

April 1, 2016

California Department of Water Resources  
Attn: Lauren Bisnett, Draft GSP Emergency Regulations Public Comment  
PO Box 942836  
Sacramento, California 94236

**Subject: Draft GSP Emergency Regulations Public Comment**

Dear Ms. Bisnett:

On behalf of the Mendota Pool Group (MPG), this letter transmits comments regarding the Draft Emergency Regulations For Groundwater Sustainability Plans and Alternatives (**Draft Regulations**) for implementation of the Sustainable Groundwater Management Act (**SGMA**) released for public comment by the California Department of Water Resources (**DWR**) on February 18, 2016.

The MPG is an association of farmers who farm within the Delta Mendota Subbasin near Mendota, California and also in Westlands Water District. Generally, the MPG is of the opinion that the Draft Regulations do not accurately represent the Legislative intent, spirit and the letter of SGMA in that the process is migrating away from local groundwater control towards centralized control and without regard to the cost of implementation. In this regard, the Draft Regulations suffer from the same shortcomings as the Federal Endangered Species Act, that is, requiring the best available science, without regard to cost and economic impact. The requirements set forth in the Draft Regulations are not "minimum standards" but read like a "wish list" of hydrologic data far exceeding what is needed to achieve sustainability. The costs of drafting a GSP per the Draft Regulations will be extremely high and impossible to finance for cash-strapped areas with a high percentage of agricultural development and a number of disadvantaged communities.

The MPG's comments are presented in more detail below.

1. The clear intent of SGMA is to encourage, support, and to rely on local control of the GSP process.<sup>1</sup> Given the significant diversity of groundwater subbasins/basins within the state, and the diversity and unique hydrogeologic conditions within the subbasins/basins themselves, sustainability planning and implementation are much more effectively accomplished by the local water users with minimal hindrance from outside interests.

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<sup>1</sup> The Legislature expressly declared that "Groundwater resources are most effectively managed at the local or regional level." (Stats 2014 ch 346, Section 1(a)(6).) One of the principal purposes of SGMA is "To enhance local management of groundwater. . . ." (Water Code, § 10720.1(b).)

The local entities know the hydrogeology, the history of groundwater development and water use in their area, likely future land use development in the area, and they have a vested interest in achieving groundwater sustainability.

The Draft Regulations as written contradict SGMA and the entire notion of local design and implementation of sustainability development in the following ways:

- Establishes a Coordinating Agency to represent the entire subbasin/basin. This inserts a new structure and level of hierarchy and further removes the GSA from its local control mandate. The Coordinating Agency is to submit a Coordinated GSP for the entire subbasin/basin which may or may not reflect the interests and needs of portions of the subbasins/basins; i.e., this GSP process is likely to result in a “haves” vs. the “have-nots” dynamic, contrary to the emphasis of inclusivity written into SGMA.
  - Dictates a “one size fits all” GSP. Rather than guidance, the draft regulations are clear in their strict and unwavering requirements for a vast amount of data collection, monitoring, historical reconstruction and future predictions, modeling, and objectives. Local GSAs should be allowed more flexibility in developing their plan so that it is based on conditions on the ground and the limited financial resources of the area can be directed towards those strategies that get the most bang for the buck.
2. The term "basin" is defined in Water Code section 10721(b) to mean a "groundwater basin or subbasin . . ." Because the term basin is defined in the conjunctive, use of the term in the Draft Regulations leads to ambiguity. For example, section 354.18 of the Draft Regulations would require the Plan to "include a water budget for the basin." It is unclear whether a Plan requires a water budget for the entire basin, or only the subbasin. Section 354.14 likewise requires a conceptual model for the "basin" creating an ambiguity as to whether a conceptual model is required for the entire basin, or only the subbasin. This ambiguity is prevalent throughout the Draft Regulations.
  3. Section 354.18 of the Draft Regulations, subdivision (b)(3)(A) requires that in developing the projected hydrology the Plan must "utilize 50 years of historical precipitation, evapotranspiration, and streamflow information as the baseline hydrology . . ." The 50-year requirement is arbitrary and not scientifically based. First, 50-years of quality data may not be available or may be cost prohibitive to obtain. Second, the professional preparing the water budget should be looking to identify a representative period of hydrologic cycles, which may be greater than or less than 50 years. For example, if 50-years of data include three dry cycles and only two wet cycles, the resulting projected hydrology will be underestimated. The Draft Regulations should, consistent with the mandate of Water Code section 10720.1(c), set "minimum standards for sustainable groundwater management" rather than dictate scientific methodology to the scientists.

We suggest that Section 354.18 be revised to include either a minimum benchmark such as "at least 20 years" or "a sufficient number of years of data to develop reliable baseline hydrology."

4. The costs of developing the GSP per the requirements set forth in the draft regulations will be extremely burdensome to many subbasins/basins and portions of these basins. Attendees at the public workshops have quoted cost estimates exceeding \$3,000,000 for a single GSP. Given the recent drought, lack of water deliveries south of the Delta, and rising costs of compliance with other legislative mandates, there is little chance many GSAs, especially whose areas are a mix of rural environments and agricultural-based and disadvantaged communities, can afford such costs - costs that could be better utilized towards actual sustainability projects rather than paper studies. We request that the Draft Regulations set forth only "minimum standards" and provide a mechanism to balance the need for groundwater sustainability and never ending thirst for data with economic sustainability.
5. The MPG requests that the deadlines be revised and relaxed. First, the deadline for the GSA formation should be extended by at least one year - to June 2018. Some of the subbasins/basins cover very large areas with many and varied water use interests. For example, the Delta Mendota Subbasin itself spans four counties, innumerable water districts, and several municipalities. It is going to take time to develop a governance structure for the entire subbasin that fairly represents its diversity, is truly collaborative, and is robust.

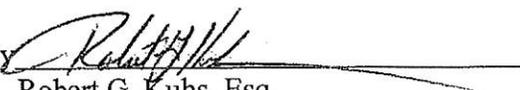
Second, the MPG requests that the deadlines for submittal of the GSP be extended by two years to 2022 and 2024. As stated in this letter, a GSP as prescribed in the draft regulations is going to be costly, involve many different parties, and will require time for collaboration and feedback. The additional time to prepare the GSP will enable GSAs more time to generate the funds for the work and to address the many competing interests in their subbasin/basin.

Third, the MPG requests that once DWR has revised the Draft Regulations in response to public comment, the public be provided with an additional 90 days to review and respond to the revised regulations.

Thank you for the opportunity to comment on the Draft Regulations.

Sincerely yours,

By   
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Agent, Mendota Pool Group

By   
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Owner, Kuhs & Parker