FOCUSED STAKEHOLDER GROUP VERBAL AND WRITTEN COMMENTS ON THE SCOPE OF POLICY FOR PROTECTING AND IMPROVING GROUNDWATER QUALITY IN CALIFORNIA

ORGANIZED BY ISSUE

June through October 2015

(Stakeholder group that offered comment is shown in parenthesis)

The following bullet points summarize opinions and concerns expressed by the invited stakeholders, and are not intended to reflect the position of the Water Boards or staff on any issue.

Developing a Groundwater Policy

- There is a need for a broad groundwater policy addressing groundwater, not merely the subset of groundwater identified as high quality. (Ag)
- The application of a strict policy written for surface water cannot be absolutely applied to the state's groundwater, which must continue to be used for important social benefits, such as the state's agriculture. (Ag)
- Because of the extensive processes and time delays involved with promulgating a completely new groundwater program, it is most reasonable to bifurcate the approach by first advancing a policy outline for the ultimate development of a full groundwater program. (Ag)
- It will be imperative that the Groundwater Policy directly state that it will be an interpretation as to how Resolution 68-16 must be reasonably adjusted/implemented, especially with regard to the agricultural non-point source percolation of irrigation water. (Ag)
- The Groundwater Policy should recognize the goals, management activities, and contributions that will result from Sustainable Groundwater Management Act (SGMA) implementation. (Ag)
- The Groundwater Policy should be written in a way to provide additional and necessary flexibility so the Central Valley Salinity Alternatives for Long-term Sustainability (CV-SALTS) Program can be more effective. (Ag)
- The proposed Groundwater Policy appropriately recognizes that the overall statutory direction is to strive for "reasonable protection" of the state's waters. (Ag)
- The proposed Groundwater Policy will allow degradation of high-quality waters and will fail to require improvement of already degraded waters. (Enviro)
- There is no need for any move to repeal Resolution 68-16 as it applies to groundwater. (Enviro)
- There is room for a policy that improves groundwater quality in polluted areas. (Enviro)
- Antidegradation analysis should be required even where the historical record was not entirely clear. (Enviro)
- There is a need to define high quality groundwater, non-high quality groundwater, maximum benefit, assimilative capacity, and other terms to fit the Groundwater Policy. (Ag)
- Unless the state intends to prohibit discharges from much of irrigated agriculture, Antidegradation policy adjustments are necessary. (Ag)

- The Draft Groundwater Policy understands and respects the difficulties of permitting when there is high quality groundwater as well as non-high quality groundwater. (Ag)
- Clarification is needed for several terms in the Draft Groundwater policy: “net effect of improving overall groundwater quality”, “what time frame would net effects need to be shown”, “robust source reduction”, and “groundwater quality improvement”. (Ag)
- Consider adopting a Statewide Water Quality Control Policy for salt and nitrate discharges to groundwater that would establish water quality objectives for salt and nitrate that apply to groundwater. (Ag)
- The State Water Board could develop a realistic program of implementation for meeting the objectives that are part of the water quality control policy and establish realistic timeframes and expectations for achieving compliance with salt and nitrate standards in groundwater. (Ag)
- Consider providing additional direction to Regional Boards for the development of salt and nitrate management plans and programs of implementation for Water Quality Control Policies. (Ag)
- The Recycled Water Policy provisions for salt and nitrate management require an antidegradation analysis under resolution 68-16, but provide no further direction as to how such an analysis should occur when addressing large areas that include agricultural discharges. (Ag)
- Consider adopting a statewide policy that allows Regional Boards to approve exceptions to compliance with water quality objectives under certain circumstances which would provide flexibility to regulate and permit discharges, as determined appropriate, without being forced to prohibit discharges. (Ag)
- The State Water Board’s current policies were not developed with agriculture in mind, and the limitations may significantly impact agriculture’s ability to remain viable in California. (Ag)
- Waiting for a new policy is problematic. Streamline the process by providing definitions. (POTW)
- A comprehensive and detailed policy will take too long. Look at the big picture in terms of salt and nutrient management and groundwater management. (POTW)
- A less detailed policy may not address all issues. (POTW)
- Consider a resolution or policy to allow for a new interpretation for non-high quality groundwater. The resolution can include mitigation and instruct treatment. (POTW)
- Consider trade-offs as a cost saving measure for small treatment facilities/environmental justice communities. (POTW)
- The policy needs to consider the Human Right to Water. (POTW)
- Disavow precedential orders while the Board addresses 68-16. In the meantime, combine with a resolution to improve groundwater quality, provide drinking water and use BPTC while the 2-3 year policy is developed. (POTW)
- Do not want the new policy to undo the principles we ultimately want to achieve. (POTW)
- The tools in the scoping document look promising for basin-wide management and empowering larger groups to comprehensively manage basins. (POTW)
- Resolution 68-16 is very narrow in its focus. (POTW)
- Make sure that efforts in CV-SALTS are married with the new policy. (POTW)
- Do no harm in a new policy. (POTW)

- Groundwater management cannot happen with the policy as is. (POTW)
- Do not use NPDES permit strategy for enforcement. (POTW)
- Encourage comprehensive and creative approaches to address water quality issues when writing permits. (POTW)
- Consider groundwater management authorities instead of individual POTWs. Authorities have the capacity and means to address problems basin-wide. (POTW)
- If forced too soon, groundwater management authorities that are forming will fall apart. (POTW)
- Look at how other efforts in the state are being integrated in the policy at a regional level. (POTW)
- Would like same level of restrictions for all, and restrictions should not become more lax. (POTW)

Protecting Shallow and Deep Groundwater

- There is a need to define the assessment unit as narrowly as possible and to protect shallow groundwater where there are domestic and/or agricultural water supplies or where groundwater intersects surface water. (Enviro)
- The protection of shallow aquifers in the present does more than protect disadvantaged communities and domestic well users; it represents a long-term investment in protecting and improving groundwater for all. (Enviro)
- Shallow groundwater should be regulated differently than the deeper groundwater. (Ag)

Improving Groundwater Quality

- Allowing current, often degraded, water quality to stand as the new baseline in place of the 1968 baseline is inappropriate. (Enviro)
- The State Water Board should utilize water quality authority/joint powers authority, private mitigation bank, offsite project, on-site extraction and treatment, and on-site treatment or control to the fullest extent possible to ensure water quality is adequately protected, in particular for discharges to high quality waters that may have intermediate or more severe impacts. (Enviro)
- On-site or in-basin projects are most effective as other users of the affected groundwater are not helped by mitigation measures elsewhere. (Enviro)
- While all agree that salt and nitrate management can (and must) be improved, it is unknown if improvements with currently known technology will be sufficient to ensure compliance with water quality standards. (Ag)
- While agriculture needs to continue to improve practices for the benefit of water quality, permit requirements deemed to constitute source reduction and mandate specified improvements in the receiving water must be realistic and achievable. (Ag)
- It is important that any “mitigation” or “alternative compliance project” be clearly defined, and provide regulatory certainty for those individuals or groups that implement them. (Ag)

- There is a need to know what constitutes Best Practicable Treatment or Control (BPTC). (POTW)
- The water quality improvements in the scoping document deserve more discussion. (POTW)
- BPTC is not the same for everyone and has to be economically feasible. (POTW)
- Best Practicable Treatment or Control (BPTC) must be more strenuous, verified, and enforceable. (Enviro)
- Look at how the cleanup process affects other dischargers. (POTW)

Determining Assimilative Capacity

- It is important to identify and utilize groundwater assimilative capacity to avoid as much impact as possible, minimize unavoidable impacts, and as a last resort mitigate unavoidable impacts that are determined to be to the maximum benefit of the people of the State. (Ag)
- There is a need to identify how to go about maximizing the determination that there is available assimilative capacity. (Ag)
- There is a need to create a mechanism for utilizing the assimilative capacity that is available in high quality waters without conflicting with a rigid interpretation of the Antidegradation Policy. (Ag)
- It will be of primary importance to develop meaningful approaches to ascribing assimilative values to the maximum areas and maximum extent possible. (Ag)
- "Degradation of high quality waters" should be used in place of "assimilative capacity" throughout the document to ensure greater understanding, consistency, and protection of water bodies. (Enviro)
- There is no explanation as to what the buffer will look like. (Enviro)
- Any policy must focus on preventing degradation, not on consuming groundwater's assimilative capacity. (Enviro)
- The State Water Board needs to disavow previous statements that directed Regional Boards to prohibit discharges where there is no assimilative capacity and where the discharge cannot meet water quality objectives.(Ag)
- POTW and water district issues are similar to agriculture's issues, such as determining assimilative capacity and the point of compliance. (POTW)
- Define high quality and non-high quality water, and assimilative capacity. (POTW)

Discharging to High Quality Groundwater

- Protection of high-quality water from degradation is very necessary. (Enviro)
- There needs to be a very clear policy to ensure *de minimis* discharges are in fact *de minimis*. (Enviro)
- The definition of "High Quality Groundwater" as water where assimilative capacity exists now, not where it did in 1968, writes off vast portions of the state's aquifers, transforming them from high-quality to low-quality. (Enviro)
- High quality water must be defined in a way that is consistent with the 1968 baseline set forth in Resolution 68-16. (Enviro)

- There is a need to address cumulative impacts. (Enviro)
- The discussion of the various discharge threat levels remains focused on violation of the water quality objectives, not on degradation of high quality water. (Enviro)
- The low-threat category includes all discharges to high quality waters that are more than *de minimis* and somewhere short of violating water quality objectives, leaving the line between violating and not violating water quality objectives extremely important. (Enviro)
- The wide range of types of discharges that constitute a "low threat" discharge is very concerning. (Enviro)
- High threat discharges need to be subject to very rigorous analysis including full BPTC, monitoring, maximum benefit analysis, and cost-benefit analysis that includes costs to communities and the environment if degradation is allowed. (Enviro)

Discharging to Non-High Quality Groundwater

- It is prohibited under Porter-Cologne to permit discharges to non-high quality waters. (Enviro)
- There is a need to recognize and consider existing efforts to address drinking water solutions underway and look to align the goals and priorities as much as possible. (Enviro)
- When discharges are permitted in high quality and non-high quality water, they must be coupled with remediation or mitigation requirements. (Enviro)
- Challenges in regulating agriculture discharges to groundwater under the Antidegradation policy (68-16) include: 1) the policy was developed with surface water in mind (not groundwater) and 2) how regional boards are to permit discharges when receiving waters are not high-quality (should not apply). (Ag)
- The Draft Groundwater Policy realistically understands that discharges should be able to continue even if the receiving water in question is not "high quality," or in other words, there is no assimilative capacity. (Ag)
- Remove non-high quality waters from antidegradation context and create a new category. (POTW)

General Comments

- New guidance is needed to ensure consistent application of the antidegradation policy and to ensure that groundwater quality is protected and restored in an effective and timely manner. (Enviro)
- Monitoring is an essential aspect of ensuring adequate protection of water quality. (Enviro)
- The general principles for setting permit limits to ensure compliance with applicable Basin Plan water quality standards may have seemed appropriate and reasonable at the time they were established, but application of the principles broadly to agriculture and related industries can be exceedingly problematic. (Ag)
- When it comes to salts and nitrates, it may be impossible for agriculture to be permitted under these principles. (Ag)

- It may be appropriate to categorize discharges based on their potential threat to water quality. (Ag)
- Provide clarification regarding the State Water Board's permitting principles that apply to agriculture through adoption of precedential orders. (Ag)
- Salt concentrations are increasing due to water conservation measures during the drought. (POTW)
- Rate payers are paying for drinking water and wastewater treatment. Rate payers can't afford expensive treatments for both. (POTW)
- Providing basin management in a comprehensive way may not be time efficient. (POTW)
- Balance the most cost-effective solutions. (POTW)
- Consider maximum benefit to facilities at the time of permitting during times of hardships such as drought. (POTW)
- Consider water quality trading on the groundwater side to address inequality in the basin. (POTW)
- Consider highly purified recycled water in the de minimis category. Look at this at the basin level. (POTW)
- Groundwater recharge utilizes high quality recycled water. (POTW)
- Streamline the permitting process for using recycled water. (POTW)
- Monitoring via group effort will be more efficient. (Ag)