State Water Resources Control Board

Executive Office
Tam M. Doduc, Board Chair
1001 I Street • Sacramento, California • 95814 • 916.341.5615
P.O. Box 100 • Sacramento, California • 95812-0100
Fax 916.341.5621 • www.waterboards.ca.gov

Linda S. Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

May 12, 2008

Mr. John Kirlin
Executive Director
Delta Vision
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Mr. Kirlin:

STATE WATER RESOURCES CONTROL BOARD RESPONSE TO DELTA VISION ILLUSTRATIVE QUESTIONS

Thank you for the opportunity for the State Water Resources Control Board (State Water Board) to contribute information to the development of the Delta Vision strategic plan. This letter provides the response to the questions posed by the Delta Vision Task Force. Please refer to the enclosure for both the questions and our responses.

The mission of the State Water Board and the Regional Water Quality Control Boards is to preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations. We see this mission and our regulatory authority directly linked with Delta Vision's primary co-equal goals for the Delta ecosystem and a reliable water supply for California. The State Water Board is currently working with the Central Valley and San Francisco Bay Regional Boards to develop a Bay Delta Strategic Workplan in order to focus and prioritize our actions to protect the beneficial uses of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

The State Water Board applauds the work of the Delta Vision Task Force and its staff, and we look forward to further participation in your important work.

Sincerely,

Dorothy Rice

Dorothy Rice
Executive Director

Enclosure

cc: See next page

cc: Tam M. Doduc
Board Chair
State Water Resources Control Board

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Vice Chair

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Board Member

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Dorothy Rice
Executive Director

Thomas Howard
Chief Deputy Director

Victoria Whitney
Deputy Director for Water Rights

Michael Lauffer
Chief Counsel

STATE WATER RESOURCES CONTROL BOARD
RESPONSE TO DELTA VISION QUESTIONS

I. General questions to all agencies:

1. How do your department's activities contribute to achieving the co-equal values of sustaining both Delta ecosystem and water reliability functions, recognizing the California Delta as a unique and valued area warranting special legal status?

The mission of the State and Regional Water Boards is to preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations. Our mission directly supports these co-equal values.

The State Water Board (Board) is in the unique position to balance the beneficial uses of the water within the Delta watershed through its water quality and water rights functions and regulatory authority. The State and Regional Water Boards have established Water Quality Control Plans (Basin Plans) to protect the surface and ground water quality within each of California's watersheds. These Basin Plans identify the beneficial uses of the water to be protected, water quality objectives to protect those uses, and a program of implementation for achieving the water quality objectives. The State Water Board has developed a Basin Plan for the Bay-Delta and implements the objectives through its water quality and water rights activities.

Although the co-equal values of the Delta ecosystem and water reliability may compete for available water supplies, the State Water Board has the regulatory authority to balance these needs along with the needs of other public trust uses. The State Water Board also has the flexibility to reconsider its decisions in light of changed circumstances or current needs. In sum, the State Water Board contributes to achieving the co-equal goals through its water quality and water rights permitting, compliance and enforcement activities.

2. How do your department's activities contribute to achieving the remaining ten recommendations in the adopted vision?

DV3. The Delta ecosystem must function as an integral part of a healthy estuary.

Please see the State Water Board's response to general question #1.

DV4. California's water supply is limited and must be managed with significantly higher efficiency to be adequate for its future population, growing economy, and vital environment.

Please see the State Water Board's response to DV6.

DV5. The foundation for policymaking about California water resources must be the longstanding constitutional principles of "reasonable use" and "public trust," these principles are particularly important and applicable to the Delta.

Please see the State Water Board's response to agency specific question #s 1 and 3.

DV6. The goals of conservation, efficiency, and sustainable use must drive California water policies.

To promote conservation, efficiency, and sustainable use, the State Water Board has been taking the following actions:

1) Adding conditions to new water right permits to require implementation of a water conservation plan.

   When the State Water Board issues a new water right permit for larger municipal, domestic and irrigation purposes, it places standard conditions in the permit requiring the development and implementation of a water conservation plan or actions.

2) Promoting water recycling by issuing grants for research, issuing grants and loans for water recycling facilities, and establishing uniform statewide requirements for recycled water use.

   The State Water Board has issued over $640 million in loans and grants for water recycling facilities.

   The State Water Board provides grants and loans for planning and construction of water recycling facilities available through the Water Recycling Funding Program and the State Revolving Fund (SRF) Program. Currently, the State Water Board requires water conservation planning as a condition of receiving grants or loans from these two funding programs.

   The State Water Board is issuing grants for conducting research on water recycling. The purpose of this research is to evaluate public health concerns such as the risk of infection from using recycled water on edible crops and to address the economics and effective marketing of recycled water.

   To establish consistent statewide requirements for recycled water use, the State Water Board is developing a Recycled Water Policy. It is also developing a statewide general permit for landscape uses of recycled water. The policy and general permit will expedite permitting for recycled water projects and will remove uncertainty as to what regulatory requirements will apply to a recycled water project.

3) Protecting water quality through planning for and regulation of discharges from municipalities, industrial facilities, and irrigated lands.

   The Central Valley Water Board has permitting programs that establish limitations for discharges to waters that flow to the Sacramento-San Joaquin Delta. The programs include the irrigated land regulatory program, which requires monitoring of agricultural drains and actions to be taken when water quality objectives are being violated. The Central Valley Water Board is also developing a Salt Management Plan that will address the build-up of salts in groundwater basins and discharges of salts to surface waters.

   Additionally, the State Water Board is developing a Bay-Delta Strategic Workplan that has a water use efficiency element, including new activities that place the Board in a stronger role of encouraging water conservation and recycling, using its water rights and water quality regulatory authorities. The State Water Board is also working with the Department of Water

Resources and other agencies in developing a state plan to implement the Governor's goal of reducing per capita water use by 20 percent by the year 2020.

DV7. A revitalized Delta ecosystem will require reduced diversions-or changes in patterns and timing of those diversions upstream, within the Delta, and exported from the Delta-at critical times.

DV8. New facilities for conveyance and storage, and better linkage between the two, are needed to better manage California's water resources for both the estuary and exports.

The State Water Board currently regulates the surface water diversions under appropriative water rights that exist upstream of and within the Delta, including the Delta diversions by the State Water Project and Central Valley Project. The State Water Board will place requirements in new water right permits or provide changes to the requirements in existing water right permits as new water diversion facilities, levels of diversions, and timing of diversions are identified. Even without a request for a water right action, the State Water Board has the continuing authority and responsibility to evaluate existing water rights under the public trust doctrine and reasonable use doctrine. The State Water Board may initiate an action to consider changes to existing water rights under these doctrines. The State Water Board may also condition water diversions by riparian and pre-1914 water right holders upstream and within the delta under these doctrines.

The State Water Board also intends to identify and prioritize its activities to be more effective upstream and within the Delta. The State Water Board is currently working with the Central Valley and San Francisco Bay Regional Boards to develop a Bay-Delta Strategic Workplan in order to focus and prioritize our actions to protect the beneficial uses of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. In addition to the workplan, the State Water Board is working more closely with staff of the Department of Fish and Game to more effectively identify water body locations where we should focus our limited enforcement resources in order to maximize the benefit for the environment.

DV9. Major investments in the California Delta and the statewide water management system must integrate and be consistent with specific policies in this vision. In particular, these strategic investments must strengthen selected levees, improve floodplain management, and improve water circulation and quality.

DV10. The current boundaries and governance system of the Delta must be changed. It is essential to have an independent body with authority to achieve the co-equal goals of ecosystem revitalization and adequate water supply for California-while also recognizing the importance of the Delta as a unique and valued area. This body must have secure funding and the ability to approve spending, planning, and water export levels.

Please see the State Water Board's response to general question #1. If an independent body is created that has project construction or management responsibilities, its actions should be subject to the regulatory authority of the Water Boards. Any regulatory responsibilities assigned to the independent body should apply in addition to, and not a limitation on, the regulatory programs of the Water Boards. It is important to recognize the hydraulic continuity of the water systems throughout California and the fact that the Delta does not exist in isolation of that continuity. For example, water from the Trinity River, can flow through the Delta to Southern California. The State Water Board regulates the diversion and storage of water through its water rights authority for the State of California, and with this authority, is in the unique position

to ensure an adequate water supply for California. Similarly, the State Water Board regulates upstream waste discharges to surface and groundwater that may impact the water quality of the Delta. A Delta authority would not be able to achieve its goals in the Delta without the ability to regulate upstream water rights and water quality, and the State Water Board currently has this authority.

The State Water Board agrees that secure funding is critical for a Delta governance body to achieve the Delta Vision goals. The State Water Board has struggled to provide a robust water rights regulatory program. The water rights program was reduced by approximately one-third during the budget crisis of the past State Administration. We are encouraged by the present administration's acknowledgement of the importance of our regulatory programs and are grateful for more recent funding increases to support our programs.

DV11. Discouraging inappropriate urbanization of the Delta is critical both to preserve the Delta's unique character and to ensure adequate public safety.

The State Water Board does not generally engage in land use planning. However, it does specify places of water use within its water right permits and licenses, and can restrict theses places of water use in the public interest.

DV12. Institutions and policies for the Delta should be designed for resiliency and adaptation.

The State and Regional Water Boards often anticipate adaptation needs in their regulatory programs by including terms and conditions in their water quality and water right permits that vary with different physical conditions. An example are the water quality and water flow requirements the State Water Board placed in the water right permits of the State Water Project and Central Valley Project that vary with water year type.

II. Agency specific questions to the State Water Resources Control Board:

1. How does the State Water Board intend to provide for public trust resources and for ensuring that water is fairly and equitably allocated among users given that existing claimed water rights in combination with current permitted water appropriations far exceed California's average annual surface water supply?

The State Water Board has an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to prevent harm to public trust uses where feasible. In applying the public trust doctrine, the State Water Board has the power to reconsider past water allocations even if the State Water Board considered public trust impacts in its original water allocation decision. The State Water Board's decisions regarding water allocations, and any reconsideration of those allocations, are based on the particular facts before it. When dealing with cumulative impacts of multiple diversions, the State Water Board must apply the rule of priority, absent adequate justification for subverting the rule to overriding interests.

The Public Trust Doctrine

The purpose of the public trust doctrine is to protect navigation, fishing, recreation, environmental values, and fish and wildlife habitat. (*National Audubon Society v. Superior Court*

(1983) 33 Cal.3d 419, 434-435 [189 Cal.Rptr. 346] (*Audubon*).) The public trust doctrine also applies to activities that harm a fishery in non-navigable waters. (*People v. Truckee Lumber Co.* (1897) 116 Cal. 397, 399 [48 P. 374, 375]; see *California Trout, Inc. v. State Water Resources Control Board* (1989) 207 Cal.App.3d 585, 630 [255 Cal.Rptr. 184, 211].) Under the public trust doctrine, the State retains supervisory control over the navigable waters of the state and the lands underlying those waters. (*Audubon*, *supra*, at p. 445.) The public trust doctrine may be applied together with statutes to protect the environment and instream flows.

The public trust doctrine requires the State Water Board to consider the effect of the diversion or use of water on streams, lakes, or other bodies of water, and "preserve, so far as consistent with the public interest, the uses protected by the trust." (*Id.*, at p. 447.) Thus, before the State Water Board approves an appropriative water right diversion, it must consider the effect of such a diversion on public trust resources and avoid or minimize any harm to those resources where feasible. But water may be appropriated despite harm to public trust interests if the public interest in the diversion outweighs the harm to public trust values. (*Id.*, at pp. 446-47.) Like other uses of water, public trust uses must conform to the constitutional standard of reasonable use. (*Id.*, at p. 443; Cal. Const., art. X, § 2.)

Even after an appropriation has been approved, the public trust doctrine imposes a duty of continuing supervision. The public trust doctrine provides authority for the State Water Board to reconsider previous allocations of water. "[T]he state is not confined by past allocation decisions which may be incorrect in light of current knowledge or inconsistent with current needs." (*Audubon*, *supra*, at p. 447.) A person cannot acquire a vested right to appropriate water in a manner that harms public trust interests. (*Id.*, at p. 445.)

Protection of Public Trust Uses in an Overallocated Water System

The exact extent of the overallocation of the water supply in California is undetermined. The available figures are based on the "face value" of water right permits, licenses, and applications (i.e., total annual amount of authorized or requested diversions). The amount of water actually diverted or put to beneficial use in a particular year typically is only a fraction of face value. The water supply system is likely overallocated, however, because many water rights were allocated without consideration of public trust needs, or new information indicates that the conditions imposed to protect instream beneficial uses were not adequate.

In evaluating whether it is "feasible" to protect public trust values in a particular instance, the State Water Board must determine whether protection of those values, or what level of protection, is "consistent with the public interest." (*Audubon, supra*, at pp. 446-447.) This determination is based on the circumstances of each case, including the public trust values involved and the competing demands to divert water for other uses. In resolving disputes over competing uses of water, the State Water Board may consider whether there is a physical solution by which competing needs may be met and the constitutional goal of promoting maximum beneficial use of the State's water resources may be served. (See, e.g., State Water Board Decision 1631 (1994), pp. 10-11, 118 [noting that waterfowl habitat restoration may serve public trust uses while requiring a smaller commitment of water]; State Water Board Order 90-16; *City of Lodi v. East Bay Municipal Util. Dist.* (1936) 7 Cal.2d 316 [60 P.2d 439].)

When the State Water Board considers the cumulative impacts of multiple water diversions that all have similar impacts, such as low flows resulting from numerous upstream diversions, the State Water Board must implement the public trust doctrine in accordance with water right

priority unless it demonstrates that overriding considerations, such as protecting public trust values or preventing waste or unreasonable use, justify subversion of the rule of priority. (*El Dorado Irrigation Dist. v. State Water Resources Control Board* (2006) 142 Cal.App.4th 937, 944 [48 Cal.Rptr.3d 468].) Voluntary water transfers may serve to promote greater efficiency and avoid adverse economic impacts that might otherwise occur if cutbacks are imposed based solely on priority.

An important means of protecting public trust uses is through the adoption and implementation of water quality objectives. As part of this effort, the State Water Board has pursued methods of determining, on a real time basis, whether water is available for appropriation taking into consideration the flows needed to meet water quality objectives. Standard water right permit term 91 is a good example. When natural and abandoned flows are insufficient to meet water quality objectives, including objectives set to protect instream beneficial uses, water right holders subject to Term 91 must curtail their diversions. At this point Term 91 is included only in permits issued after 1965, but in combination with permit terms requiring conditions for the CVP and SWP, it goes a long way towards assuring that public trust uses are protected. Applying Term 91 or similar conditions to additional water rights would further help to convert a system that on its face might appear to substantially overallocate the available water supply into one that will limit diversions to the amount available consistent with public trust and reasonable use limitations.

2. What is the level of compliance with existing statutes under which the SWRCB and Regional Boards operate in the following areas? (a) Obtaining rights for water diversion, (b) complying with conditions of the rights (amount, timing, place of diversion, place of use, and purpose of use), and (c) water quality.

Water Rights

(a) The State Water Board dedicates a portion of its water rights enforcement resources to investigations of illegal reservoirs within targeted high resource watersheds. Through investigations in Maacama, Pescadero and Navarro River watersheds, the State Water Board has found that owners of approximately 50 percent of the reservoirs inspected were diverting water without a basis of right. Once found to be illegal, owners filed water rights for over 98 percent of these illegal facilities.

(b) During a five-year study period of its compliance inspections from 1998 to 2003, the State Water Board determined that 38 percent of inspected facilities were in violation of their water right requirements. Another 11 percent of facilities were subject to revocation or partial revocation of their water rights due to non-use of water.

Water Quality

(c) The State Water Board has published a Baseline Enforcement Report for Fiscal Year 2006-2007 that includes statistics for rates of compliance with its water quality core regulatory programs: The report can be found at http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/baseline/draft_baseline_enforcement.pdf . This report presents water quality compliance statistics for each of the nine Regional Water Quality Control Boards in California. For this response, it is appropriate to focus on compliance statistics for the Central Valley Regional Water Quality Control Board. The Sacramento and San Joaquin Rivers, along with their tributaries, drain

the major part of this region to the Delta. The following table presents a summary of facility compliance with the four major water quality programs within the Central Valley Region: the National Pollutant Discharge Elimination System (NPDES), Stormwater, Waste Discharge Requirements (WDR), and Land Disposal programs.

Program	Number of Facilities	% of Facilities in Violation	Average # of Violations/Facility in Violation
NPDES	482	11	9
Stormwater	290[1]	-	1
WDR	3803	7	8.4
Land Disposal	333	24	1.7

[1] The number of facilities for the Stormwater Program represents the number of facilities inspected during FY 2006-07, not the total number of facilities regulated within the Central Valley Region.

3. To what extent are the State Water Board's authorities and enforcement mechanisms sufficient to result in timely and substantial compliance with reasonable water use provisions?

The State Water Board has considerable authority to prevent the unreasonable use or unreasonable method of diversion of water, but certain aspects of the State Water Board's enforcement mechanisms could be improved. Improvements are needed to help prevent the unauthorized diversion of water generally, and to improve the State Water Board's ability to timely protect the beneficial uses of the State's waters (including fish and wildlife protection, navigation and the rights of authorized water users).

The California Constitution, article X, section 2, and Water Code section 100 prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water. Water Code section 275 directs the State Water Board to take all appropriate proceedings or actions to prevent waste or violations of the reasonable use standard. When approving an application to appropriate water, the State Water Board subjects water right permits and licenses to its continuing authority to protect public trust uses and to prevent waste or unreasonable use of water. The constitutional doctrine of reasonable use applies to all water users, however, regardless of basis of water right, thus serving as a limitation on every water right and every method of diversion. (*Peabody v. Vallejo* (1935) 2 Cal.2d 351, 367, 372 [40 P.2d 486].) Accordingly, the State Water Board has jurisdiction to regulate water use in accordance with article X, section 2 of the Constitution. (See *Imperial Irrigation District v. State Water Resources Control Board* (1986) 186 Cal.App.3d 1160 [231 Cal.Rptr. 283] [extending jurisdiction to pre-1914 rights].)

The State Water Board previously has exercised its authority in various proceedings to prevent waste, set requirements to prevent waste, and evaluate potentially unreasonable methods of diversion. (See, e.g., Decision 1600 [setting conservation requirements to prevent misuse of water]; Revised Decision 1644 [finding that continued diversions without actions to reduce fish loss would be an unreasonable method of diversion]; Decision 1460 [finding that diversion of nonflood flows by entity not holding appropriative water right constitutes both a waste and an unreasonable method of diversion of water]; Order 90-5 [requiring temperature control device to avoid unreasonable method of diversion].) The State Water Board has taken such actions in response to a public complaint or on its own motion.

Effective water right administration, however, depends on adequate enforcement. The Water Code provides two main statutory enforcement mechanisms: (1) the assessment of administrative civil liability for the unauthorized diversion or use of water (Wat. Code, § 1052), and (2) the imposition of a cease and desist order (*id.*, § 1831). Currently, the State Water Board does not possess sufficient authority to effectively monitor and enforce water right laws and to meet its responsibilities. In particular, the law does not (1) provide clear authority for the State Water Board to require monitoring by diverters, (2) authorize monetary penalties for monitoring and reporting violations, (3) have adequate penalties for unauthorized diversions and violations of cease and desist orders, and (4) have provisions for interim relief. The ability to provide for interim relief during the pendency of an enforcement action is particularly important. Because of the complexity of water right issues and the propensity of parties facing enforcement to pursue tactics that drag out the proceedings, such proceedings may take years. During this time activities that damage other water users or the environment will continue without any requirement that the violator take steps to avoid or reduce the damage during that period. Appropriate enforcement and monitoring tools are increasingly important as California faces critical water supply shortages and conflicts between water diversions and public trust issues.

4. How are relationships among surface water and ground water managed? In your response include consideration of adjudicated and non-adjudicated ground water basins, conjunctive use, water transfers and other factors of importance. What could be done to manage these relationships more effectively? (Question also asked of DWR)

California and Texas are the only two western states that do not have a comprehensive statewide system of groundwater management. California treats surface water and groundwater under separate and distinct legal regimes.

The State's water right permit system administered by the State Water Board applies to surface water bodies and to a narrow classification of groundwater, "subterranean streams flowing in known and definite channels." (Wat. Code, § 1200.) Aquifers that are not part of a subterranean stream are classified as "percolating groundwater." Rights to percolating groundwater are defined by the common law. Percolating groundwater is not subject to the State Water Board's permitting system and, in most of the state, is not regulated by any other public agency. When considering a proposed appropriation of groundwater, or determining whether an unpermitted diversion in close proximity to a stream is an unauthorized diversion, the State Water Board must evaluate the legal classification of the groundwater from which the water is being appropriated to determine whether it is a subterranean stream or percolating groundwater. (See *North Gualala Water Co. v. State Water Resources Control Board* (2006) 139 Cal.App.4th 1577 [43 Cal.Rptr.3d 821] [upholding State Water Board's use of four-part test in determining legal classification of groundwater].) To the extent groundwater is classified as a subterranean stream, it is managed as surface water. (See also Wat. Code, § 2500 [statutory adjudication procedures, under which all rights in a stream system are determined, apply to surface waters and subterranean streams, not percolating groundwater].) In order to protect the quality of percolating groundwater basins, the Board may hold a public hearing to investigate the necessity for restricting groundwater pumping or for a physical solution, and may subsequently file an action in the superior court for any actions it deems necessary to prevent the destruction of or irreparable injury to the quality of the groundwater. (Wat. Code, § 2100 et seq. [adjudications to protect the quality of groundwater].)

Although the State Water Board's permitting authority does not extend to percolating groundwater, the Board has the responsibility and jurisdiction to deal with several issues involving interconnections between surface water and groundwater. The State Water Board's responsibility for protecting prior right holders requires the Board to consider impacts on groundwater users when it regulates surface water diversions. These impacts might occur where a project would modify or reduce instream flows in a manner that reduces groundwater recharge, or where a proposed transfer relies on increased pumping as a substitute supply for water users now using the surface supplies proposed to be transferred. When considering a proposed project, the State Water Board must evaluate whether the proposal would interfere unreasonably with the rights of groundwater users, for example, by exacerbation of critical overdraft or through adverse impacts on water quality. A physical solution may be required whereby the project includes a substitute supply or other measures to prevent harm to groundwater right holders.

The State Water Board manages surface water supplies to protect groundwater users, but groundwater supplies are not managed to protect surface water users. Even in basins with effective groundwater management programs, pumping is regulated to protect other groundwater users, not surface waters. The basic concept of safe yield or sustainable yield, as applied in areas where groundwater pumping is managed, amounts to preventing long term overdraft by allowing pumping to the extent that the water being extracted would otherwise flow from the groundwater basin into surface water supplies, but not allowing additional pumping that would result in long term depletions in groundwater storage. Safe or sustainable yield also incorporates avoidance of unreasonable impacts such as land subsidence or other effects of overdraft. As a matter of common law, groundwater rights are subject to the correlative rights of surface water right holders, and the concept of "safe yield" should, in theory, take the rights of surface water right holders into account. As a matter of practice, however, that does not happen, even in adjudicated basins.

The State Water Board supports coordinated use of surface and groundwater supplies as a logical vehicle for meeting the Constitution's requirements that the waters of the State be put to their fullest beneficial use and not wasted or unreasonably used. (Cal. Const., art. X, § 2; see also Wat. Code, § 1011.5, subd. (a) [state policy to encourage conjunctive use]; § 1242 [underground storage constitutes a beneficial use if the stored water is ultimately applied to beneficial use].) Pursuant to Water Code § 1011.5, if certain conditions are met, an appropriative water right will not be subject to forfeiture for nonuse if groundwater is used as a substitute supply.

When the State Water Board issues a permit for underground storage, it imposes conditions governing the permittee's later diversion and use of the stored water, just as it does for projects involving surface storage. The California Supreme Court has held that where a conjunctive use project augments the natural groundwater supply (for example, when imported water is stored underground), the rights to that additional supply are held by the party making the augmentation, not by others with overlying or appropriative rights to divert from the groundwater basin where the water is stored. When a groundwater basin is adjudicated, this principle is respected. It is unclear how this principle will be enforced when a conjunctive use project involves underground storage in a groundwater basin that has not been adjudicated.

In summary, the State Water Board is managing the impacts of surface water appropriations on groundwater resources. The State Water Board's management could benefit from many of the same things that would benefit the water right permit and license system as a whole. These

include better information about the diversion and use of water (including information that would be provided through better monitoring and reporting programs), enhanced enforcement authority, and adequate funding.

There is little the State Water Board can do about the impacts of groundwater diversions on surface water supplies. The State Water Board has some authority over groundwater extractions based on its waste and unreasonable use or public trust authority. (See, e.g., Wat. Code, § 275; State Water Board Decision 1470 [proceeding on reasonableness of groundwater use]; Decision 1474 [finding substantial question whether extraction of water under conjunctive use project would constitute a reasonable method of diversion]. The State Water Board also has authority under the public trust doctrine to regulate groundwater pumping that affects public trust resources. But the State Water Board's regulation of water diversion and use that is not subject to the water right permit and license program represents only a de minimis portion of the water right program administered by the Board, and the Board will not be able to apply its public trust and reasonableness authority outside the context of water right permitting and licensing, except in a very few isolated cases. The State cannot effectively manage the effect of groundwater extractions on surface water supplies unless and until it manages groundwater extractions, and effective management of groundwater extractions would require comprehensive groundwater management legislation.