



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

Chris Shutes, Water Rights Advocate

1608 Francisco St., Berkeley, CA 94703

Tel: (510) 421-2405 E-mail: blancapaloma@msn.com

Web: www.calsport.org

December 18, 2013

Eric Oppenheimer
State Water Resources Control Board
Via e-mail: eric.oppenheimer@waterboards.ca.gov
Re: Comments on Draft Groundwater Workplan Concept Paper

Dear Mr. Oppenheimer:

The California Sportfishing Protection Alliance appreciates the opportunity to comment on the Draft Groundwater Workplan Concept Paper circulated by the State Water Resources Control Board on October 7, 2013.

The Draft Workplan states on page 2:

Whether implemented at the local, regional, or State level, effective groundwater management generally requires that the following key elements be in place:

1. **Sustainable thresholds** for water level drawdown and water quality for impacted, vulnerable, and high-use basins;
2. Water quality and water level **monitoring and assessment**, and data management systems, capable of determining if thresholds are being met and evaluating trends;
3. **Governance** structures with the **management** mechanisms needed to prevent impacts before they occur, clean up contamination where it has occurred, provide adequate treatment of contaminated drinking water sources, and ensure that meeting groundwater level and quality thresholds are managed over the long term;
4. **Funding** to support monitoring and governance/management actions; and
5. **Oversight and enforcement** in basins where ongoing management efforts are not protecting groundwater.

This approach to groundwater management is scalable by design because each key management element can be established and implemented at the local, regional, or State level, or through a combination thereof. The Water Boards will focus attention and assistance on high-use basins where thresholds are being exceeded.

Broadly speaking CSPA supports these five management elements.

To point 2 we would add that water quantity must be measured and the measurement must be publicly reported.

To point 5 we would caveat that the State Water Boards today lack political will to enforce laws and regulations that are already on the books. The inadequate overall level of enforcement will not be addressed by adding to a workplan without a change in the Boards' practice and culture of follow-through. There are many groundwater basins in the state that are in a condition of permanent overdraft. The Boards should define what does "oversight and enforcement" by the Boards look like for these basins today, and should define how can the Boards make improvements right away. CSPA is concerned that groundwater in many parts of California will continue to be oversubscribed just as surface water in California is oversubscribed.

On page 10 of the Draft Workplan, the State Board states:

The State Water Board, along with the Department of Water Resources and the California Department of Fish and Wildlife, can exercise, in varying degrees, constitutional and statutory authorities to protect the public trust, prevent the waste and unreasonable use of the State's water resources, and initiate actions to protect those resources. In addition to the actions suggested below, the State Water Board is soliciting input on whether these authorities should be integrated into its workplan for groundwater.

CSPA will not offer comprehensive suggestions on this matter at this time. However, CSPA would like to take this opportunity to make recommendations on how the State Water Resources Control Board's should use its authority to condition water rights permits and licenses that divert or seek to divert surface water to groundwater storage.

Surface water diverted to groundwater storage is a recognized beneficial use under §1242 of the Water Code:

The storing of water underground, including the diversion of streams and the flowing of water on lands necessary to the accomplishment of such storage, constitutes a beneficial use of water if the water so stored is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

However, the Water Code also states in §521:

The Legislature further finds and declares all of the following:

(a) Water furnished or used without any method of determination of the quantities of water used by the person to whom the water is furnished has caused, and will continue to cause, waste and unreasonable use of water, and that this waste and unreasonable use should be identified, isolated, and eliminated.

As part of its Groundwater Workplan, the State Board should develop standard and specific conditions for water rights permits and licenses that propose to divert surface water to groundwater storage. These conditions should require measurement and reporting of groundwater to which surface water is diverted, including groundwater levels and the amount of water pumped for beneficial use. These conditions in such permits and licenses should also protect groundwater levels by requiring a measurable and targeted positive groundwater balance in receiving areas where overdraft exists, and by setting standards for future groundwater withdrawals and recharge once a desired groundwater level has been achieved.

The State Board should make a finding that diversion of surface water to groundwater in areas where persistent overdraft is not corrected constitutes a waste and unreasonable use of water and an unreasonable method of diversion. The State Board should not only require a groundwater management plan to be in place in areas of overdraft to which surface water is diverted, it should require that the plan be effective in reducing overdraft and meet standards for such reduction. Where local management falls short of these standards, the State Board should require its permittee or licensee to take action to assure compliance, or else risk loss of diversion rights. The State Board should not allow jurisdictional water to gain non-jurisdictional status without an accompanying obligation to meet foundational Water Board standards.

Thank you for the opportunity to comment on the Draft Groundwater Workplan Concept Paper.

Respectfully submitted,



Chris Shutes
Water Rights Advocate
California Sportfishing Protection Alliance