively” managed at the local or regional level. California is a vast and diverse state. We thus appreciate DWR’s commitment to preserve the role of local agencies as the primary managers of California’s groundwater basins under SGMA. The unique geographic, geologic, and hydrologic conditions of each groundwater basin require that local and regional agencies have a variety of options at their disposal to best manage their surface and groundwater resources.

Unfortunately, defining the content and standards for plans across vastly different basins in California has resulted in the regulations becoming a listing of everything that could be needed in any basin, rather than what is needed in each specific basin to define and address any problems. By human nature, in drafting regulations they have become more specific and prescriptive as they are further developed. We encourage DWR to step back in this process, to recognize this dynamic, and provide a cogent regulatory framework that will help local agencies succeed with their plans. For example, while the regulations acknowledge that local flexibility is paramount to the achievement of statewide basin sustainability goals, certain sections should more clearly express that statutory directive and clarify that DWR’s evaluation of plans will ultimately be guided by the overarching goal to achieve sustainability at the local level.

We also recommend that DWR acknowledge in the general principles of the regulations that it will defer to the judgment and expertise of local GSAs regarding appropriate basin criteria. Where a GSA has clearly failed to demonstrate good faith efforts, only then would more stringent requirements be appropriate.

## **“Substantial Compliance” is the Cornerstone for Sustainable Groundwater Management**

We strongly support the concept of “substantial compliance” suggested in the regulations in the context of “Criteria for Plan Evaluation” in Article 6 (§355.4). For SGMA to be effectively and efficiently implemented, the discretion of local agencies and DWR must be a fundamental part of the development and evaluation of plans. The concept of “substantial compliance” in the draft regulations will highlight and strengthen this concept, which will both improve implementation of SGMA and support wider acceptance of the regulations. As each high- and medium-priority basin has its own unique characteristics, not all information or the same level of detail will be needed in all basins.

This is particularly true in the Sacramento Valley where water resources are sustainably managed and there is a concerted effort to achieve the sustainability objectives. Here, substantial compliance as a standard for evaluation helps connect the standards and requirements of the regulations as they are applied in locally unique basin conditions and management priorities. A more complete definition of “substantial compliance” will provide for better groundwater management and it will avoid many of the concerns about the overly prescriptive regulations. We suggest that the regulation be amended to include a definition of “substantial compliance” (§351) in Article 2, and a new narrative description of this standard as a general principle in Article 1 (§350.2). We also proposed adding related language in Article 1 clarifying that GSAs are able to exercise discretion regarding required plan provisions and coordination agreements based on findings of substantial evidence related to achieving the sustainability goal of SGMA.

## **Align the Regulations with SGMA**

The draft regulations over-reach in places, are too prescriptive at times, and certain sections seem to be structured to uniformly manage groundwater basins from a “top down” state level instead of from the local level. Many of these prescriptive requirements appear to be intended to drive local GSAs to prepare one plan per basin, which is not effective in many areas, is counter to local management and politics, and was explicitly rejected during the legislative process that resulted in SGMA.

Although we recognize the need for the regulations to prescribe certain consistent standards which can assist in plan preparation and review, the detailed comments from the Sacramento Valley have identified many provisions that are unnecessarily restrictive. We will not repeat these detailed comments here, but we urge DWR to fully review these detailed comments in this light.

Additionally, in certain areas, the regulations create standards that go beyond what SGMA requires. DWR should clearly identify the purpose and need for any element of plan content that exceeds a strict reading of the statute. For instance, requirements for “contingency projects and actions” proposed in the regulations are unnecessary and start with the presumption that a plan will fail. Under the SGMA framework, GSAs must be allowed to modify and adapt projects based on changing local conditions and needs.

We look forward to working with local agencies and DWR in successfully implementing SGMA and sustainably managing the water resources in the Sacramento Valley for multiple beneficial purposes.

Sincerely yours,



David Guy  
President  
Northern California Water Association



John Woodling  
Executive Director  
Regional Water Authority

cc: Director Cowin

# Critically Overdrafted Groundwater Basins – January 2016

