

# INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

City of Ridgecrest, Kern County, Inyo County, San Bernardino County, Indian Wells Valley Water District

## BOARD OF DIRECTORS WORKSHOP MINUTES Thursday, April 5, 2018, 5:00 p.m.

### IWVGA Members Present:

Commander Brian Longbottom, Dept. of the Navy	Mick Gleason, Kern County
Peter Brown, Indian Wells Valley Water District	Bob Page, San Bernardino County
Chairperson Peggy Breeden, City of Ridgecrest	Ron Strand, IWVGA General Manager
Stephen Johnson, IWVGA Water Resources Manager	Lauren Duffy, IWVGA Board Clerk
Keith Lemieux, IWVGA Legal Counsel	Ryan Klausch, Bureau of Land Management

### 1. CALL TO ORDER:

The meeting is called to order by Chairwoman Breeden at 5:00 p.m.

Chairwoman Breeden announces that any members of the public who did not fill out a comment card prior to the meeting and wishes to speak, may do so if there is time remaining.

The Pledge of Allegiance is led by Mick Gleason.

### 2. STAFF PRESENTATION:

- a. Discussion of Groundwater Pumping Fees to Finance Development and Adoption of a Groundwater Sustainability Plan and IWVGA Administrative Costs

Jim Worth, IWVGA legal counsel and Indian Wells Valley Water District Attorney, provides a recommended process for imposing a groundwater fee in order to fund the Groundwater Sustainability Plan. To facilitate his presentation, Mr. Worth refers to the Groundwater Pumping Assessment Data Package.

On January 18, 2018 the IWVGA Board of Directors directed staff to develop a fee proposal to finance the development and related administrative costs of a Groundwater Sustainability Plan (GSP). The Board directed that the fee be based on volumetric usage of groundwater and be assessed on pumpers, with the exception of de-minimis pumpers. "De-minimis pumper" under the Sustainable Groundwater Management Act (SGMA) is defined as a person who extracts, for domestic purposes, less than 2 acre-feet (AF) per year. The staff report includes revisions made by staff as directed by the Board.

Staff recommends that the Board proceeds under Water Code §10730, which authorizes the Board to impose a pump tax on pumpers within the basin. Water Code §10730(a) states that a Groundwater Sustainability Agency (GSA) may impose fees including, but not limited to: permit fees, fees on groundwater extraction, or other regulated activity, to fund the cost of a Groundwater Sustainability Program, including but not limited to: preparation, adoption, and amendment of a GSP, and investigations, inspections, compliance, assistance, enforcement, and program administration, including a prudent reserve.

With respect to Water Code § 10730, all that is required prior to impose a fee is the Board must hold a public meeting, which is noticed and published in the newspaper pursuant to Government Code § 6066. It must note the time and location and a general description of the matter to be discussed. Additionally, any data which is provided to the Board to impose the fee must be made available to the public at least twenty (20) days prior to the public meeting.

The data which was provided to the Board to impose a fee was distributed to the public on March 29, 2018.

Mr. Worth reviews the following budget items and estimated costs:

**Expenditures:**

GSP Development and SDAC Costs (Prop 1)	\$3,748,600.00
IWVGA Support Costs	\$435,250.00
IWVGA Administrative Costs	\$161,500.00
City of Ridgecrest Reimbursable Costs	\$210,466.00
Legal Costs	\$350,000.00
Reserve	\$939,070.00
Total Expenditures	\$5,844,886.00

**Revenue:**

Proposition 1 Grant Award	\$2,146,000.00
In-Kind Services	\$1,157,300.00
Total Revenue	\$3,303,300.00
<b>TOTAL GAP FUNDING REQUIRED</b>	<b>\$2,541,586.00</b>

It is estimated that the assessments would begin in June 2018 and continue over 31 months. The fees would be assessed through 2018, 2019, and 2020. Staff recommends the extension from 19 months to 31 months in an attempt to lessen the amount of assessments. Mr. Worth explains in order to obtain the amount, you need to divide the total gap funding required amount by the 31 month assessment period, which would require about \$82,000 per month, divide it again by the 1,800 acre-feet estimated pumping on a monthly basis, and the assessment would be about \$45.55. If the assessment period was shortened to 19 months, the assessment would be just over \$74.00 per month.

At this time, the IWVGA Board does not have the authority to require pumpers to install meters on their wells. An alternative way to measure groundwater pumping of potential impacted pumpers would need to be developed. Staff recommends that possible impacted pumpers install a meter on their wells so that an accurate pumping measurement would eliminate any differences of opinions.

SGMA prevents the IWVGA from regulating federal agencies, such as the Navy and the Bureau of Land Management (BLM), in addition to de-minimis users.

Steve Johnson, Water Resources Manager, comments that no action has been taken right now on how to measure wells which do not have meters. Stetson Engineers received comments from the TAC on possible ways to approach the situation and a decision has not been made as of yet.

- 3. PUBLIC COMMENTS\*** - Members of the public wishing to provide comment would need to submit a comment card – **2 hours total time for this item:**

Sophia Merk comments that all domestic and commercial users should pay equitably to the IWV water basin. In-kind credits need to be received by all agencies. Abbreviated minutes will not have legal standing.

Doreen Baker offers an alternative proposal to derive near-term and long-term operating resources for the IWVGA. The proposal suggested is to assess a water tax on every APN parcel that resides in the IWV basin.

Rodney Stiefvater, owner of Mojave Pistachio, comments that water transactions are not easy, nor simple, however they are available. The IWVGA could hire professionals to acquire and trade water from one of the major surface water supplies. Another source of water is brackish water.

Paul Nugent, Nugent Ranch, comments that the volumetric charges are excessive. The fee would be a 30-50% increase of his water costs. Mr. Nugent feels that there should have been major input from the farmers and possible impacted pumpers with respect to the budget planning and costs.

Joshua Nugent reads a letter from a local land owner, William Switzer. Mr. Switzer comments that the water he uses for his pistachio farm is of lower quality than that pumped by the Indian Wells Valley Water District (IWVWD). Mr. Switzer believes this shows a sub-aquifer exists. A fee structure should reflect the lower value of lower quality water. Mr. Switzer expresses favor of importation of water and brackish water.

Derek Hoffman, legal counsel for Meadowbrook Dairy, submitted a comment letter to the IWVGA Board prior to the meeting regarding the fee. This fee should be vetted through the PAC and the TAC. The timeline for this process is very aggressive and premature of an estimated start of June. This fee is actually a pump tax which results in failing to address or comply with California's Constitutional requirements for Local Fees and Taxes. The nearly \$1 million "Reserve" is excessive and runs the risk of being a "slush" fund.

Bob McDiarmid asks the Board if water is imported, how it would be stored. He also expresses concerns with waiting until 2040 to implement whatever is meant to be implemented.

Raymond Kelso comments that implementing fees as soon as possible to pumpers is a step in the right direction. Mr. Kelso states his concern with the overdraft issue. Many line items in the budget are not relevant to mitigating a severe overdraft issue.

Claudia Ethun, alfalfa farm in Inyokern, comments that the proposed fee would be a huge hardship on any farmers, including them. This fee burden needs to be shared by the whole community, so that everyone has buy-in into the solution. By charging an APN supplemental tax on all parcels in the IWV community, everyone would be suffering the pain in order to receive the gain. Ms. Ethun suggests that because the federal government has a big stake in this valley, the naval base, why not pursue a low interest federal loan to be paid back in ten years or so in an attempt to get the ball rolling.

Stan Rajtora states that revenue paid to the IWVGA needs to be equitable to all users and agencies. He finds it hard to believe that there are only 15 non-de-minimis users in the basin, as

shown on the chart in the Groundwater Pumping Assessment Data Package. Mr. Rajtora believes Kern County should “have some skin in the game and the Navy should be contributing to the GSA fund. The IWVGA needs to develop a standing Finance Committee.

Stuart Breil comments that other options suggested at tonight’s meeting should be explored.

Skip Gorman comments that putting a flow meter on all the wells in the basin would cost about \$500,000.00. Mr. Gorman asks for the details of the contract with Stetson Engineering.

Ralph Lachenmaier comments if the agriculture in the valley needs to import water via the L.A. aqueduct, then that shouldn’t be the resident’s burden. He is not in favor of the proposed fees.

Chuck Griffin comments that the reserve is high. Will the reserve transfer over, if a balance is remaining, to the implementation plan? Is it legal to transfer those reserve funds. He shares a concern with the bulk of the fee structure being paid by IWVWD customers, agriculture, Searles Valley Minerals, and citizens of Trona. The fee could be reduced a lot if it were more spread out. Mr. Griffin comments that he doesn’t feel the reimbursable fee for City of Ridgecrest is right.

Judie Decker comments that a Finance Committee needs to be developed and an Oversight Committee to review documents before they go to the public. Ms. Decker feels as though this document (Groundwater Pumping Assessment Data Package), as it stands, is not fit to go any further.

Doug Price states, to his understanding, the base uses 1/3 of the water, IWVWD uses 1/3, and the farmers use another 1/3 of the water. Those are the ones we need to figure out what to do with. Mr. Price feels he shouldn’t have to pay a penalty for his desert land.

#### **4. POLICY ADVISORY COMMITTEE (PAC) COMMENTS – 30 minutes total time for this item:**

PAC Chairwoman Donna Thomas comments that the PAC wanted to divide up their time evenly to each category of uses and users they represent.

Representing small agriculture is Patricia Quist who comments that she understands they will need to pay for water. She explains what a burden a fee could put on a farm. Most, if not all, farms do not receive revenue until the crop has sold. Money needs to be spent beforehand to build the crop. In some cases, the farmers don’t get paid until two years later. Ms. Quist asks that the Board be considerate and find a fair way for farmers to pay fees that won’t hurt them.

Representing business interest is Carol Wilson and David Janiec. Carol Wilson, a PAC member representing Ridgecrest Realtors, advises the Board that any plan of imposing fees should have an end date. This will prevent uncertainty and possible court intervention. Any extension or increase of the pumping fees should be implemented only after a public comment period such as is currently being held. There should be an oversight on collections of these fees to be sure the funds are used for the intended purpose and to avoid temptation on part of the officials involved. Ms. Wilson encourages the Board to research and consider alternatives to the pumping fees and other determination methods to be used.

David Janiec believes the first issue is cash flow, as it relates to the funding required for operation of the Groundwater Authority. As was discussed during two prior IWVGA meetings, the IWVGA was approaching inability to pay Stetson Engineers as the Water Resources Manager and developer of the Groundwater Sustainability Plan (GSP). With the great news that our Prop. 1 Grant was finally approved just this week, we still find ourselves at least two or more months away from actual receipt of those funds. The cash flow situation should be addressed in the documentation as it may become the driving factor in completing a successful GSP. Secondly, the chronic overdraft situation in our basin presents an existential threat to our continued vitality in growth. This fee option may be the only viable one, but what other options could have been or were considered to help garner support and perhaps a more equitable assessment to all water users in the valley?

Representing domestic well users is Lyle Fisher who comments that if the PAC and TAC had been given the opportunity to discuss the Groundwater Pumping Fee document at one of its regular meetings, some of the issues that were raised tonight could have already been resolved. Mr. Fisher comments that all domestic well owners “have skin in the game.” Domestic well owners are the tip of the spear. They are the first ones to be impacted by the declining water levels. Most of them cannot afford to drill 1,000 ft. wells or afford the maintenance on such a well. As domestic well owners, we support volumetric based fees for water pumped. It is the only equitable approach available since all of our water supply issues are based on quantity. We also fully understand that once the GSP is approved by the state, domestic well owners may be required to pay for water in some form. For all of us to continue our current life styles in this valley, as they are today, will require us to import water from a source outside of the valley. We have no choice. The time has come to stop kicking the can down the road and start taking the necessary and appropriate actions.

Chairwoman Thomas reads a letter provided prior to the meeting by Renee Westa-Lusk, which states that Ms. Westa-Lusk has read the proposed fee assessment of \$50 per acre-foot. She further explains that she can support this fee assessment using her calculations, if they are correct, as it would have a minimal effect on the water bills of the vast majority (90%) of residential customer within the City of Ridgecrest. She calculates that it will only add, at the very most, \$10 per residential customer’s water bill per year. The benefit of the fee assessment vastly outweighs the increase in water bill charges, in the fact that the residential customer within the City of Ridgecrest will gain in the advantages of having a GSP that will protect their water supply for many years to come. Ms. Westa-Lusk asks the IWVGA Board for talking points to interpret to the average residential customer the actual cost per year added to their bill.

Chairwoman Thomas comments that she is also a member of the Board of the Eastern Kern County Resource Conservation District (EKCRCDD). She provides many comments from her Board with respect to the workshop, Groundwater Pumping Assessment Data Package, and the proposed fees. All water users and uses of groundwater within the groundwater basin boundaries of Kern, Inyo, and San Bernardino counties should pay fair and equitable fees to pump water. Notification for this workshop to property owners, especially rural and absentee property owners, was inadequate and insufficient. The data assessment states on page 4 that “The accuracy and completeness of groundwater pumping information within the Indian Wells Valley groundwater basin is extremely important to the GA’s mandate to manage groundwater supplies.” Yet, the data assessment itself confirms that table 1 & 2 under item 6 are not accurate nor complete. How can the IWVGA impose groundwater extraction fees, when it does not base those fees on accurate and complete data? A clear explanation and chart of current production numbers should

be developed. The assessment requires clarity on numbers of metered wells, non-metered wells, and de-minimis wells. Why was the time frame for collecting the fees changed from 17 months to 29 months? The EKCRCDC urges the IWVGA to put trust in the PAC and TAC committees and allow them to carry out their responsibilities and opportunities.

The PAC plans to present the Proposed Outreach Plan at the next IWVGA meeting.

#### **5. TECHNICAL ADVISORY COMMITTEE (TAC) COMMENTS – 30 minutes total time for this item:**

Chairperson Adam Bingham opens the floor to TAC members present.

Eddy Teasdale explains the two variables that went into calculating the pumping fee; numerator (cost) and denominator (volume pumped). He suggests that research of GSP development costs of other basins be compared to our costs. What could be done to shrink the GSP costs? What other data could be used to help with costs? What additional monies could be applied for to help with costs? Where did the volume estimates come from? There could be errors in the volumes presented. We need to ensure there aren't and that the numbers are defensible. Mr. Teasdale suggests that a type of guidance document be developed to help the TAC, PAC, and public understand how this data will be used.

Michael Powell comments that Rand Community Water District had to become sustainable after wells went dry. Some things are lopsided regarding the funding aspect, yet he feels everything will work out.

Don Decker expresses his concern that the IWVGA Board is rushing this incomplete proposal through without significantly involving the PAC or TAC in review and that public involvement has been minimal. It is also not clear that the funds generated by this proposal will be allocated and spent wisely. The proposed volumetric fee obviously puts the greatest burden on those pumpers using the greatest quantities of water. The amount of the fee is a legitimate concern, yet the responsibility that the fee implies is not. The domestic de-minimis pumpers, as defined in SGMA, are not subject to the volumetric fee at the present time. The de-minimis pumpers are actually responsible for a very small fraction of the total water pumped in the basin even though these pumpers own the great majority of the basin wells. Mr. Decker strongly recommends that the IWVGA Board appoint a standing committee to monitor tasks, progress, and expenditures in detail, in accord with the approved Plan of Actions and Milestones (POAM).

#### **6. IWVGA BOARD COMMENTS/DISCUSSION:**

Commander Longbottom reiterates that though the Navy cannot pay fees, it has significantly contributed to the IWVGA. The Navy has invested \$1.9 million in water reduction on the base. The Navy's consumption is only 6.5% of the valley and it intends to drop down to 6% by the end of 2018. The Navy has contributed \$1.5 million dollars of in-kind services to the IWVGA, which based on Navy water usage equates to \$470 per acre-foot per year in consideration.

Ryan Klausch comments that if the BLM had the money, it would contribute. Most of the water used by the BLM is natural spring water, with some wells outside of the basin used by farmers.

Bob Page also requests that complete information be provided prior to a final decision on the proposed pumper's fee.

Mr. Worth clarifies that the reason there are additional numbers in the budget is because as staff refined the numbers, Stetson Engineers added amounts which may be incurred moving forward for the IWVGA. Another item discussed was reimbursements costs for Kern County, City of Ridgecrest, and IWVWD. Staff was advised that Kern County and IWVWD would not seek any cost reimbursement. The additional \$250,000 added to the legal costs were due to the special counsel responsible for potentially defending the GSP against any challenges that may occur. After the GSP is adopted it will need to be validated by special legal counsel, which can accrue further costs, thus the additional \$250,000.

Ron Strand comments that the City of Ridgecrest is providing in-kind services which includes staff time. However, the City of Ridgecrest is seeking reimbursement due to the additional legal fees which they are incurring outside of its budget. Mr. Strand feels it is justified to ask for reimbursement because the IWVGA is a new government agency which has the ability to tax. Most of the citizens of Ridgecrest already pay water bills to the IWVWD which would result in the residents “getting hit twice”.

Peter Brown clarifies that when Chuck Griffin was speaking, he was doing so as a member of the public. Mr. Brown speaks on behalf of the IWVWD Board. Mr. Brown comments that the IWVGA Board has the ability to borrow money and that option isn't off the table yet. He comments that if the reserve went from 20% to 10%, it would make a substantial difference. Or if he convinced the IWVWD Board to let the \$500,000, which was advanced to the IWVGA from the Water District, ride, it could significantly drop the costs.

Chairwoman Breeden adds that the City of Ridgecrest asked for reimbursement because it does not derive income from water. She thanks the PAC and TAC for their outstanding work thus far.

Mick Gleason comments that he will ask staff for well inventory of Kern County.

Keith Lemieux defines the difference between parcel tax and pump fee.

Mick Gleason asks Lorelei Oviatt to independently review how the IWVGA Board is using the PAC and TAC. Perhaps there is a better way the Board can utilize the committees to their full potential. He concludes saying that this Board will not target one specific group, with respect to the fees. Everyone will have to pay their fair share.

Bob Page states he requested the 20% reserve, a standard for municipal finances, and cautions those who compare our basin costs to other basins because the comparison may not be completely accurate. The IWVGA Board will continue to include the public in this process. Mr. Page recommends that the Board at least discusses their next step no later than the May meeting.

## **7. CLOSING COMMENTS:**

None.

## **8. ADJOURN:**

With no further business to come before the Board, the meeting is adjourned at 8:15 p.m.

**All comment letters turned into the Clerk of the Board will be filed with the minutes of the April 5, 2018 IWVGA Workshop.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lauren Duffy', with a long, sweeping flourish extending to the right.

Lauren Duffy  
Clerk of the Board of Directors  
Indian Wells Valley Groundwater Authority