March 31, 2016

Ms. Lauren Bisnett
Public Affairs Office
California Department of Water Resources
P.O. Box 94836
Sacramento, CA 94236

RE: COMMENT LETTER – SUSTAINABLE GROUNDWATER MANAGEMENT ACT DRAFT EMERGENCY REGULATIONS FOR GROUNDWATER SUSTAINABILITY PLANS AND ALTERNATIVES

Dear Ms. Bisnett:

Thank you for the opportunity to submit comments on the California Department of Water Resources' (DWR or the Department) Sustainable Groundwater Management Act draft Emergency Regulations for Groundwater Sustainability Plans and Alternatives (draft Regulations). We appreciate the time extension of the initial review period. The additional timeline has allowed us to better evaluate the impacts these draft regulations may have upon our agencies.

This letter is submitted from the Western Placer Groundwater partners (WPGw Partners) which includes Placer County, the Cities of Roseville and Lincoln, Placer County Water Agency, and the California American Water Company. This letter presents our primary concerns with the draft Regulations as well as more detailed technical comments and concerns on some sections within the draft Regulations. (Attachment A).

Overall, the draft Regulations are well conceived and written. We support the statewide goal of sustainably managed groundwater basins and recognize its importance as a foundation to a sustainable water supply. We recognize the challenges faced by the Department in crafting balanced regulations and the need for prescription in order to acquire pertinent details for each basin statewide. We also note that the draft Regulations will require considerable effort regardless of basin health to be completed in the format required. More specifically, the draft Regulations do not recognize existing agency efforts and investments in effectively managing local groundwater resources. There is no relief from the level of effort by those existing management agencies whose basins are stable. We respectfully request that DWR create regulations that allow for less levels of effort if the basin has been managed sustainably over the last 10 years.

We request a tiered approach be considered as follows:

1) Minimum GSP Level: For Groundwater Sustainability Agencies (GSAs) where the groundwater levels have remained stable in 90 percent of the CASGEM wells over the last 10 years (2004 through 2014).

2) Moderate GSP Level: For GSAs where groundwater levels have been stable 2004 to 2010 then declined through the drought (2010 through 2014).

3) Full GSP Level: For GSAs where groundwater levels declined through the entire 10-year period (2004 through 2014).

The WPGw Partners have been actively implementing its groundwater management plan for over 10 years. This has included significant investments in monitoring well construction, groundwater level monitoring and sampling and basin modeling. Results of our groundwater management activities indicate that our basin is balanced and sustainable. Even with the significant efforts that have taken place, we anticipate the costs to develop the required GSP will cost between $1.3 million and $2.0 million, depending on the need to replace existing monitoring wells (see comment 7 in Attachment A). We question DWRs regulations that require such additional significant investment in a basin that is currently stable.

As you are aware, water agency revenues have taken a significant hit as a result of the historic statewide drought we have experienced the past three years. Water agencies across this state have struggled in balancing revenues and expenses due to the drought. Agencies have had to raise rates or draw upon rate stabilization funds to offset lost revenue. At this time, it is too early to know if we are out of this historic drought and might be able to anticipate some level of increased revenue. The Department must give some consideration to the costs agencies will incur as a result of these regulations and their ability to raise necessary funds. A tiered approach that acknowledges stable basins and agencies that have been doing the right thing would help to address this issue,

We respectfully request the Department revise the draft Regulations to allow for a tiered approach to compliance. We further offer the following comments.

- *The regulations must be streamlined with focus placed on what is absolutely necessary to monitor and protect groundwater resources and phased-in over time.*

- *The regulations should be aligned with and not in excess of that which was envisioned within the Sustainable Groundwater Management Act.*

- *Unnecessary cost intensive studies and reporting requirements must be eliminated.*

- *The Department must evaluate opportunities where the state can collect and provide data to ensure consistency.*

- *The draft Regulations must be drafted in clear and consistent language without ambiguity.*

- *The draft Regulations should include an economic analysis that recognizes the costs that agencies must bear in the implementation process.*

The West Placer Groundwater Management partners further supports and joins in comments sent separately by the:

- Association of California Water Agencies (ACWA)

- Sacramento Groundwater Authority (SGA)

Your consideration of our comments is greatly appreciated.

Sincerely,

David Boesch
County Executive Officer
Placer County

Richard D. Plecker, P.E.
Environmental Utilities Director
City of Roseville

Jennifer Hanson
Public Services Director
City of Lincoln

R. Brent Smith, P.E.
Director of Technical Services
Placer County Water Agency

ATTACHMENTS

A: Technical Comments

cc: Placer County Board of Supervisors
Roseville City Council
Lincoln City Council
Placer County Water Agency Board of Directors

General			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
1	Tiered GSP Approach		There is no relief from the level of effort by those existing management agencies whose basins are stable. We would suggest DWR (the Department) consider creating the regulations in a similar format as the Basin Boundary Modifications regulations that could allow for less levels of effort due to the considerations if the basin has been managed sustainably over the last 10 years. A tiered approach that could be considered with the following classifications: 1) If within the last 10 years (2004 through 2014) in that if the groundwater levels have remained stable in 90 percent of the CASGEM wells then very little GSP requirements 2) If stable 2004 to 2010 then decline of groundwater levels through the drought 2010 to 2014 then a moderate GSP level requirements 3) If groundwater levels decline through the entire 10-year period then a full GSP would be required

Article 1: Introductory Provisions			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
2	No Comments		

Article 2: Definitions			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
3	Definition Needed		Add definition of "Thresholds"
4	Annual Report	Section 351(d). Definitions	"Annual report" refers to the report required by Water Code Section 10728. "Annual" is used in several places within the regulation that contradicts water year. Word search the document to remove these conflicts.
5	Coordinating Agency	Section 351(i). Definitions	A new term is being introduced "Coordinating Agency," which refers to an agency that represents two or more agencies in a basin and is the sole point of contact with the Department. In Section 357.4 the term Submitting Agency is used instead. Revise to make consistent.
6	Add New Definition of Degraded Water Quality	Section 351(ad). Definitions	Provides a definition of "Seawater intrusion" as the advancement of seawater into a groundwater supply that results in degradation of water quality in the basin from any source. In Western Placer County this could mean old seawater contained in the sediments below our base of fresh water, i.e., Ione Formation However previous discussions with staff from the State Water Resources Control Board (SWRCB) revealed their definition was different in that invasion from below of old sea water was a degradation of water quality, not seawater intrusion. Consistency is needed between the Department and SWRCB definitions. We recommend adding a definition for Degraded Water Quality.

Article 3: Technical and Reporting Standards			
Comment #	**Permit Element/Issue/Concern**	**Location in Draft Permit**	**Comment**
7	Monitoring Well Standards	Section 352.6(b)(3). Data and Reporting Standards	"Wells used to monitor groundwater conditions shall be constructed according to standards described in DWR Bulletin 74-90. The inference, which is later confirmed, is that if an existing well does not meet these construction standards then it will need to be replaced within five years of Adoption of the Plan. The costly outcome of this requirement is not commensurate with the state of condition and needs of stable basins. These monitoring well requirements should be triggered by distressed conditions to avoid unnecessary expenditure of public money in stable basins.
8	Data Management System	Section 352.8, Data Management and Recordkeeping	"Each Agency shall develop and implement a coordinated data management system that is capable of storing, maintaining, and reporting all relevant information related to development or implementation of the Plan." We request the Department provide a data management system that can be used as a standard approach to reduce costs. The data management system should likely be web-based program with the ability to assign secured access.

Article 4: Procedures			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
9	Plan Notification	Section 353.6 (a). Initial Notification	"Each Agency shall notify the Department, in writing, within 30 days of an Agency's decision to develop a Plan." If all GSAs are required to develop a plan, why is this notification required? Recommend deleting requirement.
10	No Time Line for Public Comments	Section 353.8 (a). Public Comment	There is no timeline for the department's acceptance of public comments and no opportunity provided for the GSA to receive, review or comment on the same. It should also be noted that before the GSA submits its plan, it has already undertaken significant public outreach. This provision appears to be duplicative. If the department wishes to retain this provision, it should be clarified in the regulations what the time frame is for such public comment and the time frame provided to the GSA to review and comment on those public comments received by the department.
11	No Criteria for Consideration of Public Comments	Section 353.8 (e). Public Comment	This provision authorizes the department to "consider comments as part of its evaluation of a Plan". We recognize the difficulty in establishing criteria as to which comments the department would consider and why, how such consideration will occur and the time frame by when the GSA may first seek to clarify or resolve any such comments, or what weight would be given to such comments in the department's evaluation. Therefore we request the Department include a process whereby a GSA can petition reconsideration if it is felt that the Department has based a decision on a public comment that the agency feels is without merit.
12	No Criteria for Consideration of Public Comments	Section 353.8 (f). Public Comment	See comment above.

Article 5: Plan Contents			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
13	Duplication of Effort	Subarticle 1 Administrative Information, Section 354.6 (d). Agency Information	By the time the proposed GSP is submitted, the department has acted on the formation of the GSA. Why is this information required again? A simple statement in the GSP as to the GSA formation and its formation document should suffice.
14	Extent of Financial Analysis	Subarticle 1 Administrative Information, Section 354.6 (e), Agency Information	While it is appropriate for the GSP to include a statement of revenues and costs, we don't think it appropriate for this to be a separate requirement and related to "agency information". Suggest (e) be deleted and add a provision within the contents of the plan regulations that requires a *general* discussion of projected costs and revenue needs to implement the GSP. The level of discussion should be sufficient to establish the ability of the GSP to be implemented and achieve goals but not so detailed as suggested in (e), which detail is akin to the financial information needed to apply for a line of credit.

Article 5: Plan Contents			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
15	Plan Development Dependent on GSP or Others	Subarticle 1 Administrative Information, Section 354.8(g)(8), Description of Plan Area	The draft regulations state, "How implementation of existing land use plans outside the basin, including a description of how implementation of those land use plans could affect the ability of the Agency to achieve sustainable groundwater management, for any area the Agency determines to be linked to the hydrology of the basin governed by the Plan." This makes completion of the GSP dependent upon other managing agencies to complete their GSPs and share them and to use their forecasted values of future demand. Since baseline conditions were defined as being those conditions as of January 1, 2015, it mandates the adjacent basins maintain those conditions, therefore this condition is not needed. We recommend this requirement be deleted.
16	Definition Needed	Subarticle 2, Basin Setting, Section 354.14(a), Hydrogeologic Conceptual Model	The Department requires "The definable bottom of the basin." DWR needs to provide clarification or a definition, is this the base-of-fresh water, consolidated marine, or bedrock contact.

Article 5: Plan Contents			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
17	Geologic Sections	Subarticle 2, Basin Setting, Section 354.14(a)(3), Hydrogeologic Conceptual Model	"The hydrogeologic conceptual model shall be represented graphically by at least two scaled cross sections, approximately perpendicular to one another and extending the length and width of the basin that displays the information required by this section." This should be expanded to require geologic sections along each inflow and outflow area and coordinated with adjacent Agencies.
18	Groundwater in Storage	Subarticle 2, Basin Setting, Section 354.18(a)(5), Water Budget	"(a) The water budget shall quantify the following. (5) The change in the annual volume of groundwater in storage between seasonal high conditions." The seasonal high change in storage is not comparable to the water budgets calculated for a water year. The change in storage is used to calibrate the water budget. Modify the text to "(5) The change in the ~~annual~~ volume of groundwater in storage from the start and end of each water year ~~between seasonal high conditions~~."

Article 5: Plan Contents			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
19	GSA Coordination Issue	Subarticle 2, Basin Setting, Section 354.18(b)(2)(A) and (B), Water Budget	(Underline added for emphasis) The act states "(A) A quantitative evaluation of the historic water budget surface water supply reliability as a functions of historical planned versus actual annual surface water deliveries by water year type and based on the most recent ten years of surface water supply information. " The Act requires adjacent GSAs to use the same data to develop GSPs. It is not specific to time frames, as delay in the development of the GSP could allow the end of the period to vary between 2017 and 2022. This creates potential conflict with having to use "same" data as adjacent basins with those GSA's that delay preparation of a GSP not allowing those more proactive GSAs to complete their plans earlier. Please consider how this section could be altered to prevent delay in preparation.
20	50-Year Baseline Hydrology is Inappropriate	Subarticle 2, Basin Setting, Section 354.18(b)(3)(a), Hydrology	Projected hydrology shall utilize 50 years of historic precipitation, evapotranspiration, and streamflow information as the baseline hydrology over the planning and implementation horizon, while evaluating scenarios of future hydrologic uncertainty associated with projections of climate change and sea level rise." Why 50-years? State climatologist designed 1998 through 2009 as the base year to select critically over-drafted basins. Use of 50-year period is going to result in wetter conditions and too much supply.
21	50-Year Forecast of Projected Water Demand and land use is Inappropriate	Subarticle 2, Basin Setting, Section 354.18(b)(3)(b), Hydrology	"Projected water demand shall utilize... with projections of local land use planning, future population growth, and climate change." The local land use plans do not forecast land use and growth for 50 years. Reduce the forecast period to coincide with these local plans or provide instructions how to forecast the remaining years not covered by these local plans.

Article 5: Plan Contents			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
22	Land Subsidannce Thresholds	Subarticle 3, Sustainable Management Criteria, Section 354.28(b)(5)(A), Land Subsidance	"The minimum threshold for land subsidence shall be the rate of subsidence that substantially interferes with surface land uses...." This is a huge and significant effort on part of the Agency as well as unfunded time from those agencies such as CalTrans, Bureau of Reclamation (CVP facilities), DWR (SWP facilities) and flood control agencies that would be required to provide input. DWR should coordinate with such agencies to provide stated criteria rather than them responding to over 127 requests.
23	Add reference to RWQCB and DTSC	Subarticle 3, Sustainable Management Criteria, Section 354.28(b)(4), Degraded Water Quality	.Add additional words as follows "...or a location of an isocontour that exceeds concentrations of constituents determined by regulatory agencies and by the Agency to be of concern for the basin."
24	Clarification of Monitoring Sites	Subarticle 4, Monitoring Networks, Section 354.34(e)(3), Monitoring Network	The Plan shall describe the following information about the monitoring network:... For each critical parameter, the quantitative values for the minimum threshold, measurable objective, and interim milestones for each monitoring site." Delete "each monitoring site" and replace with "representative monitoring sites as designated in Section 354.36." Otherwise volume of data could be significant as the monitoring network is typically larger than just key wells or points.

Article 5: Plan Contents			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
25	Language Conflicts Regarding Source of Land Subsidance Data	Subarticle 4, Monitoring Networks, Section 354.34(h)(5), Monitoring Network	"The monitoring network shall be capable of identifying the rate and spatial distribution of land subsidence, which may be measured by extensometers, GPS surveying, remote sensing technology, or other method approved by the Department." This conflicts with Section 354.16.e that states "The extent, cumulative total, and annual rate of land subsidence, including maps depicting total subsidence. Each Agency shall utilize data available from the Department, as specified in Section 353.2, or the best available information." Section 353.2.b states "Information provided by the Department pursuant to this Subchapter shall be provided on the Department's Internet Web site." We request DWR provide subsidence information on a statewide level to reduce costs.
26	Add Language to Ensure Agencies are not Deemed in Non-Compliance	Subarticle 4 Monitoring Networks, Section 354.38(c), Assessment and Improvement of Monitoring Network	The draft regulations state "Each Agency shall describe steps that will be taken to fill any data gaps within the first five years of implementation of the Plan or before the next five-year assessment, including the location and purpose of newly added or installed monitoring sites." As the Department is aware, development of a high quality monitoring network from concept to construction, especially when it involves land acquisition, cannot be fully predicted and therefore should not be compliance based. Add to the end of Section 354.38.c. "Not fully implementing these steps does not deem the Initial Adopted Plan to be inadequate or that the Agency is not in compliance."

Article 5: Plan Contents			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
27	Use of the Word "Projects"	Subarticle 5, Projects and Management Actions, Section 354.44 Projects and Management Actions	We are somewhat concerned from a CEQA perspective with the use of the word "projects". While the GSP is not subject to CEQA review per statute, the mention of future "projects" could be construed to be subject to CEQA. The last thing any of the GSA's need is a CEQA challenge of piece-mealing by identifying "projects" but then not analyzing the same when the GSP is adopted. While 354.44(a)2) calls for a "summary of permitting and regulatory process" this may only beg the question as to why such anticipated future projects are not analyzed under CEQA. Suggest the term "project" be deleted.

Article 6: Evaluation and Assessment			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
28	Public Comment Period	Section 355.2 (c), Department Review of Initial Adopted Plan	It should be noted that Section 353.8 does not include a timeframe for accepting public comments (see comment on 353.8). Additionally, the "no less than 60 days" leaves open an undefined period of time for public comment. This is not acceptable. 60 days is a standard timeframe for public comment particularly considering the public outreach that will be undertaken by the GSA prior to submittal of a GSP. Suggest this be changed to "a maximum 60 days".
29	Corrective Actions	Section 355.2 (f)(2), Department Review of Initial Adopted Plan	After taking 2 years to review the Initial Adopted plan, the Department should provide an interim "meet and confer" with the GSA to ascertain whether the GSA has taken corrective actions on its own. In addition, there should be an allowance for additional time beyond 180 days if the GSA can establish that corrective actions will take longer. Additionally, there is no provision in section 355.2 to address the process and timeframe for the Department's review and sign-off of corrective actions. This needs to be added.
30	Add language	Section 355.4(a)(3), Criteria for Plan Evaluation	Add to the sentence as shown in red "The Plan covers the entire basin or GSA defined area."

Article 6: Evaluation and Assessment			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
31	Public Comments	Section 355.4(b)(10), Criteria for Plan Evaluation	Just because a public comment claims "impacts were not adequately considered" doesn't mean the comment is correct. Nor does it mean the comment is fact versus opinion. The Department should base its decision on verifiable information and facts. A public comment might provide this but as currently drafted this provision has no such filter and implies that a public comment that asserts this without any basis in fact or evidence will be considered by the Department as a reason to reject the plan.
32	Plan Evaluation Criteria	Section 355.4(b)(11), Criteria for Plan Evaluation	We have not seen anything in the legislation that would require this. In addition, how is this going to be determined? We recommend deleting this section.
33	Lack of Appeal Process	Section 355.8, Consultation with Board	A provision should be added that allows a GSA to appeal a determination of inadequacy prior to consultation with the Board.
34	Inter-Basin Resolution Process and Timeline not Outlined	Section 355.10(b), Resolution of Conflicts by Department	If the Department is going to resolve these disputes, the process and timeline for the same need to be included. Alternatively, suggest a provision be added for dispute resolution.

Article 6: Evaluation and Assessment			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
35	Proprietary Data	Section 355.10(c), Resolution of Conflicts by Department	This section needs to include a provision for protection against disclosure as a public record under the Public Records Act for any "proprietary data" that it requires from a GSA.
36	Need for Dispute Resolution Process	Section 355.10(d), Resolution of Conflicts by Department	First, it is the Department per subsection b that is resolving the disputes not the "parties". Second, before the Department is permitted to "find the relevant Plan or Plans" "inadequate" , there needs to be a provision that allows third party dispute resolution in the event the Department can't resolve the dispute and prior to finding the plan "inadequate".

Article 7: Reports, Assessments and Amendments			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
37	Timing of First Annual Reports	Subarticle 1, Annual Reports, Section 356.2, Introduction to Reports	Annual reports should not be required until April 1st of the year the initial plan is determined adequate (or conditionally) by the Department. The way this section is currently written, the GSA is required to start submitting annual reports after it adopts the initial GSP and during the time the Department is reviewing the initial plan. It could take up to 2 years for the Department to determine whether the initial Plan is adequate. For the GSA to have to submit annual reports while the Department is reviewing the initial Adopted Plan is a waste of time and resources because until the Department determines the initial Plan is adequate, the GSA really has nothing to report.
38	Review Criteria Needed	Subarticle 1, Annual Reports, Section 356.6, Department Review of Annual Reports	There needs to be a provision to exempt submission of annual reports until the Department has determined the initial adopted Plan adequate. Otherwise, a GSA will be wasting time submitting annual reports on a plan that the Department later decides is inadequate or conditionally adequate. Additionally, as currently drafted this section would require the Department to review annual reports concurrently with its review of the initial adopted plan. This does not seem like an adequate use of Department resources. This section also needs to be revised to provide further details for annual reporting after the initial adopt plan is deemed adequate by the department, such as: (a) What is the criteria for determining the annual report is "incomplete", particularly considering Section 356.4 has no detail on what needs to be submitted? (b) The criteria upon which the Department can determine through its review of an annual report that corrective actions are necessary. This needs to be identified and added to this section.

Article 7: Reports, Assessments and Amendments			
Comment #	**Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
39	Changed Conditions	Subarticle 3, Plan Amendments, Section 356.12(d), Amendments and Modifications to Plan	This section needs to identify what "changed conditions" would allow the Department to expand its review beyond the amended portions of the Plan and what "reason to believe" is based on before the Department is permitted to expand its review beyond the scope of the amendment. At present, this subsection is too broad in scope.

Article 8: Coordination Agreements			
Comment #	**Identify Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
40	Intrabasin Agreement(s)	Section 357.4(h), Intrabasin Coordination	There needs to be recognition in this subsection that the Department cannot comment or dictate the actual terms of the agreement. Nor should the Department place itself in the position of "assuring" the "agreement is binding on all parties". That is for the parties to determine.

Article 9: Alternatives and Adjudicated Area			
Comment #	**Identify Permit Element/ Issue/ Concern**	**Location in Draft Permit**	**Comment**
41	Additional Detail Needed for Alternative Plans	Section 358.4, Alternatives to Groundwater Sustainability Plans	There is insufficient detail in this section on the criteria that the department will use to approve an alternative plan.
42	Insufficient Time	Section 358.4(b), Alternatives to Groundwater Sustainability Plans	"An alternative shall be submitted to the Department by January 1, 2017, and every five years thereafter." There is inadequate time to prepare the documentation. Recommend changing the due date to January 1, 2019 to allow time to develop submittal and also to assess recovery from drought.
43	Additional Detail Required	Section 358.6, Department Evaluation of Plan Alternatives	More detail needs to be added to this section on the process for this evaluation, whether there will be the option of a conditionally approved plan, and what the timeline is for the department to approve an alternative plan.