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April 1, 2016

Ms. Lauren Bisnett
California Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236

Dear Ms. Bisnett:

Subject: Draft Groundwater Sustainability Plan Emergency Regulations

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to comment on the Draft Groundwater Sustainability Plan (GSP) Emergency Regulations (GSP Regulations) that will be used to assure sustainable management of groundwater basins statewide.

LADWP is the nation's largest municipal utility, and provides water to approximately 4 million people. Historically, the City of Los Angeles relied on imported water, with the Los Angeles Aqueduct as its primary source of water, supplemented by the California Aqueduct, Colorado River, as well as local ground water supplies. However, due to the critical drought conditions and climate change, groundwater supplies are depleting and its management and use has become more critical than ever. LADWP supports these GSP Regulations that will provide guidance on the use of ground water and commends the California Department of Water Resources (DWR) staff for developing these regulations that will provide a ground water management road map.

LADWP agrees that the creation of the GSP Regulations is important, and that the regulations stay on point with the intent of the Sustainable Groundwater Management Act (SGMA). LADWP believes that the regulations should support the use of effective groundwater management plans, basin management objectives, multi-agency interactive databases, and enhanced local enforcement authority, in order to empower the local managers with a menu of options without imposing a one-size-fits-all approach. In addition, LADWP strongly believes that adjudicated basins and water rights established prior to 1914, when the Water Commission Act of 1913 went into effect, be respected and remain unaffected by any resulting regulations. In particular adjudicated basins should remain under the jurisdiction of the Courts and exempt from the GSP regulations which may interfere with court decisions and operations. Adjudicated basins provide an effective and reliable framework for providing certainty

and consistent management for groundwater resources. Any efforts to modify adjudication should always be led by the Court's continuing jurisdiction. The same applies to agreements and water rights established prior to 1914, these should be exempt for similar reasons. For these reasons upon review of the GSP regulations, LADWP believes the regulations are in some instances too expansive and prescriptive and has the following comments:

Overall General Comments:

1. Guiding principles for SGMA are to empower local agencies to better manage their groundwater basins and to avoid imposing a one-size-fits-all approach to basin management. Hence, draft regulations should provide flexibility for Groundwater Sustainability Agencies (GSA) to develop and propose GSPs that meet the unique concerns of each local basin. This would enable GSA to focus their efforts towards implementing SGMA in an effective manner.
2. Consider applying a scalable approach to the design of GSP regulations. This can be achieved by defining best management practices (BMP) that are advisory. GSA can consider and select appropriate BMP that are relevant to their unique circumstances.
3. Water quality and groundwater contamination is a major concern for groundwater basins in Southern California. When evaluating water quality monitoring networks, DWR should consider the limited role and responsibility of GSA and leverage the greater enforcement capability of Federal and State regulatory agencies. Regulators can require potentially responsible parties to monitor and characterize contaminant releases into the groundwater. This water quality data can be made available for GSP implementation. GSA should not be required to shoulder the burden of installing expansive monitoring networks to fill data gaps where such monitoring should be required of other parties.
4. DWR's evaluation of GSP should generally defer to the judgment and expertise of the local GSA. It would be reasonable to request implementation of more stringent and prescriptive measures after DWR shows that a GSA has failed to address continuing conditions of unreasonable adverse impacts within its groundwater basin.
5. The draft regulations are unclear as to how GSP are to be coordinated with adjudicated areas within a common basin. Coordinating the implementation of a GSP should not supersede Court-defined rights and obligations.

- 6 DWR should allow the GSA to report on select data that is representative of the conditions that need to be managed. Annual reports to DWR should satisfy reporting requirements for overall basin conditions. GSA websites should only be required to display the annual reports; exhaustive data sets (such as monthly records) should be available to DWR and others only upon individual request. This process would be in lieu of exhaustive reporting requirements currently defined in the draft regulations.

Specific Comments:

1. Data and Reporting Standards - §352.6, page 7

Under this section reference point elevations and geographic locations are stipulated to be provided relative to NAVD88 and NAD83 data systems. Some Agencies may not have data stipulated in these two reference systems and would be required to modify all existing data to comply with these references. Agencies should be able to use existing data as long as the reference systems are nationally recognized and identified in each GSP.

LADWP recommends that this section be modified to reflect that Agencies may use existing reference point elevations and geographic location data for inclusion in the GSP and that the data systems used be identified.

2. Projects and Management Actions - §354.44 (b) Contingency Projects, page 37

The regulations stipulate that the Agencies, in preparing the GSP, provide contingency plans for each project or management action. This requirement assumes that all projects and actions are going to fail and a backup plan is necessary. The GSP is designed to be evaluated on an annual basis and for amendments to be made as the annual data is reviewed and evaluated on an ongoing basis. If the proposed projects and actions are not progressing toward sustainability, it is the responsibility of the Agency to amend the GSP with new projects or actions to move the basin toward the ultimate goal of sustainability. By requiring contingencies and back up plans to be developed up front, additional resources and time will be diverted from the primary goal. The necessary contingencies and back up plans should be developed only when it is evident that the original projects and actions are inadequate. The GSP is designed to be an adaptive process, so up front contingencies should not be required.

LADWP requests that this portion of the regulation be deleted as the intent will be maintained in the annual evaluation and potential plan amendments that these annual evaluations will generate.

3. Department Review of Initial Adopted Plan, Section 355.2 (e), page 39

This Section indicates DWR may take 2 years to respond to an initial GSP. This delayed response may delay the GSP implementation timeframe, whereas the GSA may need DWR acceptance before taking action and/or making certain investments.

LADWP recommends that this initial review process be accomplished in a 180-day time frame or less so that the GSA can move forward with the appropriate projects and actions necessary to accomplish the GSP. Otherwise, the GSP implementation timeframe should be extended, commensurate with additional response time.

4. Intrabasin Coordination, Section 357.4, page 52

The draft regulations should clarify its usage of the terms Coordinating Agency and Submitting Agency. It is unclear from the requirements that the Submitting Agency may be the same as the Coordinating Agency.

LADWP recommends that the word Submitting be replaced with Coordinating in this section to remove confusion. The term Coordinating Agency is defined already in Section 351 (i) in the definition section and seems to be synonymous with Submitting Agency

Additionally, there is no clear mechanism to determine the Submitting or Coordinating Agency in the even there is disagreement between local agencies.

5. Reporting Provisions, Section 353.4 (b), page 11

Reporting Provisions require a certification under penalty of law for information submitted to the State. This requirement should be clarified to exclude, and hold-harmless (or release liability from) Coordinating or Reporting Agencies for information collected from third parties for basin-wide reporting to the State.

LADWP recommends that the Certification Statement found in this section be amended to state that reporting agencies will be excluded or released from

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liability for third party data that is submitted to the Department. This certification should also be added to Section 357.4 for Intrabasin Coordination submittals.

6. Monitoring Network, Section 354.34 (g), page 33

Draft regulations indicate monitoring networks should comply with applicable best management practices related to construction and completion. This seems to imply that DWR may deem systems obsolete if installed prior to amended standards. This requirement should be clarified and perhaps evaluated on a case-by-case basis.

LADWP recommends that this paragraph state that all monitoring network installations that have been installed according to best management practices and standards at the time of installation are deemed acceptable for the life expectancy of that particular installation. Modifications are not necessary to historically installed networks if practices are changed or updated in the future.

In closing, LADWP appreciates the opportunity to comment and looks forward to working with DWR staff on finalizing these regulations. If you have any questions regarding these comments, please feel free to contact Ms. Katherine Rubin of the Environmental Affairs Wastewater Quality and Compliance Group at 213-367-0436.

Sincerely,



Mark J. Sedlacek
Director of Environmental Affairs

c: Mr. Gary Bardini, Deputy Director Integrated Water Management, DWR
Ms. Felicia Marcus, Board Chair, State Water Resources Control Board