

# INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

Ridgecrest City Hall 100 W California Ave., Ridgecrest, CA 93555 760-499-5000

## BOARD OF DIRECTORS A G E N D A

Thursday December 8, 2016, 10:00 a.m.

### Remote Locations

Multi-Purpose Conference Room  
High Desert Government Center  
15900 Smoke Tree Street, 2<sup>nd</sup> Floor  
Hesperia, CA 92345

Conference Room  
Inyo County Water Department  
135 Jackson Street  
Independence, CA 93526

*In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact Alan Christensen at (661) 868-3183. Requests must be made as early as possible and at least one full business day before the start of the meeting. Documents and material relating to an open session agenda items that are provided to the IWVGA Board of Directors prior to a regular meeting will be available for public inspection and copying at Indian Wells Valley Water District, 500 Ridgecrest Blvd, Ridgecrest, CA 93555, or online at [www.co.kern.ca.us/groundwater/](http://www.co.kern.ca.us/groundwater/).*

### Statements from the Public

*The public will be allowed to address the Board during Public Comments about subjects within the jurisdiction of the IWVGA Board and that are NOT on the agenda. No action may be taken on off-agenda items unless authorized by law. Questions posed to the Board may be answered after the meeting or at future meeting. Dialog or extended discussion between the public and the Board or staff will be limited in accordance with the Brown Act. The Public Comments portion of the meeting shall be limited to three (3) minutes per speaker. Each person is limited to one comment during Public Comments.*

*All remarks and questions should be addressed to the Board as a whole and not to any individual Board member or staff. There will be time after each action item on the agenda to receive comments from the public. Again each speaker will be limited to three (3) minutes. Speakers should be brief and limit their comments to the specific subject being discussed. Persons will be limited to one comment per person unless directed by the Chair.*

### 1. CALL TO ORDER

### 2. PLEDGE OF ALLEGIANCE

### 3. PUBLIC COMMENTS

This time is reserved for members of the public to address the Board relative to matters NOT on this agenda. No action may be taken on non-agenda items unless authorized by law. Comments will be limited to three minutes per person.

### 4. SPECIAL PRESENTATIONS

- a) Report by Tim Parker on Technical Progress in the IWV Groundwater Basin
- b) Report by Brian Moniz of the Department of Water Resources on Best Management Practices for a Groundwater Sustainability Plan

### 5. CONSENT AGENDA

If the Board would like to discuss any item listed, it may be removed from the Consent Calendar.

**IWVGA Board of Directors  
Meeting of December 8, 2016**

- a) Approve Meeting Minutes of November 17, 2016
- b) Retainer Agreement with Lemieux & O'Neill (City of Ridgecrest)
- c) Retainer Agreement with James A. Worth (Indian Wells Valley Water District)
- d) Retainer Agreement with Office of County Counsel, County of Kern
- e) Appointment of Lauren Duffy as Clerk of the Board
- f) Approval of Meeting Calendar for 2017

**6. PUBLIC HEARING TO CONSIDER ELECTION OF THE INDIAN WELLS VALLEY GROUNDWATER AUTHORITY AS A GROUNDWATER SUSTAINABILITY AGENCY (GSA) FOR THE ENTIRETY OF THE INDIAN WELLS VALLEY GROUNDWATER BASIN; AND APPROVAL OF RESOLUTION FOR IWVGA TO ACT AS GSA; AND MAKE FINDING THE PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15061(b)(3) AND 15378(b)(5) OF THE STATE CEQA GUIDELINES**

**7. APPROVAL OF A POLICY ADVISORY COMMITTEE APPLICATION AND PROCESS**

**8. ADOPTION OF 2017 ANNUAL BUDGET AND FUTURE FUNDING AND FINANCE OPTIONS**

**9. REPORT ON PROJECTS AND OBJECTIVES OF THE IWVGA**

- a. Financing Options and Appointment of an Ad Hoc Finance Committee
- b. Special Legal Counsel For Water and Groundwater

**10. CLOSING COMMENTS**

This time is reserved for comments by Board members and/or staff and to identify matters for future Board business.

**11. DATE AND TIME OF NEXT MEETING**            January 19, 2017, 10 am.

**12. CLOSED SESSION** - None

**13. ADJOURN**

# INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

## BOARD OF DIRECTORS

### MINUTES

Ridgecrest City Hall  
100 W California Ave  
Ridgecrest, CA 93555

Thursday November 17, 2016, 10:00 a.m.

#### **CALL TO ORDER:**

The meeting was called to order by Chairperson Gleason at 10:03am.

#### **ROLL CALL:**

Bob Harrington, Inyo County.

Mayor Peggy Breeden, City of Ridgecrest.

Chairperson Mick Gleason, Kern County.

Peter Brown, Indian Wells Valley Water District.

Robert Lovingood, San Bernardino County. (Not present at the time of roll call)

Robert Pawalek, BLM.

Commander Brian Longbottom, Department of the Navy.

#### **PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Don Zdeba.

#### **PUBLIC COMMENTS:**

Lorelei Oviatt, Kern County Director of Planning and Community Development, updated that the launch of the solar overlay zone district, specifically in the Indian Wells Valley, will commence in January. The IWVGA will be on the mailing list. If any member of the public would like to receive mail updates, please contact Ms. Oviatt's office. Ms. Oviatt also explained that after the passing of Prop. 64 there is currently a moratorium on any of these activities in the Indian Wells Valley. In January, Ms. Oviatt will be launching an extensive conversation on zoning and what the Board of Supervisors will consider to be allowed in the Indian Wells Valley.

Judie Decker, local resident, stated that some recent comments by the City and Water District make it appear that they do not take seriously the fact that the IWV is in critical overdraft. In fact, it appears that they intend to operate in a "business as usual" mode. Allowing additional growth without the requirement of new development bringing supplemental water into this valley is irresponsible. Use of presently available water for new users robs water and the right to future water from those already here. In the past 20+ years, local governments have ignored the facts and recommendations of the scientific reports they paid for. You [the Board] are in the process of creating a new government agency to correct the situation, not to make it worse. The more you deny the problem and proceed as you always have, the sooner the State will control our water. You [the Board] need to follow Mr. Gutierrez's recommendation of having a well moratorium on all new wells until this problem is resolved satisfactorily. References made by Judie Decker include: 1) Mayor Breeden "If we are not growing, we are dying" – stated publicly many times. 2) Daily Independent article by Jack Barnwell on 11/16/2016, "IWVWD Board talks conservation plans or potential large scale development". 3) City attorney Keith Lemieux, 09/07/2016, City Council Meeting "critical overdraft is only an option".

Renee Westa-Lusk, local resident, mentioned State law SB 837, signed by Governor Jerry Brown this year that regulates water for marijuana growing purposes. Ms. Westa-Lusk is concerned about the amount of water that will be used and if there will be more agriculture beginning to grow marijuana locally.

Robert Lovingood, San Bernardino County, arrived.

### **SPECIAL PRESENTATIONS:**

#### **a) Report by Tim Parker on Technical Progress in the IWV Groundwater Basin**

Public comments: none.

Mayor Breeden asked how much it costs, per acre foot, to bring water to the surface, with regards to brackish water treatment. Don Zdeba answered that it's close to \$200 per acre-foot for the Water District. Chairperson Gleason mentioned the modeling that is being done by the Navy. Commander Longbottom stated that the model will be made available to the Technical Advisory Committee and the Policy Advisory Committee. DRI will be making a presentation soon. The Navy, as an in-kind service, will maintain the model.

Motion made by Peggy Breeden and seconded by Peter Brown to receive and file agenda item. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

#### **b) Report By Don Zdeba on the Status of the IWV Cooperative Groundwater Group**

Presentation is available at <http://www.co.kern.ca.us/WaterResources.aspx#.WCoBry0rKUK> under tab "Indian Wells Valley Groundwater Basin" Board packet for 11/17/16.

Peter Brown commented on Judie Decker's earlier comments, stating the Cooperative Group has done some amazing things.

Public making comment is Judie Decker, stating that her comments were not in regards to the Water District not cooperating, but with regards to the Monday night Water District Board meeting and future developments.

Public making comment is Elaine Mead, local resident, thanking Judie Decker and Don Zdeba for their input. Ms. Mead states that the Cooperative Group actually has its roots in the 70's and met often in the 80's. It was the ad-hoc committee, prior to being formalized.

Public making comment is Donna Thomas, EKCRCD, acknowledging the development of the Indian Wells Valley Cooperative Groundwater Management Group and also the work of a previous president, Leroy Marquardt, who served as the first chairperson of the Cooperative Group.

Chairperson Gleason stated that whether the IWVCGMG is absorbed by the Indian Wells Valley Groundwater Authority or not, he appreciates all that the group offers and does.

Motion made by Robert Lovingood and seconded by Peter Brown to receive and file agenda item. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

**c) Report by Department of Water Resources (DWR) on Best Practices for a Groundwater Sustainability Plan**

Chairperson Gleason reported that DWR representatives were running late and gave a brief update. There is an effort underway by DWR to have a conversation about SGMA implementation understanding and Best Management Practices. Kern County Farm Growers was putting on a State Water Board and Department of Water Resources (DWR) forum on the new Best Management Practices tonight. Supervisor Gleason and Mayor Breeden will be attending.

**CONSENT CALENDAR:**

Motion made by Peter Brown and seconded by Robert Lovingood to approve the Minutes of the October 20, 2016 regular IWVGA Board of Directors meeting with two corrections; include Judie Decker's comments as well as Bob Page's corrections. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

**APPOINT LEGAL COUNSEL FOR THE IWVGA:**

Alan Christensen provided the agreement previously asked for at a prior IWVGA meeting. It was suggested that legal counsel at the meetings be rotated on a monthly basis between Kern County, City of Ridgecrest, and the Water District's attorneys.

Phill Hall explained that, due to the GSA notice needing to be filed, the retainer agreement also needed to be filed. Mr. Hall further explained that when an attorney is assigned a task, no matter the duration, that attorney will be in charge of completing it. The monthly rotation is for the serving as legal counsel at the Board meetings.

Public making comment is Chuck Griffin, Indian Wells Valley Water District Board, who stated his concern with regards to conflict of interest. The GSA is a separate entity from each agency. If any of the agencies brought litigation against the GSA, how would representation be offered in that situation? Mr. Griffin also suggested just one attorney who represents the GSA as a whole. Keith Lemieux states that Conflict of Interest waivers will be signed by all attorneys.

Jim Worth, legal counsel for the Indian Wells Valley Water District, states that he has not had the opportunity to discuss with attorneys Phill Hall or Keith Lemieux what the retainer entails or what the representation would be. Mr. Worth also states he is not sure he would relinquish his representation of the Indian Wells Valley Water District for the GSA if there were a conflict between the two entities. Mr. Worth states he is not sure he agrees completely with what Mr. Hall and Mr. Lemieux have said as he has not had the opportunity to discuss it with them.

Donna Hocker, Ridgecrest Area Association of Realtors, asked for clarification on which of the five attorneys represents the GSA. Phill Hall states the GSA is represented with co-counsel. The three attorneys are County of Kern, City of Ridgecrest and Indian Wells Valley Water District. San Bernardino and Inyo County's attorneys are invited to be part of the co-counsel arrangement. Ms. Hocker stated concern for so many attorneys representing the GSA. Ms. Hocker asked how it will be funded. Chairperson Gleason clarifies that the attorneys are being paid for by their agencies.

Bob Page, San Bernardino County, asked that attorney Hall clarify a point he made with regards to the one retainer in place right now which is Kern County's standard retainer agreement. When the other two

retainers come in, all retainers should match. Mr. Page explains that from his understanding, all attorneys will agree upon a retainer that matches and that not all need match Kern County's retainer.

Motion made by Peggy Breeden and seconded by Robert Lovingood to approve the retainer agreement for County of Kern. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

**APPROVAL OF RECOMMENDATIONS FROM AD HOC COMMITTEE ON IWVGA COMMITTEE MEMBERSHIP, MISSION STATEMENTS, AND ORGANIZATIONAL STRUCTURE:**

Alan Christensen presented the recommendations to the Board and stated that as an organization, baby steps are being taken.

Public making comment is Derek Hoffman, legal counsel for Meadowbrook, stating on November 11, 2016 they sent a letter to the Board requesting that Meadowbrook be added as a TAC member for the GSA. Mr. Hoffman expressed appreciation for Meadowbrook being recommended as a PAC member. Mr. Hoffman commented on the bylaws, specifically the engineer that is described within. He expressed hope that the duties of the TAC and PAC are not bypassed or marginalized by this position.

Joshua Nugent, Mojave Pistachio and Nugent Farm, thanked the Board for addressing their concerns thus far. Mr. Nugent wanted to reassure the Board that both Mojave Pistachio and Nugent Farms is in it for the long run and willing to participate financially.

Peter Brown asked if it is necessary to form a new Technical Advisory Committee (TAC) under the GSA while there is an active TAC already formed for the Indian Wells Valley Cooperative Groundwater Management Group.

Phill Hall stated he would first need to find out more about the active IWVCGMG TAC and fully understand it prior to considering a potential merge.

Bob Harrington states that Inyo County is unsure of the capacity in which they will be able to participate in the Technical Advisory Committee. Mr. Harrington also commented that if the existing TAC is working effectively and producing the necessary analysis that the Groundwater Authority is going to need to complete its work, he feels we should utilize the existing TAC.

Mayor Breeden asked that a mutual water company be represented on the Technical Advisory Committee.

Chairperson Gleason stated he attended an IWVCGMG meeting and appreciated how science and water were discussed without an argument.

Public addressing the Board is Don Decker, who commented that the rural community is at the greatest jeopardy resulting from declining water levels. It is important that well owners are properly represented.

Bob Page, County of San Bernardino, asked for a point of clarification. When staff is directed to bring something back to the next meeting (the committee charter, e.g.), does that mean that the Board is not approving that item at this time?

Alan Christensen clarified that just the PAC membership list is being approved right now, the charter is a draft.

Public making comment is Judie Decker asking for clarification that just the PAC membership is being voted on right now and not the TAC. Ms. Decker also urged the Board to develop an independent committee that will use their knowledge independently, whomever they represent.

Patti Farris, local resident, stated concern about the IWVCGMG being absorbed. Also, SGMA law requires that everything be subject to the Brown Act.

Motion made by Peter Brown and seconded by Robert Lovingood to approve the recommended Policy Advisory Committee membership list and staff to provide options for Technical Advisory Committee. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

#### **REVIEW OF DRAFT BYLAWS:**

Alan Christensen presented draft bylaws.

Public making comment is Derek Hoffman, legal counsel for Meadowbrook. Mr. Hoffman reiterated that this is a set of draft bylaws and if there is such an engineer selected that those provisions within the bylaws are seamlessly integrated with committee language to ensure that the committee function is not bypassed, marginalized, or diminished in any way.

Don Decker, local resident, thanked Mr. Lemieux for mentioning liability of the various members of committees and how the whole package is going to work in a legal sense.

Phill Hall stated that it would be helpful to set up a committee to work with counsel and staff on the bylaws.

Motion made by Peggy Breeden and seconded by Robert Lovingood to appoint an ad hoc committee consisting of the Water District (Peter Brown) and Kern County (Supervisor Gleason) to help staff and legal counsel with the bylaws due in January. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

#### **REPORT ON DRAFT BUDGET FOR 2017:**

Alan Christensen presented the draft budget for 2017. Tracking of in-kind is in process and office space has been offered. Mr. Christensen explains that a budget must be adopted at the next meeting. Three issues must be considered: 1) Implementing a revenue measure and a timeline for implementation. 2) Bridge financing until more grant funds are available. 3) Under the organizational structure, how will the proposed engineer position be funded? Mr. Christensen will provide a draft budget report for 2017 at the next IWVGA meeting.

Robert Lovingood asked that hire dates also be included in next month's budget report.

#### **PROJECTS AND OBJECTIVES OF THE IWVGA:**

Alan Christensen stated that this is an upcoming items list that includes deadlines. This will remain a standing agenda item.

#### **CLOSING COMMENTS:**

Chairperson Gleason thanked everyone, especially the staff for everything they have done. There is always room for improvement. He would like to see a workshop with the staff before the end of the year. Chairperson Gleason instructed his staff to coordinate a workshop to have a focused conversation about improving the process for exchanging information among the agencies and staff.

**DATE AND TIME OF NEXT MEETING:**

The next IWVGA meeting and Public Hearing will be held on December 8, 2016, at 10:00 am, in the Council Chambers at Ridgecrest City Hall, 100 W. California Avenue.

**CLOSED SESSION:** None.

**ADJOURN:**

Motion was made by Peter Brown and seconded by vice chair Breeden to adjourn meeting at 12:46pm.

Respectfully submitted,

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

Lauren Duffy  
IWVWD Recording Secretary



# IWVGA ADMINISTRATIVE OFFICE

Staff Report

Agenda Item 5b

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**TO:** IWVGA Board Members

**DATE:** December 8, 2016

**FROM:** Alan Christensen, IWVGA Staff

*AC*

**SUBJECT:** Attorney Retainer Agreement with Lemieux and O'Neill (City of Ridgecrest)

**DISCUSSION**

The attorney firm of Lemieux and O'Neill, who represents the City of Ridgecrest, offers an Attorney Retainer Agreement between their firm and the IWVGA. Keith Lemieux will respond to questions the Board has about the Agreement.

**RECOMMENDATION**

Staff recommends approval of the Agreement

**ATTORNEY RETAINER AGREEMENT  
FOR AND BETWEEN LEMIEUX & O'NEILL AND  
THE INDIAN WELLS VALLEY GROUNDWATER AUTHORITY**

This Agreement ("Agreement") is made and entered into effective this \_\_\_\_\_ day of December, 2016, ("Effective Date") by and between Lemieux & O'Neill, ("Attorney"), and the Indian Wells Valley Groundwater Authority ("Client"). In this agreement, Attorney and Client are referred to individually as a "Party" and collectively as the "Parties."

**AGREEMENT**

1. **Services to be Rendered.** Attorney shall provide legal advice on contractual, statutory, regulatory, and any other legal matters. This advice will include, without limitation, reviewing contracts, meeting agendas and notices, providing legal opinions and resolutions, reviewing policies and procedures, generally supervising and coordinating litigation, or specialized legal advice, involving Client and special counsel retained to represent Client on a specific case or issue. If called upon, Attorney may advise the Client Board of Directors and its Chief Executive Officer and staff on matters as requested, and represent Client, its officers and its employees in litigation in any of the courts of this state or federal court. Attorney will also attend Client board meetings and closed sessions as legal advisor to Client.

2. **Client Duties.** Client shall provide such assistance, information, cooperation, and access to books, records, and other information as is necessary for Attorney to effectively and efficiently render its services under this Agreement to Client. Client shall comply with this agreement and timely pay Attorney's bills for fees, costs, and expenses in accordance with this Agreement.

3. **Compensation to Attorney.**  
Attorney services are provided as "in kind" services from the City of Ridgecrest. Attorney shall bill the City of Ridgecrest directly for these services at a rate of \$225 per hour. A copy of each invoice will also be provided to the Client. Client shall not be obligated to pay Attorney for the cost of this work unless Client elects to do so.

4. **Term.** This Agreement shall be deemed in full force and effect as of the Effective Date and shall remain in effect until terminated as hereinafter provided, with the exception that the Conflict of Interest Waiver provision in Section 6 of this Agreement and the Indemnity provision in Section 8 of this Agreement shall indefinitely survive the termination of this Agreement.

5. **Attorney Representations.** Attorney makes the following representations which are agreed to be material to and form a part of the inducement for this Agreement:

(a) Attorney has the expertise, support staff, and facilities necessary to provide the services described in this Agreement.

(b) Attorney shall diligently provide such legal services as are necessary and assigned by Client in a timely and professional manner in accordance with the terms and conditions stated in this Agreement, will comply with all ethical duties, and will maintain the integrity of the attorney-client relationship. Attorney shall have the sole discretion to assign or reassign individual attorneys to represent Client.

6. **Conflict of Interest Waiver.** The Client has requested that Attorney provide legal services as set forth in Section 1, including advice related to the Sustainable Groundwater Management Act (“SGMA”), on behalf of the Client. Attorney has potential interests adverse to Client by reason of its joint representation of the City of Ridgecrest. The Attorney is governed by specific rules relating to its representation of clients where it has a relationship with both parties and therefore a potential conflict of interest. Rules 3-310(A), (B), (C), and (E) of the Rules of the Professional Conduct of the State Bar of California (CPRC) govern conflicts of interest. This Agreement advises Client of a potential conflict of interest in Attorney’s proposed representation of the Client as described herein and, by its signature to this Agreement as set forth below, to request Client’s informed written consent to waive such a potential conflict of interest and to the representation of the Client as described herein.

As counsel working on groundwater and general public agency governance matters, the services of the Attorney have and will include attending meetings and reviewing and drafting agreements and other documentation related to groundwater within the subject basin and SGMA. Part of these services may require meetings and discussions with local agency members of the Client, including the City of Ridgecrest.

At this time, Attorney believes that it may competently represent the Client on such matters as specified in Section 1, including but not limited to, groundwater and SGMA matters and still maintain a duty of loyalty to the City of Ridgecrest arising from its work for the City of Ridgecrest. Attorney does not believe that it has obtained any confidential information from the City of Ridgecrest which is material to its representation of the Client as specified herein. However, if an actual conflict should arise related to the same issue in which Attorney has represented the City of Ridgecrest in which (i) Attorney could not maintain its duty of loyalty to the City of Ridgecrest and to the Client, (ii) the issue of dispute is substantially related to the same issue in which Attorney has represented the Client, or (iii) Attorney has obtained any confidential information from Client which is material in its representation of the City of Ridgecrest, Attorney would require the additional written consent of Client.

In the event of a conflict of interest, or for any other reason Attorney deems appropriate, Attorney reserves the right to discontinue some, or all, of the legal services provided to and for Client after notice to and consultation with Client.

7. **Negation of Partnership.** In the performance of legal services under this Agreement, Attorney shall be, and acknowledges that Attorney is, in fact and law, an independent contractor and not an agent or employee of Client. Attorney has and retains the right to exercise full supervision and control of the manner and methods of providing services to Client under this Agreement.

Attorney retains full supervision and control over the employment, direction, compensation, and discharge of all persons assisting Attorney in the provision of services under this Agreement. With respect to Attorney's employees, Attorney shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes (whether federal, state or local), and compliance with any and all other laws regulating employment.

8. **Indemnification and Insurance.**

(a) Client agrees that Attorney shall be treated as an "employee" for purposes of Government Code sections 995 - 996.6, and shall provide a defense and indemnity of Attorney pursuant to the provisions of the Government Code.

(b) Attorney represents it is self-insured for Professional Liability, General Liability, Automobile Liability and Workers' Compensation.

**9. Termination.** Either Party may at its election terminate this Agreement by providing the other part with written notice of said election. A Notice of Termination will be deemed effective thirty (30) days after personal delivery, or thirty-five (35) days after mailing by regular U.S. Mail, postage prepaid. In the event this Agreement is terminated by either Party, Attorney shall submit to Client a final status report on any pending matters and shall deliver to Client all files, memoranda, documents, evidence, exhibits, correspondence and other items generated in the course of performing this Agreement, within twenty-one (21) days after the effective date of any written Notice of Termination. Client may, upon making a good faith determination and if the best interests of Client so require, terminate this Agreement and suspend all further work by Attorney effective immediately upon personal delivery of a Notice of Termination to Attorney, at which time Attorney's obligations upon termination as above stated shall be performed by Attorney.

**10. Ownership and Inspection of Files.** All files, pleadings, reports, exhibits, evidence, and other items generated or gathered in the course of providing services to Client under this Agreement are and shall remain the property of Client, and shall be returned to Client upon termination of this Agreement, except that Client shall have no right to obtain Attorney work product from Attorney except as otherwise provided by law. The provisions of this paragraph shall continue to survive after termination of this Agreement.

**11. Notices.** All notices required or provided for in this Agreement shall be provided to the Parties at the following addresses, by personal delivery or deposit in the U.S. Mail, postage prepaid, registered or certified mail, addressed as follows:

To Attorney: W. Keith Lemieux, Esq.  
Lemieux & O'Neill  
4165 E. Thousand Oaks Blvd., Suite 350  
Westlake Village, CA 91362

To Client:

The Parties may, if necessary, amend this Agreement to indicate a change of address by ten (10) days written notice to the other Party, said notice to be given in the manner above described. Nothing in this Agreement shall be construed to prevent or render ineffective delivery

of notices required or permitted under this Agreement by leaving such notice with the receptionist or other person of like capacity employed by either Party.

**12. Entire Agreement.** This document contains the entire agreement of the Parties relating to the services, rights, obligations and covenants contained herein and assumed by the Parties respectively. No inducements, representations, or promises have been made, other than those recited in this Agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect, and all changes or modifications to this Agreement shall be made in and reduced to writing, duly signed and agreed to by both Parties.

**13. Modification.** This Agreement may be amended at any time by formal written agreement of the Parties.

**14. Partial Invalidity.** Should any part, term, portion, or provision of this Agreement be finally decided to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the Parties intended to enter into in the first place.

**15. Waiver.** No waiver of a breach or provision of this Agreement shall constitute a waiver of any other breach or provision. The Parties' failure to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.

The Parties have executed this Agreement as of the Effective Date.

**LEMIEUX & O'NEILL**

**INDIAN WELLS VALLEY  
GROUNDWATER AUTHORITY**

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By: W. Keith Lemieux  
Its: Partner

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By: Mike Gleason  
Its: Chairman, Board of Directors

APPROVED AS TO FORM AND CONTENT:

**OFFICE OF COUNTY COUNSEL**

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By: Phil Hall  
Its: Counsel

## IWVGA ADMINISTRATIVE OFFICE

Agenda Item 5d

Staff Report

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**TO:** IWVGA Board Members **DATE:** December 8, 2016  
**FROM:** Alan Christensen, IWVGA Staff *AC*  
**SUBJECT:** Attorney Retainer Agreement with County of Kern Office of County Counsel

### DISCUSSION

The County of Kern Office of County Counsel offers an Attorney Retainer Agreement between the County and the IWVGA. Phillip Hall from the County of Kern will respond to questions the Board has about the Agreement.

### RECOMMENDATION

Staff recommends approval of the Retainer Agreement



**ATTORNEY RETAINER AGREEMENT FOR AND BETWEEN THE**  
**COUNTY OF KERN OFFICE OF COUNTY COUNSEL**  
**AND THE INDIAN WELLS VALLEY**  
**GROUNDWATER AUTHORITY**

This Agreement (“**Agreement**”) is made and entered into effective this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, (“**Effective Date**”) by and between the County of Kern, a political subdivision of the State of California (“**County**”), acting by and through the Office of the County Counsel (“**Attorney**”), and the Indian Wells Valley Groundwater Authority (“**Client**”). In this agreement, Attorney and Client are referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS:**

(a) Government Code section 26520 authorizes the Office of the County Counsel to provide legal services to public agencies when requested and willing to do so; and

(b) In accordance with the provisions of the Joint Powers Agreement creating the Indian Wells Valley Groundwater Authority (Joint Powers Agreement) and California Government Code sections 6506 and 6507, the Client is a public entity separate and apart from the parties to the Joint Powers Agreement; and

(c) Sections 8.02 and 4.01.4 of the Joint Powers Agreement provide the Client with the authority, acting through its Board of Directors, to hire legal counsel for the Authority; and

(d) While it is acknowledged that Client previously retained Attorney to perform legal services under a retainer agreement executed on November 17, 2016, the Client and Attorney now desire to enter into this newly updated retainer agreement.

## AGREEMENT:

1. **Services to be Rendered.** Attorney shall provide legal advice on contractual, statutory, regulatory, and any other legal matters. This advice will include, without limitation, reviewing contracts, meeting agendas and notices, providing legal opinions and resolutions, reviewing policies and procedures, generally supervising and coordinating litigation, or specialized legal advice, involving Client and special counsel retained to represent Client on a specific case or issue. If called upon, Attorney may advise the Client Board of Directors and its Chief Executive Officer and staff on matters as requested and represent Client, its officers and its employees in litigation in any of the courts of this state or federal court. Attorney will also attend Client board meetings and closed sessions as legal advisor to Client.

2. **Client Duties.** Client shall provide such assistance, information, cooperation, and access to books, records, and other information as is necessary for Attorney to effectively and efficiently render its services under this Agreement to Client. Client shall comply with this Agreement and timely pay Attorney's bills for fees, costs, and expenses in accordance with this Agreement,

3. **Compensation to Attorney.** At this time, Attorney services to Client are provided as "in kind" contribution from the County of Kern. Nonetheless, Attorney shall prepare billing statements generally indicating legal services provided and the time spent on those matters in tenth of an hour increments. The time reflected in the prepared billing statements will include all time the Attorney spends on matters for the Client including telephone calls. The legal personnel assigned to Client's matters may confer among themselves about the matter, as required and appropriate. When they do

confer, each person will charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Likewise, if more than one of the legal personnel attends a meeting, or other proceeding related to Client's matters each will charge for the time spent.

Attorney's billing rates for its legal services are at a rate set under the Countywide Cost Allocation Plan as amended each fiscal year. Attorney's current hourly rate is \$171.00 for attorneys and \$94.00 for paralegals. Attorney will notify Client in writing of any revised rates at least thirty (30) days prior to the effective date thereof and revised rates shall not be retroactively applied.

4. **Term.** This Agreement shall be deemed in full force and effect as of the Effective Date and shall remain in effect until terminated as hereinafter provided. With the exception that the Conflict of Interest Waiver provision in Section 7 of this Agreement and the Indemnity provision in Section 9 of this Agreement shall indefinitely survive the termination of this Agreement.

5. **Personnel.** Attorney has been engaged by Client for its qualifications and skills. The County Counsel shall have sole discretion to select the attorneys and other personnel from the Office of County Counsel who are responsible to provide services to Client under this Agreement. It is understood that they will be selected based upon their respective areas of qualifications and skills.

6. **Attorney Representations.** Attorney makes the following representations which are agreed to be material to and form a part of the inducement for this Agreement:

- a. Attorney has the expertise, support staff, and facilities necessary to

provide the services described in this Agreement.

b. Attorney shall diligently provide such legal services as are necessary and assigned by Client in a timely and professional manner in accordance with the terms and conditions stated in this Agreement, will comply with all ethical duties, and will maintain the integrity of the attorney-client relationship. Attorney shall have the sole discretion to assign or reassign individual attorneys to represent Client.

7. **Conflict of Interest Waiver.** The Client has requested that Attorney provide legal services as set forth in Section 1, including advice related to the Sustainable Groundwater Management Act ("SGMA"), on behalf of the Client. Attorney has potential interests adverse to Client by reason of its joint representation of the County of Kern. The Attorney is governed by specific rules relating to its representation of clients where it has a relationship with both parties and therefore a potential conflict of interest. Rules 3-310(A), (B), (C), and (E) of the Rules of the Professional Conduct of the State Bar of California (CPRC) govern conflicts of interest. This Agreement advises Client of a potential conflict of interest in Attorney's proposed representation of the Client as described herein and, by its signature to this Agreement as set forth below, to request Client's informed written consent to waive such a potential conflict of interest and to the representation of the Client as described herein.

As counsel working on groundwater and general public agency governance matters, the services of the Attorney have and will include attending meetings and reviewing and drafting agreements and other documentation related to groundwater within the subject basin and SGMA. Part of these services may require meetings and discussions with local agency members of the Client, including the

County of Kern.

At this time, Attorney believes that it may competently represent the Client on such matters as specified in Section 1, including but not limited to, groundwater and SGMA matters and still maintain a duty of loyalty to the County of Kern arising from its work for the County of Kern. Attorney does not believe that it has obtained any confidential information from the County of Kern which is material to its representation of the Client as specified herein. However, if an actual conflict should arise related to the same issue in which Attorney has represented the County of Kern in which (i) Attorney could not maintain its duty of loyalty to the County of Kern and to the Client, (ii) the issue of dispute is substantially related to the same issue in which Attorney has represented the Client, or (iii) Attorney has obtained any confidential information from Client which is material in its representation of the County of Kern, Attorney would require the additional written consent of Client.

In the event of a conflict of interest, or for any other reason Attorney deems appropriate, Attorney reserves the right to discontinue some, or all, of the legal services provided to and for Client after notice to and consultation with Client.

**8. Negation of Partnership.** In the performance of legal services under this Agreement, Attorney shall be, and acknowledges that Attorney is, in fact and law, an independent contractor and not an agent or employee of Client. Attorney has and retains the right to exercise full supervision and control of the manner and methods of providing services to Client under this Agreement

Attorney retains full supervision and control over the employment, direction, compensation, and discharge of all persons assisting Attorney in the provision of

services under this Agreement. With respect to Attorney's employees, Attorney shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes (whether federal, state or local), and compliance with any and all other laws regulating employment.

**9. Indemnification and Insurance.**

(a) Client agrees that Attorney shall be treated as an "employee" of the Authority for purposes of Government Code sections 995 - 996.6, and the Authority shall provide a defense and indemnity of Attorney pursuant to those provisions of the Government Code.

(b) Attorney represents it is self-insured for Professional Liability, General Liability, Automobile Liability and Workers' Compensation. All exposures, including contractual liability, arising out of its operations are covered by the County of Kern's self-insurance program undertaken pursuant to California Government Code Section 990.

**10. Termination.** Either Party may at its election terminate this Agreement by providing the other part with written notice of said election. A Notice of Termination will be deemed effective thirty (30) days after personal delivery, or thirty-five (35) days after mailing by regular U.S. Mail, postage prepaid. In the event this Agreement is terminated by either Party, Attorney shall submit to Client a final status report on any pending matters and shall deliver to Client all files, memoranda, documents, evidence, exhibits, correspondence and other items generated in the course of performing this Agreement, within twenty-one (21) days after the effective date of any written Notice of

Termination. Client may, upon making a good faith determination the best interests of Client so require, terminate this Agreement and suspend all further work by Attorney effective immediately upon personal delivery of a Notice of Termination to Attorney, at which time Attorney's obligations upon termination as above stated shall be performed by Attorney.

**11. Ownership and Inspection of Files.** All files, pleadings, reports, exhibits, evidence, and other items generated or gathered in the course of providing services to Client under this Agreement are and shall remain the property of Client, and shall be returned to Client upon termination of this Agreement, except that Client shall have no right to obtain Attorney work product from Attorney except as otherwise provided by law. The provisions of this paragraph shall continue to survive after termination of this Agreement.

**12. Notices.** All notices required or provided for in this Agreement shall be provided to the Parties at the following addresses, by personal delivery or deposit in the U.S. Mail, postage prepaid, registered or certified mail, addressed as follows:

To Attorney:	Mark L. Nations, Interim County Counsel Phillip W. Hall, Deputy County Counsel Office of County Counsel 1115 Truxtun Avenue, Fourth Floor Bakersfield, CA 93301
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To Client:

The Parties may, if necessary, amend this Agreement to indicate a change of address by ten (10) days written notice to the other Party, said notice to be given in the manner above described. Nothing in this Agreement shall be construed to prevent or render ineffective delivery of notices required or permitted under this Agreement by leaving

such notice with the receptionist or other person of like capacity employed by either Party.

**13. Entire Agreement.** This document contains the entire agreement of the Parties relating to the services, rights, obligations and covenants contained herein and assumed by the Parties respectively. No inducements, representations, or promises have been made, other than those recited in this Agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect, and all changes or modifications to this Agreement shall be made in and reduced to writing, duly signed and agreed to by both Parties.

**14. Modification.** This Agreement may be amended at any time by formal written agreement of the Parties.

**15. Partial Invalidity.** Should any part, term, portion, or provision of this Agreement be finally decided to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the Parties intended to enter into in the first place.

**16. Waiver.** No waiver of a breach or provision of this Agreement shall constitute a waiver of any other breach or provision. The Parties' failure to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.



The Parties have executed this Agreement as of the Effective Date

**COUNTY OF KERN**

**INDIAN WELLS VALLEY  
GROUNDWATER AUTHORITY**

By: \_\_\_\_\_  
Mick Gleason  
Chairman, Board of Supervisors

By: \_\_\_\_\_  
Mick Gleason, Chairman  
Board of Directors

**Approved as to Form and Content**  
Office of County Counsel

By: \_\_\_\_\_  
Mark L. Nations  
Interim County Counsel

## IWVGA ADMINISTRATIVE OFFICE

Agenda Item 5e

**Staff Report**

**TO:** IWVGA Board Members

**DATE:** December 8, 2016

**FROM:** Alan Christensen

**SUBJECT:** Appoint Lauren Duffy as Clerk of the Board for the IWVGA

### **DISCUSSION**

The IWVGA needs an appointed clerk to sign documents on behalf of the Board and to send and receive formal communications for the IWVGA. The Indian Wells Valley Water District has provided one their staff members, Lauren Duffy, to assist the IWVGA in clerical matters. Given her experience at the Water District and her skill set, we recommend Miss Duffy be appointed Clerk of the Board.

### **RECOMMENDATION**

Approve Lauren Duffy be appointed as Clerk of the Board

# Indian Wells Valley Groundwater Authority Board 2017 Meeting Schedule

\*\*All Board meetings are scheduled for 10:00 a.m unless indicated otherwise\*\*

**January**

S	M	T	W	T	F	S
		H	3	4	5	6
		8	9	10	11	12
		15	H	17	18	19
		22	23	24	25	26
		29	30	31		

**February**

S	M	T	W	T	F	S
				1	2	3
		5	6	7	8	9
		12	13	14	15	16
		19	H	21	22	23
		26	27	28		

**March**

S	M	T	W	T	F	S
				1	2	3
		5	6	7	8	9
		12	13	14	15	16
		19	20	21	22	23
		26	27	28	29	30

**April**

S	M	T	W	T	F	S
						1
		2	3	4	5	6
		9	10	11	12	13
		16	17	18	19	20
		23	24	25	26	27
		30				

**May**

S	M	T	W	T	F	S
		1	2	3	4	5
		7	8	9	10	11
		14	15	16	17	18
		21	22	23	24	25
		28	H	30	31	

**June**

S	M	T	W	T	F	S
				1	2	3
		4	5	6	7	8
		11	12	13	14	15
		18	19	20	21	22
		25	26	27	28	29

**July**

S	M	T	W	T	F	S
						1
		2	3	H	5	6
		9	10	11	12	13
		16	17	18	19	20
		23	24	25	26	27
		30	31			

**August**

S	M	T	W	T	F	S
			1	2	3	4
		6	7	8	9	10
		13	14	15	16	17
		20	21	22	23	24
		27	28	29	30	31

**September**

S	M	T	W	T	F	S
						1
		3	H	5	6	7
		10	11	12	13	14
		17	18	19	20	21
		24	25	26	27	28

**October**

S	M	T	W	T	F	S
		1	2	3	4	5
		8	9	10	11	12
		15	16	17	18	19
		22	23	24	25	26
		29	30	31		

**November**

S	M	T	W	T	F	S
			1	2	3	4
		5	6	7	8	9
		12	13	14	15	16
		19	20	21	22	23
		26	27	28	29	30

**December**

S	M	T	W	T	F	S
						1
		3	4	5	6	7
		10	11	12	13	14
		17	18	19	20	21
		24	H	26	27	28
		31				

H Holiday
  Regular Meeting
  Staff Reports Due
  Meeting Debrief
  Post Agenda
  No Meeting

# IWVGA ADMINISTRATIVE OFFICE

MEMORANDUM

Agenda Item 6

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**TO:** IWVGA Board Members **DATE:** December 8, 2016

**FROM:** Alan Christensen AC

**SUBJECT:** Public Hearing to Consider Election of the Indian Wells Valley Groundwater Authority as Groundwater Sustainability Agency for the Entirety of the IWV Groundwater Basin, and Approve Resolution Electing to Become a Groundwater Sustainability Agency for the Indian Wells Valley Groundwater Basin; and Make a Finding the Project is Exempt from Further CEQA Review Per Sections 15061(b)(3) and 15378(b)(5) of the State CEQA Guidelines. (Fiscal Impact: none)

## DISCUSSION

This item is a public hearing to receive public comment to consider if the Indian Wells Valley Groundwater Authority (IWVGA) should become a Groundwater Sustainability Agency (GSA) in the Indian Wells Valley Groundwater Basin, and a resolution to approve such action by the IWVGA Board should they decide to move forward.

The Sustainable Groundwater Management Act (SGMA) allows eligible public agencies to elect to become a GSA for a given groundwater basin that is in critical overdraft. It also requires a GSA filing over the entire basin by June 30, 2016. The Indian Wells Valley Groundwater Authority (IWVGA) is a cooperative Joint Powers Authority formed with other eligible public agencies in the Indian Wells Valley. It was formed for the express purpose of becoming a GSA for the IWV Groundwater Basin. The IWVGA intends to represent the entire IWV groundwater basin. At this time no other eligible public agencies have expressed a desire to file a competing or overlapping GSA application.

Beginning in mid-2015, GSA eligible agencies began meeting to discuss a cooperative GSA concept in the Indian Wells Valley. There has been considerable public education over the past eighteen months with regard to GSA formation. Public meetings introducing SGMA and speakers from the Department of Water Resources (DWR) and the State Water Board answered questions from the public and elected officials. On July 15, 2016, five GSA eligible agencies entered into a Joint Powers Authority/Agreement (JPA) for the purpose of becoming a GSA for the Indian Wells Valley Groundwater Basin. Member agencies of the IWVGA include City of Ridgecrest, Indian Wells Valley Water District, County of Kern, County of Inyo and County of San Bernardino.

On September 15, 2016, the IWVGA Board voted 5-0 to notice a public hearing in order to consider becoming the GSA for the entire IWV Groundwater Basin. That hearing was noticed for in three newspapers: The Bakersfield Californian, The Inyo Register, and The Daily Press. In addition to noticing Ridgecrest City Hall for this hearing, two other locations were noticed in local newspapers where electronic testimony may be offered during the hearing. Those two satellite locations are:

Multi-Purpose Conference Room  
High Desert Government Center  
15900 Smoke Tree Street, 2<sup>nd</sup> Floor  
Hesperia, CA 92345

Conference Room  
Inyo County Water Department  
135 Jackson Street  
Independence, CA 93526

After hearing public testimony and closing the public hearing, the Board will consider approval of a resolution to apply to DWR to be the GSA for the entire Indian Wells Valley Basin. If approved, the IWVGA would become the exclusive GSA in the basin if no GSA-eligible public agency files an overlapping application to be a GSA within 90 days of the application being deemed complete by DWR.

Filing to be the GSA for the Indian Wells Valley Basin would be the first step and inform the State that we intend to locally manage groundwater sustainably in our basin. Many other agencies throughout the State of California have already filed to be GSAs. For your information, statewide statistics on GSA filings with DWR as of November 28, 2016, are as follows:

- 133 Basin Notices have been filed with DWR.
- 73 are in overlap
- 50 exclusive GSAs

Once designated as a GSA there is much work to be done by IWVGA in order to meet the next SGMA deadline, which is to develop and adopt a Groundwater Sustainability Plan (GSP) before January 31, 2020.

Formation of a GSA in and of itself has no direct budgetary impact; however, the administration of the GSA and technical studies related to formation of a Groundwater Sustainability Plan (GSP) is likely to exceed \$1 million. SGMA legislation intends for GSAs to be self-funding (Government Code Section 10730). GSAs may impose permit fees and fees on groundwater extraction, and fund the costs of a groundwater sustainability program. A groundwater sustainability program includes preparation, adoption, and amendment of a groundwater sustainability plan, and investigations, inspections, compliance assistance, enforcement related to groundwater management and as set forth in the plan.

Eventually, contributions from member agencies will no longer be necessary because the IWVGA will have its own operating revenue. Grant funds and start-up contributions from member agencies are funding the current activities of the IWVGA in the short-term, but additional funds will need to be considered in 2017. Such new revenue should be in the form of a pump fee or property fee which will be used to fund activities related to groundwater sustainability in the basin.

### **RECOMMENDATION**

1. Open the public hearing to receive comment and consider the IWVGA's election to become a Groundwater Sustainability Agency for the entirety of the Indian Wells Valley Groundwater Basin; and
2. Make a finding the project is exempt from further CEQA review per sections 15061(b)(3) and 15378(b)(5) of the State CEQA Guidelines;
3. Adopt the resolution electing the IWVGA file a notice with the Department of Water Resources to be GSA for the entire Indian Wells Valley Basin that are the subject of this hearing.

## **Public Hearing to Form Groundwater Sustainability Agency**



**Indian Wells Valley Groundwater Basin**  
December 8, 2016 – Ridgecrest City Council Chambers

## **Presentation Overview**

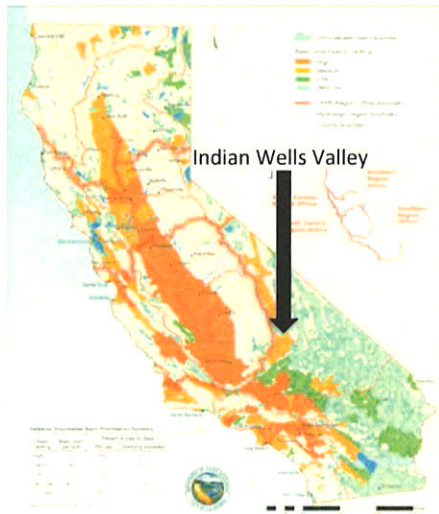
- **Summary & Background**
  - Sustainable Groundwater Management Act Requirements
- **Implementation in Indian Wells Valley**
  - Forming Groundwater Sustainability Agency
  - Governance structures
  - Public/Stakeholder Involvement
- **Next Steps/Timeline**

## Sustainable Groundwater Management Act (SGMA)

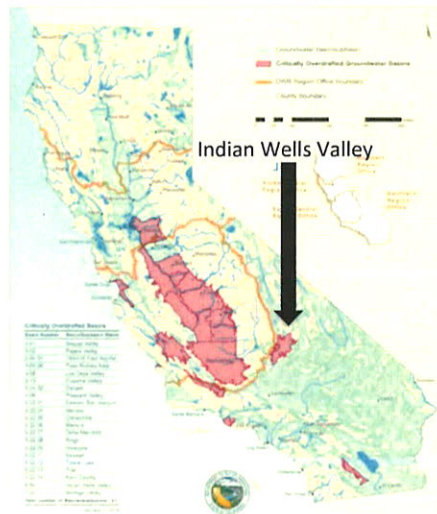
- Signed by Governor September 16, 2014
- Took effect January 1, 2015
- Recognizes preference for management by local agencies
  - Provides additional authorities to local management agencies
    - Conduct studies
    - Register & monitor wells
    - Set well spacing requirements
    - Require extraction reporting
    - Regulate extractions
    - Implement capital projects
    - Assess fees to cover costs
- Provides for State as backstop to regulate unmanaged or poorly managed basins

## Department of Water Resources Groundwater Basin Prioritization

SGMA Basin Prioritization



Critically Overdrafted Basis

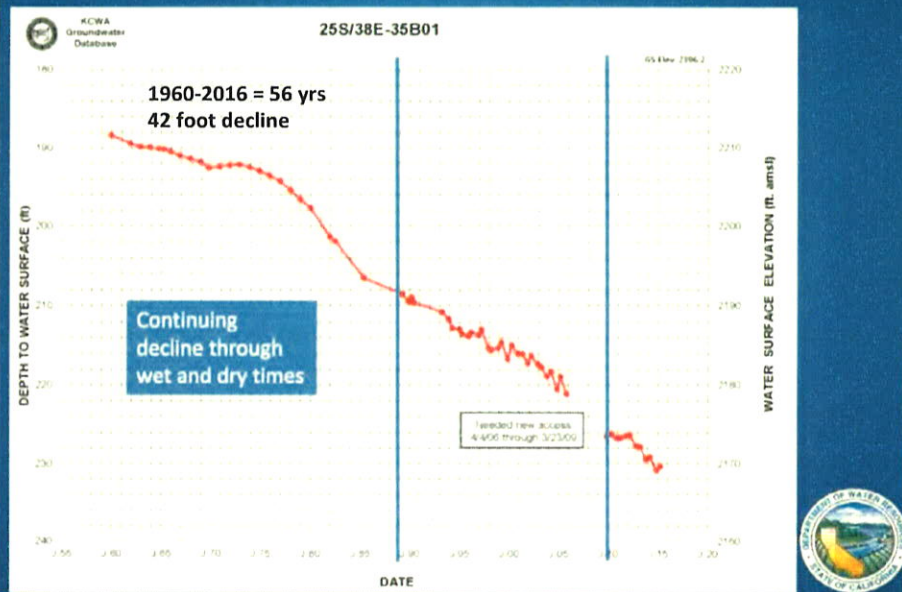


## Indian Wells Valley

- **Groundwater Level Hydrographs**  
More than 30 hydrographs  
Evaluate for Chronic Decline
- **Technical Reports**  
Reviewed >20 technical reports  
Evaluate for chronic reduction  
of storage  
Evaluate for Water Quality  
Degradation



## Well Showing Chronic Decline in Water Levels





## Required Steps to Groundwater Sustainability

### Step one

Form  
Groundwater  
Sustainability  
Agency  
June 30, 2017

### Step two

Develop  
Groundwater  
Sustainability  
Plan  
January 31, 2020

### Step three

Achieve  
Sustainability  
20 years after  
adoption of  
plan\*

\* DWR may grant up to two, five-year extensions on implementation upon showing of good cause and progress

## Step One: Form Groundwater Sustainability Agency (GSA)

- Local agency or combination of local agencies
- “Local agency” is any public agency that has responsibilities for any of the following within a groundwater basin:
  - Water supply
  - Water management
  - Land use
- SGMA allows one or multiple GSA’s in a basin

## Domestic Wells and SGMA

- Referred to as “de minimis” users (domestic wells)
  - Use 2 acre-feet per year or less for domestic purposes
- De minimis users can be subjected to SGMA fees such as permit and extraction fees
- De minimis users are generally excluded from extraction reporting, but they may be subject to reporting and fees if state intervention occurs
- Like all wells, domestic wells can also be regulated by non-SGMA entities such as the state or county

## SGMA Public Participation Requirements

GSA Formation	GSP Development
<b>Inform Interested Parties</b> about the Act & GSA Formation	
<b>Public Notice*</b>	<b>Public Notice</b>
<b>Public Hearing*</b>	<b>Public Hearing</b>
An <i>explanation of how the interests</i> of ALL beneficial uses and users of groundwater will be considered in <i>development and operation of GSA</i>	Shall encourage <i>the active involvement of diverse social, cultural, and economic</i> elements of the population within the groundwater basin

## Public/Stakeholder Involvement SGMA – Water Code Section 10723.2

“GSA shall consider interests of all beneficial uses and users of groundwater” including:

- Agriculture users
- Domestic users
- Municipal well operators
- Public & private water systems
- Local land use planning agencies
- Federal government
- California Native American Tribes
- Environmental users
- Disadvantaged communities
- Surface water users, if surface and groundwater are connected

### The “Backstop” State Board Intervention

After	Intervention Trigger
June 30, 2017	Areas without a GSA begin reporting well locations and extraction data to SWRCB; can begin probationary basin designation 180 days later.
Jan. 31, 2020	Can begin probationary basin designation in critically overdrafted basins with no GSP or where DWR finds the GSP is inadequate
Jan. 31, 2022	Can begin probationary basin designation in other high/medium priority basins without a GSP or where DWR finds the GSP is inadequate
Jan. 31, 2025	Probationary basin designations where DWR finds GSP is inadequate and significant depletions of interconnected surface waters

**In all triggering events, intervention is the result of failure by locals to create a GSA or adopt and implement a GSP**

## **Indian Wells Valley Local Implementation: GSA-Eligible Agencies**

### **Formed the Indian Wells Valley Groundwater Authority, a Joint Powers Authority, to become the Groundwater Sustainability Agency**

- City of Ridgecrest\*
- Indian Wells Valley Water District\*
- Inyo County\*
- Kern County\*
- San Bernardino County\*
- Naval Air Weapons Station\*\*
- US Bureau of Land Management\*\*

\* Voting GSA General Members

\*\* Non-voting GSA Associate Members

## **Indian Wells Valley Local Implementation: GSA-Eligible Agencies**

### **Opted Out of JPA/GSA Membership**

- Antelope Valley-East Kern Water Agency\*
- Inyokern Community Services District
- Kern County Water Agency
- Mojave Water Agency\*
- Rand Communities Water District\*

\* Very small portion of Water Agency/District included in the Indian Wells Valley

## Adopted Principles for Developing GSA Governance Options

- Build upon existing cooperation and successful water management efforts in Indian Wells Valley
- Reinforce “local management” principles in SGMA
- Share resources and identify cohesive approach
- Costs should be equitably shared
- Represent community stakeholders through advisory committees
- Conduct robust and transparent outreach

## Proposed Governance: GSA Board

- **GSA Eligibility:** Determined by State
- **GSA Board:** Indian Wells Valley Groundwater Authority Board
- **Representation:**
  - Elected officials serve as voting General Members from Kern County
  - Non-electeds may serve as General Members from Inyo and San Bernardino County, Alternate General Members and Associate Members

## Proposed Governance: GSA Board

### Voting:

- One vote per GSA General Member
- The affirmative vote of a majority of the Board shall be required for the approval of any Board action
- No action may be approved by the Board unless it receives the affirmative vote from no less than two of the then voting Directors representing the County of Kern, the City of Ridgecrest and/or the Indian Wells Valley Water District

## Proposed Governance: Policy Advisory Committee (PAC)

### Framework

- **Strong advisory body:** Created for stakeholder involvement and public input
- **Appointments:** Formal application process, by and at will of GSA Board
- **Representation:** PAC open to community members and staff
- **Transparency:** Open and public meetings
  - Pursuant to the Brown Act
- **Decision-making:** Charter & protocols

## Proposed Governance: Policy Advisory Committee (PAC)

### Role

Advise and make recommendations to GSA Board on:

- Development and, where legally appropriate, implementation of the Groundwater Sustainability Plan
- Any other matters directed to the PAC's attention by the GSA Board

*PAC is Advisory only*

*All final decision will be made by the GSA Board*

## Proposed Governance: Policy Advisory Committee (PAC)

- ◇ 5- One for each of the Voting GSA Member - (Inyo, Kern, and San Bernardino Counties, City of Ridgecrest, IWV Water District)
- ◇ 2- One each for the Associate GSA Member – (NAWS, BLM)
- ◇ 2- Agriculture – Large (Meadowbrook, Mojave Pistachios)
- ◇ 1- Agriculture – Small (to be determined)
- ◇ 2 – Business Interest
- ◇ 2 – Domestic Well Owners
- ◇ 1- Planning – (Kern County Planning Director)
- ◇ 1- Environmental – (Eastern Kern County Resource Conservation District)
- ◇ 1- Industrial (Searles Valley Minerals)
- ◇ **17 total**

## Next Steps/Timeline

- Notification to Department of Water Resources within 30 days including the following information as applicable:
  - Map of GSA service area and boundary
  - Copy of the Joint Powers Agreement Forming the Authority
  - Copy of resolution forming GSA
  - List of interested parties and how their interests will be considered in GSA operation and GSP development and implementation
- DWR posts all complete notices on website within 15 days of receipt
- Decision to become GSA takes affect 90 days after DWR posts notice unless another GSA-eligible agency files for same area

## Resources & Email List

<http://www.co.kern.ca.us/WaterResources.aspx#>

**Contact Lauren Duffy to join email list to  
receive monthly updates  
(760) 384-5511  
lduffy@iwwwd.com**



# BEFORE THE BOARD OF DIRECTORS INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

In the matter of:

Resolution No. 16-01

## RESOLUTION ELECTING TO BECOME A GROUNDWATER SUSTAINABILITY AGENCY FOR THE ENTIRETY OF THE INDIAN WELLS VALLEY GROUNDWATER BASIN.

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I, Lauren Duffy, Clerk of the Board of Directors for the Indian Wells Valley Groundwater Authority, do certify that the following resolution, on motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, was duly passed and adopted by the Board of Directors at an official meeting this 8th day of December, 2016, by the following vote:

AYES:

NOES:

ABSENT:

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Clerk of the Board of Directors  
Indian Wells Valley Groundwater Authority

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## RESOLUTION

Section 1. WHEREAS:

(a) The comprehensive groundwater legislation referred to as the "Sustainable Groundwater Management Act" (SGMA) was signed into law on September 16, 2014 with an effective date of January 1, 2015, and codified at California Water Code sections 10720 *et seq.*; and

(b) The stated purpose of SGMA, as set forth in California Water Code Section 10720.1, is to provide for the sustainable management of groundwater basins, and subbasins, as defined by the California Department of Water Resources at a local level by providing local water supply, water management and land use agencies with the authority and technical and financial

assistance necessary to sustainably manage groundwater; and

(c) SGMA further provides for and anticipates that eligible local agencies overlying basins that are designated by California Department of Water Resources (DWR) as “high or medium priority” will form Groundwater Sustainable Agencies (“GSAs”) for the purpose of achieving groundwater sustainability through the adoption and implementation of Groundwater Sustainability Plans (“GSPs”); and

(d) Water Code section 10723(a) authorizes local agencies with water supply, water management or local land use responsibilities, or a combination of those local agencies, overlying a groundwater basin to elect to become a GSA; and

(e) Water Code section 10735.2(a) provides that the State Board may designate the Basin as probationary if any portion of the Basin is not covered by a GSA before June 30, 2017; and

(f) The general members of the Indian Wells Valley Groundwater Authority (all of which fall within the SGMA definition of a GSA eligible agency) formed the Authority for, and with, the express purpose of forming a GSA for the entirety of the adjudicated groundwater basin known as Indian Wells Valley Groundwater Basin (Basin); and

(g) The combined political boundaries of the general members overly the entirety of the Basin, which is designated in DWR Bulletin 118 as Basin No. 6-54 and which is included on the list of critically overdrafted basins; and

(h) Staff has reviewed this matter and determined that this matter is exempt from further CEQA review pursuant CEQA Guideline section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and CEQA Guideline section 15378(b)(5) because the matter is an organizational activity that will not result in a direct or indirect physical change in the environment; and

(i) As required by Water Code section 10723(b), the notice of public hearing to consider this election to become a GSA for the Basin was published pursuant to Government Code section 6066 in The Bakersfield Californian, The Inyo Register, and The Daily Press; and

(j) On December 8, 2016, the Board of Directors properly held the noticed public hearing required by Water Code section 10723(b) at 10:00 a.m. in the City Council Chambers for the City of Ridgecrest, 100 West California Avenue, Ridgecrest, CA 93555; and the Inyo County Water Department Conference Room, 135 Jackson Street, Independence, CA, 93526; and Jerry Lewis High Desert Government Center, 15900 Smoke Tree Street, 2<sup>nd</sup> Floor, Multi-Purpose Conference Room No. 221, Hesperia, California 92345.

Section 2. IT IS RESOLVED by the Board of Supervisors of the County of Kern, State of

California, as follows:

1. This Board finds that the recited facts are true and that it has the jurisdiction to consider, approve, and adopt this Resolution.
2. This Board incorporates and makes all the findings recommended by staff, whether verbally or in their written reports.
3. This Board finds and determines that the applicable provisions of the California Environmental Quality Act of 1970 ("CEQA"), the State CEQA Guidelines, and the Kern County Guidelines have been observed in conjunction with the hearing and the considerations of this matter and it is exempt from further CEQA review pursuant Sections 15061(b)(3) and 15378(b)(5).
4. This Board hereby elects to form a GSA for the entirety of the Basin as also depicted in the attached Exhibit A.
5. As required by Water Code section 10723.2, the Authority shall consider the interests of all beneficial uses and users of groundwater in the Basin.
6. As required by Water Code section 10723.4, the Authority shall establish and maintain a list of all persons and entities interested in receiving notices regarding the GSP preparation, meetings, announcements, and the availability of draft plans, maps and other relevant documents.
7. Counsel is directed to ensure that the notice of GSA formation, and all required supporting documentation, is submitted to California Department of Water Resources as soon as possible and within the legally mandated 30 days.
8. The Clerk of this Board shall cause a Notice of Exemption to be filed with the County Clerks in Kern County, San Bernardino County and Inyo County.

# IWVGA ADMINISTRATIVE OFFICE

*Staff Report*

Agenda Item 7

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**TO:** IWVGA Board Members **DATE:** December 8, 2016  
**FROM:** Alan Christensen AC  
**SUBJECT:** Approval of Policy Advisory Committee Application and Process  
(Fiscal Impact: none)

## **DISCUSSION**

On November 15, 2016, the IWVGA Board directed staff to develop an application for the Policy Advisory Committee (PAC). The PAC is the primary policy advisory body to the IWVGA. The PAC will advise in preparation and implementation of a Groundwater Sustainability Plan (GSP). A formally approved application document is needed so that the IWVGA can move closer to actually appointing individuals to serve on the PAC.

A draft application is attached for the Board to consider, for filling the following PAC positions:

- 1 - Agriculture - Small
- 2 - Business Interests
- 2 - Domestic Well Owners

The form is designed to be filled out online, then submitted via email and stored electronically. All other PAC positions will be nominated by their respected organizations, which the Board reviews and approves.

Applications received will be compiled by the IWVGA Clerk of the Board, and screened for completeness. All complete applications will be reviewed by the IWVGA Board, and appointments for positions will be selected on the basis of the information submitted in the applications.

## **RECOMMENDATION**

Approve the PAC application

**INDIAN WELLS VALLEY GROUNDWATER AUTHORITY  
POLICY ADVISORY COMMITTEE APPLICATION**

**If additional space is needed, please attach separately.**

<b>NAME</b>	<i>(First)</i> <i>(Middle)</i> <i>(Last)</i>	
<b>ADDRESS</b>	<b>Residence</b> <i>(Street)</i> <i>(City)</i> <i>(Zip Code)</i>	
	<b>Business</b> <i>(Street)</i> <i>(City)</i> <i>(Zip Code)</i>	
<b>TELEPHONE</b> <i>(Please include area code)</i>	<b>Residence</b>	<b>Business</b>
<b>E-MAIL ADDRESS</b>		
<b>EDUCATIONAL BACKGROUND</b>		
<b>EMPLOYMENT BACKGROUND</b>		
<b>CIVIC INVOLVEMENT</b>		
<b>EXPERIENCE BENEFICIAL IN SERVING ON A COMMITTEE OR BOARD</b>		
<b>REFERENCES:</b> Please provide names, phone number, email address, and attach letters of recommendation.	1. 2. 3. 4.	

**INDIAN WELLS VALLEY GROUNDWATER AUTHORITY  
POLICY ADVISORY COMMITTEE APPLICATION**

If additional space is needed, please attach separately.

<b>WHY DO YOU WISH TO SERVE?</b>	
<b>HAVE YOU ATTENDED ANY MEETINGS OF THE COOPERATIVE GROUNDWATER GROUP OR IWV GROUNDWATER AUTHORITY BOARD?</b>	
<b>DO YOU PRESENTLY HOLD A POSITION THAT MIGHT CONFLICT WITH YOUR DUTIES FOR THE COMMITTEE?</b>	
<b>ADDITIONAL COMMENTS</b>	

I hereby certify that I am a registered voter in the Indian Wells Valley groundwater basin, a citizen of the United States and will be at least 18 years of age at the time of the next election. I am not imprisoned or on parole for the conviction of a felony. I certify under penalty of perjury under the laws of the State of California, that the information on this application is true and correct.

I understand that this is a public document and by assuming this responsibility my background and/or qualifications, including financial interests, could become public knowledge.

Applications will be kept on file for one year.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**GROUNDWATER AUTHORITY USE ONLY**

RESIDENCE S.D. # \_\_\_\_\_ BUSINESS S.D. # \_\_\_\_\_

DATE RECEIVED \_\_\_\_\_

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## IWVGA ADMINISTRATIVE OFFICE

Agenda Item 8

Staff Report

**TO:** IWVGA Board Members **DATE:** December 8, 2016  
**FROM:** Tim Parker *TP*  
**SUBJECT:** Adoption of 2017 Annual Budget, and Future Funding and Finance Options

### DISCUSSION

This Staff Report presents a summary of the proposed 2017 Budget (see attached Proposed 2017 Budget Income and Expenses Tables), which Staff committed at the November 17<sup>th</sup> Board meeting to prepare for Board consideration and approval at this December 8<sup>th</sup> meeting. The first full functioning year of the IWVGA will be a learning and adjustment time as the new organization adapts to fully understand its future administrative and operational needs.

#### **Income Totals \$326,500.**

The Income the JPA currently has includes carryover from JPA General Member initial \$15,000 contributions, the \$250,000 Proposition 1 SGMA Stressed Counties Grant that Kern County obtained from the California Department of Water Resources for Groundwater Sustainability Agency (GSA) formation and initiation of Groundwater Sustainability Plan (GSP) preparation, as well as in-kind services from the City for meeting space support. The DWR Stressed Counties Grant will be directly contracted between DWR and Kern County, and the JPA will receive the benefit of this grant indirectly through the continued support to complete the formation of the GSA and initiate preparation of the GSP in 2017.

#### **Projected Expenses: \$326,500.**

The Expenses estimated for 2017 include GSA Administration, the USGS Recharge Study and initiation of GSP preparation under the DWR Stressed Counties Grant, and Property Assessment/Rate Study (Cost of Service) to develop an initial fee assessment structure to support the IWVGA in the future. Considering this is a new organization, there are many uncertainties on the Expenses side of the budget, including cost for GSA Administration, the fee to conduct a cost-of-service study, and the cost for GSP preparation, so the Board may wish to track the expense side closely and consider a mid-year, or even quarterly adjustments as appropriate.

#### **Future Funding and Finance Options.**

SGMA intends for the new GSAs to be self-funding. Future funding and finance options for the IWVGA include the following, not in any order of priority or preference:

- 1) Additional Proposition 1 SGMA grant to prepare the GSP - \$500,000 to \$1,000,000
- 2) Loans – from the State and from General Member Agencies
- 3) Fees
  - a. Property assessment
  - b. Pump tax
- 4) Additional General Member Contributions

The likelihood of the IWVGA receiving a grant from DWR under the Proposition 1 SGMA program is high, and will require the preparation of a grant application, schedule projected to be summer of 2017. Assuming the grant application is successful, funds would be available to spend in late 2017 or (more likely) early 2018. Other Proposition 1 grant opportunities include the Integrated Regional Water

Management Program, Stormwater, Drinking Water, Water Recycling and Water Quality, and should be considered as they become available.

Another potential source of funding that could be considered if necessary to bridge the gap between expenses and income, is to contract loans from either the state or members agencies.

Fees will be necessary for long-term funding of the IWVGA. Under Water Code Section 10730, a GSA may impose fees, including, but not limited to, permit fees and fees on groundwater extraction or other regulated activity, to fund the costs of a groundwater sustainability program, including, but not limited to, preparation, adoption, and amendment of a groundwater sustainability plan, to fund costs of groundwater management, and investigations, inspections, compliance assistance, enforcement, and program administration, including a prudent reserve.

Additional Members Contributions may also be an avenue to fill any short-term gaps in funding.

**RECOMMENDATION**

Discuss; adopt 2017 Annual Budget



**Indian Wells Valley Groundwater Authority  
Proposed 2017 Budget**

INCOME	FY 2017 Proposed
Carryover from Contributions	75000
DWR Grant	250,000
<i>*In Kind</i>	
City - meeting space	1,500
<b>TOTAL INCOME</b>	<b>326,500</b>

EXPENSES	FY 2017 Proposed
<b>GSA/JPA Budget Item</b>	
<i>GSA Administration</i>	
Meeting Space*	1,500
Consulting Services	50,000
Legal Counsel	40,000
Special Services	10,000
GSA Filing Fees	1,500
Insurance	7,000
Technology Services	8,000
Meeting Copies	1,000
Meeting Notices/Website	1,000
Miscellaneous Supplies	1,500
<i>Adminlstration Total</i>	121,500
USGS Study	90,000
Property Assessment/Rate Study	30,000
GSP Development	85,000
<b>TOTAL EXPENSES</b>	<b>326,500</b>

# IWVGA ADMINISTRATIVE OFFICE

Staff Report

## Agenda Item 9

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**TO:** IWVGA Board Members **DATE:** December 8, 2016  
**FROM:** Alan Christensen, IWVGA Staff *Ac*  
**SUBJECT:** Report on Actions and Objectives of the IWVGA  
a. Financing Options and Appointment of Ad Hoc Committee for Finance  
b. Special Legal Counsel For Water and Groundwater

### DISCUSSION

The following are upcoming actions of the IWVGA that we expect to have on the agenda in the coming months. Our plan is to update this list on a regular basis to help the Board and staff focus on the actions and objectives that should take priority in the short-term. This list is not intended to be all-inclusive but to provide a forum for discussion and to direct staff on additional items that may not be on the list but are priority for the Board.

- |  |               |
|--|---------------|
| 1. File GSA Application with DWR                                   | December 2016 |
| 2. Ad Hoc Committee Review of Bylaws with staff and legal          | Dec/Jan. 2017 |
| 3. Ad Hoc Committee Review of Funding Options with staff and legal | Dec/Jan. 2017 |
| 4. Board Approval of Bylaws  | January 2017  |
| 5. <b>Discussion of Groundwater Fees-Ad Hoc Finance Committee</b>  | January 2017  |
| 6. Appoint PAC Committee Members                                   | January 2017  |
| 7. Contract with Hydrologist Consultant for GSP                    | January 2017  |
| 8. TAC Formation and Structure                                     | Jan/Feb. 2017 |
| 9. <b>Special Outside Counsel for Groundwater</b>                  | Jan/Feb. 2017 |
| 10. Prepare Grant Application to DWR                               | July 2017     |

### Discussion of Groundwater Fees-Ad Hoc Finance Committee

This item is a critical, time sensitive issue the Board needs to tackle in January. Staff will be presenting in January a report on the options available to the Board, including project steps that would be needed such as possible of hiring consultant(s), studying revenue options, required public meetings, public noticing, timeline for adoption, and county tax roll deadlines.

There are several options available to the IWVGA to finance its activities it becomes a GSA, including a pump tax, a property assessment, grant funds, contributions by private entities, and loans from member agencies. Additional member contributions may also be an avenue to fill any short-term gaps in funding; although we are assuming member contributions are a last resort given the budgetary constraints of most of the member agencies in the IWVGA.

Given the complexity of the issues, staff believes an Ad Hoc Finance Committee assist in this effort.

### Special Counsel for Groundwater

The Board has directed that agency attorneys will provide legal advice related to agenda preparation, inquires during Board meetings, and other routine matters. Special legal counsel is to be engaged to advise the IWVGA

on matters related to water and groundwater.

Staff has requested proposals from attorney firms with extensive experience in water and groundwater. As of preparation of the agenda, only one firm has responded although other firms have expressed interest. Therefore, in January we will present the Board with attorneys firms along with their qualifications, relevant experience, and rates of pay.

**RECOMMENDATION**

Staff encourages Board discussion.