

# 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 March 16, 2017, 10:00 a.m.

#### Remote Location

8575 Haven Ave. Suite 110  
Rancho Cucamonga, CA 91730

*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 - None**

#### **5. CONSENT AGENDA**

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

- a. Approve Meeting Minutes of February 16, 2017

#### **6. DISCUSSION/APPROVAL OF BYLAWS FOR THE IWVGA**

**7. DISCUSSION/APPROVAL OF POLICY ADVISORY COMMITTEE (PAC) CHARTER**

**8. REPORT ON PLAN OF ACTION AND MILESTONES FOR A GROUNDWATER SUSTAINABILITY PLAN**

**9. GENERAL MANAGER REPORT**

**10. CLOSING COMMENTS**

**11. CLOSED SESSION**

- a. PUBLIC EMPLOYEE APPOINTMENT - Title: Board Attorney (Government Code Section 54957(b)(1))

**12. DATE AND TIME OF NEXT MEETING**                      April 20, 2017, 10 am.

**13. ADJOURN**

# INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

## BOARD OF DIRECTORS MINUTES

Ridgecrest City Hall  
100 W California Ave  
Ridgecrest, CA 93555

Thursday February 16, 2017, 10:00 a.m.

### **CALL TO ORDER:**

The meeting was called to order by Chairperson Gleason at 10:00 a.m.

### **ROLL CALL:**

Commander Brian Longbottom, Department of the Navy  
Robert Pawalek, Bureau of Land Management  
Bob Page, San Bernardino County  
Peter Brown, Indian Wells Valley Water District  
Chairperson Mick Gleason, Kern County  
Mayor Peggy Breeden, City of Ridgecrest  
Matt Kingsley, Inyo County

### Also Present:

Lauren Duffy, IWVGA Clerk  
Alan Christensen, Kern County  
Phill Hall, IWVGA Counsel  
Keith Lemieux, IWVGA Counsel  
Tim Parker, Technical Consultant to Kern County  
Dale Schafer, DWR Facilitator

Chairperson Gleason thanked Tom Weil of California City, Mayor Jennifer Wood of California City, and Lawrence Skidmore, representative for Assemblyman Vince Fong, for attending this meeting.

### **PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Ron Kicinski followed by a moment of silence.

### **CLOSED SESSION:**

Motion was made by Peter Brown and seconded by Vice-chair Breeden to reconvene the meeting in Closed Session at 10:04 a.m. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Kingsley, Page Nays: None.)

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2)(e)(1)) Number of cases: Two (2) Significant exposure to litigation in the opinion of the Board of Directors on the advice of legal counsel, based on: Facts and

circumstances that might result in litigation against the IWVGA but which are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

The meeting was recalled to Open Session at 11:09 a.m.  
No action was taken that would require disclosure under the Brown Act.

Roll call was taken by Chairperson Gleason, left to right:  
Commander Longbottom, U.S. Navy  
Robert Pawalek, Bureau of Land Management (BLM)  
Bob Page, County of San Bernardino  
Peter Brown, Indian Wells Valley Water District (IWVWD)  
Chairperson Mick Gleason, Kern County  
Mayor Peggy Breeden, City of Ridgecrest  
Matt Kingsley, Inyo County

Report of items in closed session provided by Philip Hall. Board met on items 3A and 3B. There was no reportable action in closed session other than there will be an Ad Hoc Committee consisting of Chairperson Gleason and Peter Brown that will meet with the large groundwater pumpers in the upcoming weeks to discuss fees.

**PUBLIC COMMENTS:**

Don Decker mentioned that in a prior meeting there was discussion on domestic wells and how deep the wells are (and how much standing water remains). Due to the meeting running late last time, Mr. Decker did not make a comment but would like to now. Mr. Decker stated that the standard drilling process for a domestic well in this valley is to give the customer 100 feet of standing water when it is bottomed out. When it is cased, it is typical to give the customer two 20 foot lengths of perforation (well screen) at the bottom of the well, making a total of 40ft, which means there is 60 feet above the perforations. It is not good practice to place the pump in the perforation zone because it leads to sand production. So with pump placed above perforations, it leaves roughly 50 feet of standing water above the pump when the well is first installed. If the customer has a decrease of 1ft of water per year that would give the customer about 50 years of life. However, if the water is dropping at 1ft ½ per year, then that brings the life span down to 33 years.

Judie Decker commented that in order to have a successful Groundwater Management Program the group must avail itself to the most competent, technical people that can be found. In this Valley there is an unusually large amount of technically trained people, not just engineers, hydrologists, and geologists, but also physicists. Ms. Decker strongly urges the Board to add physicists to its requirements for committee membership.

Mayor Jennifer Wood of California City thanked Chairperson Gleason and Mayor Peggy Breeden and the Board for the opportunity to speak today. Mayor Wood stated that she is there today to restate the City's commitment as good stewards of their precious water resources. There are concerns that there are entities in the Fremont Valley basin that claim to have water rights and would like to sell that water. Mayor Wood explained that they understand no action has been taken by the Board to accept water from the Fremont Valley Basin. Before any water can be exported the City needs to know the true recharge and the amount that will be a safe yield.

In a 2013 letter to the Kern County Board of Supervisors, a draft EIR on that basin said the recharge rate was between 15,000 and 17,000 acre-feet per year. If true, the sale of 10,000 acre-feet of water would leave the basin with a net recharge rate of 5,000 to 7,000 acre-feet. Mayor Wood explained that they have seen new growth in California City and new uses for water. Mayor Wood commented that she read that Kern County is “almost” out of a drought.

Tom Weil, City Manager of California City, updated the Board with information on the Fremont Basin as far as California City’s IRWMP activities. California City’s surface area of the basin is 523 miles of which California City comprises 203 of those miles. In 2014, California City formed an IRWM (Integrated Regional Water Management) group between the major water agencies within that area. California City was successful in receiving an award this year of \$841,000 for the Prop. 1B funding which will be used to prepare an IRWMP plan, a Salt and Nutrient Management Plan, and a Groundwater Sustainability Plan. Even though California City is a low priority basin, they will move forward rapidly to become similar to this group. We will determine the sustainable yield in our basin and continue to learn and be a neighbor to you.

Renee Westa-Lusk wanted to speak about two items. First, a letter in the Board packet regarding funding for the IWVGA. Ms. Westa-Lusk asks that Chairperson Gleason consider hiring a consultant that could do research on funding and finance for the IWVGA before any meetings are held so that information may be available before deciding whether the Board wants to have public or ad-hoc committees or both. Second, Ms. Westa-Lusk asked whether Kern County would ban recreational marijuana activities, except what is allowed by Prop 64, or if they will create a plan where commercial marijuana cultivation and commercial marijuana processing and packing would be permitted.

Mike Neel suggests that the Board follows the Water District’s example and have the Closed Session held after meetings.

**SPECIAL PRESENTATIONS:**

- a) **Report by Tim Parker on Technical Progress in the IWV Groundwater Basin:**  
(Available online)

Public comment:

Donna Thomas asked if Mr. Parker could give more detail on the SB 193 spot bill for Sustainability Groundwater Management Act (SGMA). Mr. Parker replied that it is a process that legislatures do. Basically, you have a due date to introduce bills, which was February 17<sup>th</sup>, when all the bills have to be on file. It’s “filler language” that will be modified and is called a “spot bill”.

Board Comment:

Bob Page asked that going forward when this report is made that it would be explained how legislation would specifically impact activities in this basin and decisions this Board would have to make in the future.

Chairperson Gleason commented that this Board needs more outreach. A better understanding of these issues will impact our outreach. Some significant improvement needs to be made.

Motion was made by Vice-chair Peggy Breeden and seconded by Peter Brown to receive and file agenda item. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Kingsley, Page  
Nays: None.)

**CONSENT CALENDAR:**

**a) Approve Meeting Minutes of January 19, 2017**

Peter Brown asked that on page 3 of the January 19, 2017 Minutes the motion made by “Peter Brown and seconded by Vice-chair Brown” be changed to reflect Vice-chair Breeden’s name as seconding and not his own name twice.

Motion was made by Peter Brown and seconded by Bob Page to approve the January 19, 2017 Minutes with the aforementioned edit on page 3 to change “Vice-chair Brown” to “Vice-chair Breeden”. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Kingsley, Page  
Nays: None.)

**DISCUSSION/ACTION TO APPROVE BYLAWS FOR THE IWVGA:**

Philip Hall stated that the Bylaws have been thoroughly reviewed by member agencies. Mr. Hall clarified that besides the Ad-Hoc committee the Board member alternates were not involved in the Bylaws. These Bylaws are administrative code and are set up in chapters and sections so that changes and new policies may be added and removed when needed. Mr. Hall commented that a question that may be asked is if the Bylaws are complete. A simple answer is “yes and no.” These are the first part of the Bylaws, the administrative Bylaws. The Bylaws encourage public participation and require public meetings.

**Board comment:**

Bob Page stated that in November when the Board approved the structure for the Policy Advisory Committee (PAC) there was discussion about identifying specific entities sitting in certain seats. Mr. Page stated he was hoping that staff could explain why the Bylaws just have the categories and doesn’t specifically name those entities. Mr. Hall answered that those entities are still named although not exactly as directly. For example, the only wholesale industrial user of water in the basin to Mr. Hall’s knowledge is Searles Valley Minerals. Two large Agricultural users are listed, which would be Meadowbrook and Mojave Ranch. Mr. Hall stated that the entities are named without specifically being named by title.

According to Mr. Hall, Groundwater Sustainability Act (GSA) board members cannot be on the Policy Advisory Committee (PAC). It would become a Brown Act issue if board or staff members were members of the PAC. Mr. Hall stated that if GSA Board or staff members were on the PAC, it would constitute a serial meeting. If Alan Christensen were on the PAC to represent Kern County polices, it would create a hub and spoke legal problem, where he might act as the center and communicates with other members of the GSA Board or staff on an issue, resulting in a serial meeting. A serial meeting is when a type of meeting is conducted through a series of communications by individual members or not a quorum group, ultimately involving a majority of the body’s members. Regardless of the location of the meeting.

Mr. Hall commented that the Groundwater Sustainability Act (GSA) Board will ultimately be responsible for adopting a Groundwater Sustainability Plan (GSP). By not allowing the Board

members on the Policy Advisory Committee it is giving more power to the public to allow more definitive public opinions.

Keith Lemieux clarified that the Brown Act requires that meetings take place in an open and public fashion, which means the public has to be properly noticed of meetings and agendas and the public must be allowed to attend Board meetings. If a legislative body, such as the City Council creates a committee, then that committee could only consist of two Board members. If there were three Board members on that committee, you would have a quorum that would result in a City Council meeting and not a committee meeting.

Chairperson Gleason asked what the consequences of a Brown Act violation are. Mr. Lemieux answered that if an action is taken illegally then that action can be undone.

Bob Page stated that San Bernardino County did not participate in the Bylaws. Mr. Page was advised by his Board that as alternate on the Indian Wells Valley Groundwater Authority Board he should not participate in staff discussions. Mr. Hall confirmed that San Bernardino has not been involved with any discussions, nor have any alternates been involved in discussion at a staff level.

Phill Hall clarified that these Bylaws will not become effective until the end of the March Indian Wells Valley Groundwater Authority Board Meeting. This allows any member agencies to make changes until then. If no changes are submitted by the end of the March IWVGA meeting, then the Bylaws will be put into effect. If any agencies have changes or concerns then those edits will be added to the March agenda and addressed.

Bob Page asked if there are issues that come up that are not mentioned in the Bylaws would the Joint Powers Agreement (JPA) be the ruling document. Mr. Hall answered yes, the Joint Powers Agreement (JPA) is the constitution for this agency.

Matt Kingsley commented that he is happy to get the Bylaws done so now the Board can get the Policy Advisory Committee (PAC) started and begin hearing from the public, water users, and the people most affected by this.

Phill Hall commented that changing the Bylaws is a very simple process consisting of motion, resolution, and changing that portion of the Bylaws.

Vice-chair Breeden asked for clarification and purpose on Section 5.3, Standing Committee Membership. It currently states that "Likewise, the Board shall have the sole discretion to remove or admonish any member, or members, of any standing committee at any time." Phill Hall answered that that Board won't remove someone because the Board doesn't like them or their opinion. Why it says "sole discretion" is so that there is no argument if someone was sufficiently removed for cause.

Vice-chair Breeden asked if a removal happens in a committee (Section 5.6 of the Bylaws), is it just the person who is removed or the entire entity. Mr. Hall answered that it is more for a person being removed.

Vice-chair Breeden asked with regards to Section 14.1, "Amendments of the Bylaws", how does it happen that an amendment would take place? Mr. Hall answered that it's the same way as the City does administrative code or when a municipal code is changed. Just the one section is changed, not the entire code. Vice-chair Breeden asked if it would be done by a vote, majority or super vote. Mr. Hall answered that in this instance it would be a majority vote with the Super 3 (City, Kern County and IWVWD) vote structure included.

Peter Brown asked after the Bylaws are adopted how quickly the committee seats will be named. Mr. Hall answered hopefully in March the Board will be well into the application process and the charter and Policy Advisory Committee will begin to be named. Mr. Brown asked if there was an application available right now. Alan Christensen answered that there is a draft right now, however, the final application will be available after the Bylaws are in effect.

Alan Christensen clarified that if the Board approves the Bylaws today and assuming it becomes effective in March, a parallel process will happen and the application will be available online. The process is not end to end, however it's parallel. Some applications may be available at the next meeting for review in an effort to not slow down this process.

Public comment:

Don Decker commented that the Policy Advisory Committee (PAC) application and charter development are going parallel to the Bylaws. If so, how can a person turn in an application to a position that is not well defined? Mr. Decker also commented that in a typical employment situation there are a set of very specific requirements for the position being offered as well as guidance for the applicant as to the criteria the employer is looking for. Criteria for acceptance is almost an essential thing for the Board to have, otherwise the Board will end up with a more subjective choice.

Joshua Nugent, on behalf of Mojave Pistachio and Nugent Ranch, respectfully requested that the Indian Wells Valley Groundwater Authority accelerate efforts to establish the proposed Technical Advisory Committee (TAC) and the Policy Advisory Committee (PAC) and that the Authority's Board of Directors consider amendments to the draft Bylaws concerning the membership and role of the Policy Advisory Committee (PAC). The proposed Policy Advisory Committee (PAC) membership is not ideal. The Board should consider edits to the Bylaws to render membership similar to that proposed and approved in the November meeting. The current Draft Bylaws state four non-voting members of the Joint Powers Agreement (JPA) and nine stakeholder voting members. The November Policy Advisory Committee (PAC) charter provided each JPA member and each associate member would have a seat on the Policy Advisory Committee. Mr. Nugent states that the prior composition is preferable. The Bylaws should also be amended to provide a leadership role for the Policy Advisory Committee (PAC) and the Technical Advisory Committee (TAC) and implementation of the Groundwater Sustainability Plan (GSP). Mr. Nugent asked for clarification on the difference between large and small agriculture. Mr. Nugent concluded asking if there was any legal structure that all the stakeholders could get together at a table and talk.

Derek Hoffman, on behalf of Meadowbrook, commented on the submitted letter from Gresham Savage that was provided to the Board and staff members. Mr. Hoffman asks that the Board review that letter prior to taking any action on the Bylaws today. The Bylaws as proposed



basically remove the Board member agencies from the Policy Advisory Committee (PAC). The problem with doing that is it removes a line of communication, a direct line to communicate in real time on important policy issues. Mr. Hoffman concluded that Meadowbrook urges the Board use the structure and charter that the Board unanimously voted on and approved in November versus the current proposed structure. Specifically, that name of entities would be included with the Policy Advisory Committee (PAC) charter. Mr. Hoffman also questioned records retention and how committees would have access to records of the Board.

Stan Rjatora provided a sheet including 14 comments, 5 of which he mentioned to the Board. The comments included: 1) Paragraphs 3.1 and 3.6 appear to conflict. Paragraph 3.1 states there are only two Board officers while paragraph 3.6 addresses compensation for officers who are not directors. 2) Paragraphs 3.3, 3.4 and 3.8 do not represent a clear management structure. Who hires, fires and who is in charge of whom? Is the secretary hired, appointed or elected? The secretary reports to whom? Does the Board hire all employees or does the General Manager hire people? 3) The description of the General Counsel (3.5) is a set up to encourage a conflict of interest. Kern County has indicated it would like to stop funding the Groundwater Authority even though it gets taxes each year to manage groundwater. Kern County may be the first agency sued by the Groundwater Authority. This represents a clear conflict of interest for the County Attorney. Please consider revising the makeup of the General Counsel position. Paragraph 3.5.1 acknowledges the possibility of conflict of interest in the General Counsel position. It goes on to state that a conflict of interest for this primary role is okay. It is not okay. It could lead to constant irritation, unknown out-year cost, and unreasonable schedule delays. This whole concept should be reconsidered. 4) The discussion regarding a special Counsel should not be included in a paragraph titled "General Counsel". Suggest adding a new paragraph. 5) Paragraph 3.7 or some other paragraph dealing with finances should address the fact that a financial audit needs to be performed on a yearly basis. 6) Paragraph 4.2 specifies a reimbursement for meals not to exceed \$90 per day. That may be a little high. Suggest researching the reimbursement provided by the Groundwater Authority member agencies and using the average of the five agencies. 7) Suggest revising the last sentence of paragraph 5.3 to replace the word "alternate" with the word "replacement". The two words have slightly different meanings. 8) Suggest making the scope of the Policy Advisory Committee (PAC) in paragraph 5.5 "any policy related action" rather than "development and implementation of the GSP". Many major policy decisions will be financial in nature. That may or may not be considered in the Groundwater Sustainability Plan (GSP) development or implementation. 9) Suggest deleting in paragraph 5.6 where the Board has the ability to control either the removal or the conduct of the Policy Advisory Committee (PAC) members. The Policy Advisory Committee (PAC) members represent various special interest groups whose opinions may, from time to time, disagree with the majority of the Board. Nonetheless, the interests of all groups need to be represented without threat of censure. 10) Add to paragraph 5.6 a non-voting member for the City of Ridgecrest. 11) Paragraph 5.8, Technical Advisory Committee (TAC) membership is a critical element of the Bylaws and needs to be defined before the Bylaws are approved. The Technical Advisory Committee (TAC) should already be in place and functioning. 12) Article 8 Records Retention should include the establishment of a website that includes minutes, reports, and presentations from all the Board and Committee meetings. 13) Paragraph 8.1 regarding records retention is too vague. This paragraph should provide the basis for the "criteria and procedures" that will be written in the future. 14) Paragraph 14.1 states that the Bylaws may be

amended by resolution. The implication is a simple majority. Is that really what is desired? Perhaps this should be clarified.

Renee Westa-Lusk commented that on the back of the Resolution to adopt the Bylaws there is no number 3, it skips from number 2 to number 4. Ms. Westa-Lusk expressed concern that there were no object sections which state in one sentence the purpose of the Groundwater Sustainability Authority (GSA) which she believes should be stated in the Bylaws. Ms. Westa-Lusk also feels that membership of the Groundwater Sustainability Authority should be mentioned as well. Should an annual audit be done because this is a government agency?

West Katzenstein senses that there is still pushing and shoving happening in the philosophical role of the Policy Advisory Committee (PAC). Mr. Katzenstein feels as if it is the Board's role to decide the plan and the Policy Advisory Committee (PAC) role to provide alternatives.

Elaine Mead asked if staff could provide her with information regarding when the definition for the Policy Advisory Committee members was arrived at and what the definition for each member is.

Donna Thomas states that in the Sustainability Groundwater Management Act (SGMA) legislation it lists specific stakeholders to be represented in the Groundwater Sustainability Act (GSA) groups, two of which are the Disadvantaged Communities and tribes. With the casino coming in soon, should there be a designation for a tribal representative??

Judie Decker stated that the Technical Advisory Committee (TAC) should be brought forward at the same time as the Policy Advisory Committee (PAC). Ms. Decker feels that it is a conflict of interest for the Indian Wells Valley Water District to sit on the Policy Advisory Committee as they are already represented on the Board.

Mike Neel agreed with Judie Decker in reference to the Indian Wells Valley Water District to sit on the Policy Advisory Committee (PAC). Mr. Neel also agrees with Mr. Rjatora's earlier comments on paragraphs 3.5 and 3.5.1 that there is a clear conflict of interest and the Board should have its own Counsel that is not affiliated with any of its other agencies. Section 3.8 Water Resources Manager section states that the Authority will hire consultants. Who is the Water Resources Manager's boss and who does that position answer to? Would it be the Board itself or the General Manager? That should be clear in this section. Mr. Neel addressed a conflict in section 5.2, "Conduct of Standing Committees." This section states that each standing committee will establish a time and place and then in section 5.5 it mentions the Policy Advisory Committee (PAC), referred to as a standing committee, will have the Board establish the time and place for the Policy Advisory Committee (PAC). Mr. Neel asked that the public know when the agenda will be posted on the website so that the public may have access to it prior to the meetings in accordance with the Brown Act.

Dell Hledik agrees that criteria should first be established for the Policy Advisory Committee (PAC) and the Technical Advisory Committee (TAC) members. The most important thing for criteria is interest. Consideration should be given to those who attend these meetings continually. Ms. Hledik asked if the Water Resource Manager would be the boss of the Policy Advisory Committee (PAC) and the Technical Advisory Committee (TAC).

**Board comment:**

Mr. Hall answered Mr. Nugent's concerns stating that the Policy Advisory Committee charter, even with the Water Resource Manager, has not changed much. The Water Resource Manager will work with the committees and move plans forward. This position is a point person for the committees. If questions arise from Department of Water Resources (DWR), it is the Water Resource Managers job to answer those questions. The Water Resource Manager's boss would be the Board. The position will be filled by an outside consultant.

Mr. Hall addressed Mr. Hoffman's concerns about the two large agricultural spots being listed in the Bylaws and spelling names out. Mr. Hall feels it best to leave it as is. All the other names are general categories. Also, if an entity splits or is bought out naming the entities brings on new issues that need to be handled differently. The definitions of large and small agricultural are not dealt with in these Bylaws. Mr. Hall recommends that the Board waits to define the small and large agricultural until the Board receives applications. The Board will provide the committees with all records that it needs to operate, with the exception of records exempt to public access records in accordance with the Public Records Act.

Mr. Hall addressed Mr. Rjatora's comment on the conflict of interest for the attorneys. At the end of the day, the five public agencies on the Board are liable for the actions of the Groundwater Sustainability Act (GSA). Interviews will be held for a Groundwater Attorney in the future. As of right now, the three attorneys representing the City of Ridgecrest, Kern County, and Indian Wells Valley Water District will handle routine items and the agencies are liable. In regards to audit, section 3.7 does provide for an audit. The stated government codes require audits.

Mr. Hall stated that the Indian Wells Valley Water District is a non-voting member of the Policy Advisory Committee (PAC) and their involvement is called for by Sustainability Groundwater Management Act (SGMA).

Bob Page mentioned that there is a reference to telephoning in for meetings in section 2.6, which allows a director to be deemed present for the determination of a quorum telephonically. Mr. Page asked if there was a preferred method of communicating any changes the agencies have for the Bylaws. Mr. Hall answered the preferred method is at a staff level. The sooner the issue is brought to their attention the better, so that it may be worked on before the meeting. Mr. Page asked about section 5.2 and the conflict with section 5.5. Is this seen as a conflict? Mr. Hall answered that he doesn't see it as a conflict.

Chairperson Gleason stated that Lorelei Oviatt did an assessment of the Indian Wells Valley and in her opinion found that large agriculture is 61 or more acres and small is 60 or less acres. That is the County's definition and not necessarily the Board's. Chair Gleason stated that to his understanding, in order to properly empower the Policy Advisory Committee (PAC), it's beneficial to have these categories and not just named entities.

Motion was made by Bob Page and seconded by Peter Brown to adopt with resolution contingent upon indication by the Board whether they want it to be reconsidered at the March Meeting. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Kingsley, Page Nays: None.)

**REPORT ON PLAN OF ACTION AND MILESTONES FOR A GROUNDWATER SUSTAINABILITY PLAN:**

Public comment:

None

Board comment:

Chairperson Gleason explained this is why the Policy Advisory Committee needs to get going. The primary problem is establishing a timeline which the Policy Advisory Committee would handle.

Bob Page stated that his expectation is that once a Water Resource Manager is hired that the Board will start seeing changes on this sheet.

Commander Longbottom thanked the staff for this timeline sheet, and noted there is a lot to get done on a sharp curve. Commander Longbottom thinks it would be beneficial to keep this as a standing agenda item at future meetings.

Motion was made by Vice-chair Breeden and seconded by Matt Kingsley to approve and file. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Kingsley, Page Nays: None.)

**DISCUSSION/ACTION ON A REQUEST FOR PROPOSALS FOR A WATER RESOURCES MANAGER FOR THE IWVGA:**

Board comment:

Bob Page asked for clarification that at the last meeting in January a scope of work for Tim Parker was presented and staff was tasked with bringing a revision and recommendation to this meeting. Mr. Page asked if the Water Resource Manager is the same as what the Board would hire Mr. Parker for or would he hold another position in the Indian Wells Valley Groundwater Authority (IWVGA). Mr. Christensen clarified that with this action it would be an open and competitive process which Mr. Parker is allowed to apply for.

Chairperson Gleason mentioned that Tim Parker is very good at what he does, has done lots of things for us, and believes he is very qualified for this position. Chairperson Gleason recommended if the Board approves this item and does a Request for Proposal (RFP), that in the interim the Board redefines Mr. Parker's scope to include that Mr. Parker could start the duties of the Water Resource Manager position until a permanent person is picked. The county is willing to re-route funds to the Authority and work out the conflict of interest, and there is ample justification to have two positions, including help with committee coordination and developing the plan.

Public comment:

Anthony Brown asked if this Request for Proposal would be open to all consultants.

Mike Neel commented that the Board should look into renting facilities where the committees and Water Resource Manager could work.

Motion was made by Matt Kingsley and seconded by Bob Page to approve the Request for Proposals (RFP). Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Kingsley, Page Nays: None.)

**DISCUSSION/DIRECTION TO INCREASE FREQUENCY OF MEETINGS:**

Board comment:

Alan Christensen suggests that the Board uses the time more efficiently versus adding on another meeting.

Matt Kingsley stated he cannot in good faith vote for more meetings.

Bob Page agrees that the important thing is becoming more efficient with the Board's time.

**CLOSING COMMENTS:**

Peter Brown stated he would like to consider more options that perhaps Tim Parker could research, possibly Prop. 1 grant funding.

Chairperson Gleason stated he is looking forward to having the Policy Advisory Committee (PAC) formed as soon as possible.

**DATE AND TIME OF NEXT MEETING:**

The next IWVGA meeting will be held March 16, 2017, at 10:00 a.m., in the Council Chambers at Ridgecrest City Hall, 100 W. California Avenue.

**ADJOURN:**

Motion was made by Matt Kingsley and seconded by Peggy Breeden to adjourn the meeting at 1:22 p.m.

Respectfully submitted,



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

Stan Rajtore

Comments on GWA By-laws version dated Feb 2017

- 1) Paragraphs 3.1 and 3.6 appear to conflict. Paragraph 3.1 states there are only two board officers, while paragraph 3.6 addresses compensation for officers who are not directors. Please clarify.
- 2) Paragraphs 3.3, 3.4, and 3.8 do not represent a clear management structure. Who hires, who fires, and who is in charge of whom. Is the secretary, hired, appointed, or elected. The secretary reports to whom. Does the Board hire all employees or does the general manager hire people?
- 3)\* The description of the general counsel (para 3.5) is a set up to encourage a conflict of interest. Kern County has indicated it would like to stop funding the GWA even though it gets taxes each year to manage ground water. Kern County may be the first agency sued by the GWA. This represents a clear conflict of interest for the county attorney. Please consider revising the makeup of the General Counsel position.
- 3.1)\* Paragraph 3.5.1 acknowledges the possibility of a conflict of interest in the general counsel position. It goes on to state that a conflict of interest for this primary role is okay. It is not okay. It could lead to constant irritation, unknown out-year cost, and unreasonable schedule delays. This whole concept should be reconsidered.
- 4) The discussion regarding a special counsel should not be included in a paragraph entitled "General Counsel". Suggest adding a new paragraph.
- 5)\* Paragraph 3.7 or some other paragraph dealing with finances should address the fact that a financial audit needs to be performed on a yearly basis.
- 6) Paragraph 4.2 specifies a reimbursement for meals not to exceed \$90 per day. That may be a little high. I suggest researching the reimbursement provided by the GWA member agencies and using the average of the five agencies.
- 7) Suggest revising the last sentence of paragraph 5.3 to replace the word 'alternate' with the word 'replacement'. The two words have slightly different meanings.
- 8)\* Suggest making the scope of the PAC in paragraph 5.5 'any policy related action' rather than 'development and implementation of the GSP'. Many major policy decisions will be financial in nature. That may or may not be considered in GSP development or implementation.
- 9)\* Suggest deleting in paragraph 5.6 (2 places) where the Board has the ability to control either the removal or the conduct of PAC members. The PAC members represent various special interests groups whose opinions may from time to time disagree with the majority of the Board. None-the-less the interests of all groups need to be represented without the threat of censure.
- 10) Add to paragraph 5.6 a non-voting member for the City of Ridgecrest.
- 11)\* Paragraph 5.8, TAC membership, is a critical element of the by-laws. It needs to be defined before the by-laws are approved. The TAC should already be in place and functioning.
- 12) Article 8, Records Retention, should include the establishment of a website that includes minutes, reports, and presentations from all Board meetings and committee meetings.
- 13) Paragraph 8.1 regarding records retention is too vague. This paragraph should provide the basis for the 'criteria and procedures' that will be written in the future.
- 14) Paragraph 14.1 states that the by-laws may be amended by resolution. The implication is a simple majority. Is that really what is desired? Perhaps this should be clarified.

Stan Rajtore

Comments on GWA By-laws version dated Feb 2017

- 1) Paragraphs 3.1 and 3.6 appear to conflict. Paragraph 3.1 states there are only two board officers, while paragraph 3.6 addresses compensation for officers who are not directors. Please clarify.
- 2) Paragraphs 3.3, 3.4, and 3.8 do not represent a clear management structure. Who hires, who fires, and who is in charge of whom. Is the secretary, hired, appointed, or elected. The secretary reports to whom. Does the Board hire all employees or does the general manager hire people?
- 3)\* The description of the general counsel (para 3.5) is a set up to encourage a conflict of interest. Kern County has indicated it would like to stop funding the GWA even though it gets taxes each year to manage ground water. Kern County may be the first agency sued by the GWA. This represents a clear conflict of interest for the county attorney. Please consider revising the makeup of the General Counsel position.
- 3.1)\* Paragraph 3.5.1 acknowledges the possibility of a conflict of interest in the general counsel position. It goes on to state that a conflict of interest for this primary role is okay. It is not okay. It could lead to constant irritation, unknown out-year cost, and unreasonable schedule delays. This whole concept should be reconsidered.
- 4) The discussion regarding a special counsel should not be included in a paragraph entitled "General Counsel". Suggest adding a new paragraph.
- 5)\* Paragraph 3.7 or some other paragraph dealing with finances should address the fact that a financial audit needs to be performed on a yearly basis.
- 6) Paragraph 4.2 specifies a reimbursement for meals not to exceed \$90 per day. That may be a little high. I suggest researching the reimbursement provided by the GWA member agencies and using the average of the five agencies.
- 7) Suggest revising the last sentence of paragraph 5.3 to replace the word 'alternate' with the word 'replacement'. The two words have slightly different meanings.
- 8)\* Suggest making the scope of the PAC in paragraph 5.5 'any policy related action' rather than 'development and implementation of the GSP'. Many major policy decisions will be financial in nature. That may or may not be considered in GSP development or implementation.
- 9)\* Suggest deleting in paragraph 5.6 (2 places) where the Board has the ability to control either the removal or the conduct of PAC members. The PAC members represent various special interests groups whose opinions may from time to time disagree with the majority of the Board. None-the-less the interests of all groups need to be represented without the threat of censure.
- 10) Add to paragraph 5.6 a non-voting member for the City of Ridgecrest.
- 11)\* Paragraph 5.8, TAC membership, is a critical element of the by-laws. It needs to be defined before the by-laws are approved. The TAC should already be in place and functioning.
- 12) Article 8, Records Retention, should include the establishment of a website that includes minutes, reports, and presentations from all Board meetings and committee meetings.
- 13) Paragraph 8.1 regarding records retention is too vague. This paragraph should provide the basis for the 'criteria and procedures' that will be written in the future.
- 14) Paragraph 14.1 states that the by-laws may be amended by resolution. The implication is a simple majority. Is that really what is desired? Perhaps this should be clarified.

February 14, 2016

Russell M. McGlothlin  
Attorney at Law  
805.882.1418 tel  
805.965.4333 fax  
RMcglathlin@bhfs.com

**VIA EMAIL**

Indian Wells Valley Groundwater Authority  
Board of Directors  
C/O Lauren Duffy, lduffy@iwwvd.com

**RE: Policy and Technical Advisory Committees**

Directors of the Indian Wells Valley Groundwater Authority:

On behalf of our client, Mojave Mutual Water Company (Mojave Mutual), we respectfully request that the Indian Wells Valley Groundwater Authority (Authority) accelerate efforts to establish the proposed Policy Advisory Committee (PAC) and Technical Advisory Committee (TAC) and that the Authority's Board of Directors (Board) consider amendments to the draft bylaws concerning the membership and role of the PAC.

The proposed PAC membership, as specified in the draft bylaws, is not ideal. The Board should consider edits to the bylaws to render membership similar to that proposed and approved at the Board's November meeting. Notably, the current draft bylaws provide for four non-voting members of the JPA and nine stakeholder voting members. The November PAC charter provided for each of the JPA members and each of the association members to have seats on the PAC Authority. The prior composition is preferable. We understand that the purpose of the PAC is to be a venue in which all stakeholders, public and private, meet to develop consensus-based groundwater management. That will most likely occur if all JPA member agencies are represented on the PAC.

The draft bylaws should also be amended to provide a leadership role for the PAC in the development and implementation of the groundwater sustainability plan ("GSP"). The draft bylaws presently state that the Water Resources Manager "will be responsible for preparing and implementing the GSP" and that the "Water Resource Manager will consult with Policy Advisory Committee and Technical Advisory Committee as directed by the Board." This directive is substantially weakened from the November PAC Charter, which stated that "[t]he PAC is the primary policy advisory to the Board" and that "[t]he PAC will guide GSP preparation and implementation, with assistance from a Technical Advisory Committee (TAC), a technical consultant, facilitator, and program manager." The bylaws should be amended to include language similar to the November PAC Charter language. Otherwise, as presently drafted, the role of the PAC in advising the Board on substantive matters of groundwater management could be usurped by the Water Resources Manger "preparing" the GSP with mere consultation with the PAC. If the role of the PAC is to build consensus around groundwater management options, then the PAC should be placed squarely in a leadership role, together with the Water Resource Manager, in the development and implementation of the GSP.

Mojave Mutual respectfully urges the Authority to make these amendments to draft bylaws, and to approve charters for the PAC and TAC, together with membership in each committee, at its March meeting. To date, items have been agendized before the Board on substantive subjects, which should be first vetted by

1020 State Street  
Santa Barbara, CA 93101-2711  
main 805.963.7000



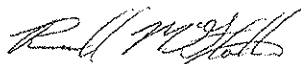
February 14, 2016  
Page 2

stakeholder committees. Agenda Item 7 on the Authority's January agenda concerning funding of groundwater management is a prime example. The PAC and/or TAC, as appropriate, should have an opportunity to advise to the Authority's board on this and other substantive decisions. Prompt formation of these committees is needed to facilitate this critical stakeholder participation.

As we have stated in past correspondence, Mojave Mutual desires to constructively cooperate with all groundwater stakeholders in the development of groundwater management in the Indian Wells Valley. A consensus-based process that thoroughly engages the PAC and TAC is the appropriate course to foster such a collaborative approach.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell M. McGlothlin". The signature is written in a cursive style with a large initial "R".

Russell M. McGlothlin

# IWVGA ADMINISTRATIVE OFFICE

MEMORANDUM

---

**TO:** IWVGA Board Members **DATE:** March 16, 2017

**FROM:** Alan Christensen, IWVGA Staff *Ac*

**SUBJECT:** Discussion/Approval of Bylaws for the IWVGA and Report Regarding Written Comments Received on Bylaws

---

The Authority has received written comments and proposed changes to the Bylaws from certain members the public through the City of Ridgecrest. While it should be acknowledged that many of these comments were already addressed by the Indian Wells Valley Groundwater Authority ("Authority") at its last meeting, the City has nonetheless requested that the Authority staff respond to these requested changes in writing. The following Report presents said response.

The proposed changes from the members of the public are in double strike out for removal and bold underline for proposed additions. For the sake of easier review, we have included, where appropriate, recommend changes, if any, in this report under the heading "Compromise Language" and those recommendations are reflected on the attached set of Bylaws which are presented to the Board today for adoption. Suggested changes are shown in RED TEXT on the attached Bylaws.

## Proposed Change 1

**2.1 OPEN MEETINGS.** Meetings of the Board and any Authority committees shall be held in accordance with the Ralph M. Brown Act (California Government Code sections 54950, et seq.). No action shall be taken by secret ballot at such meetings. Meetings of the Board and Authority committees shall be held within the geographical boundaries of the Basin, except as permitted by the Brown Act. **All telephonic (audio/video) meetings will be held in accordance with the Brown Act.**

### Response:

This language is not needed because the Section 2.1 already clearly provides that meetings will "be held in accordance with the Ralph M. Brown Act (California Government Code sections 54950, et seq.). Likewise, the Authority's Joint Powers Agreement expressly provides in Section 7.05 that the Board and Committees "may use teleconferencing in connection with any meeting in conformance with, and to the extent authorized by, applicable law."

The Brown Act allows a public agency to use any type of teleconferencing in connection with any meeting. (Government Code section 54953(b).) "Teleconference" is defined as "a meeting of a individuals in different locations, connected by electronic means, through either audio or video, or both." In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the law otherwise applicable. (Government Code section 54953(d))

Section 54953(b) contains the following specific requirements: (1) Teleconferencing may be used for all purposes during any meeting (2) At least a quorum of the public agency must participate from teleconferencing locations within the public agency's jurisdiction (3) Each teleconference location must be identified in the notice and agenda of the meeting (4) Agendas must be posted at each teleconference location (5) Each location must be accessible to the public. (6) The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location. (7) All votes must be by roll call.

In conclusion, while this change is not legally necessary, we are nonetheless recommending a minor non-substantive change to the Bylaws to add clarity for the public.

**Compromise Language:**

**2.1 OPEN MEETINGS.** Meetings of the Board and any Authority committees, **including those with telephonic participation**, shall be held in accordance with the Ralph M. Brown Act (California Government Code sections 54950, et seq.). No action shall be taken by secret ballot at such meetings. Meetings of the Board and Authority committees shall be held within the geographical boundaries of the Basin, except as permitted by the Brown Act.

**Proposed Change 2**

**2.8. VOTING.** As set forth in the Agreement, the affirmative **roll call** vote of a majority of the Board shall be required for the approval of any Board action. In addition, 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.

**Response:**

The proponents of this change have asserted that a roll call vote is required by the Brown Act. This assertion is simply incorrect and we assume was based on a misinterpretation of Government Code section 54953(c)(2), which states in relevant part: "The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action."

Some have misinterpreted this to mean that all votes must be roll call votes. But as you can see from the language all that is required is that the votes be clearly reported.

Additionally, the third paragraph of this Section 2.8 already meets the requirements of the Brown Act and expressly provides that voting "shall be accomplished in a manner that readily signifies the vote of the individual Directors which shall be entered upon the minutes of such meeting. Likewise, Bylaws Section 2.1 expressly provides that "[n]o action shall be taken by secret ballot at such meetings."

Therefore, while this change is not legally required, we are nonetheless recommending a non-substantive change to the third paragraph of this Section 2.8 to provide additional clarity for the public and to cure a typographical error.

**Compromise Language:**

**2.8. VOTING. [third paragraph]**

**The voting on all matters of the Board and Committees, including minute orders, resolutions and ordinances, shall be reported on the minutes and accomplished in a manner that readily signifies the action taken and the vote or abstention on that action of each member present for the action.**

**Proposed Change 3**

**3.4 BOARD SECRETARY.** The Secretary shall be elected by and serve at the discretion of the Board. The Secretary shall keep the administrative records of the Authority, act as secretary at meetings of the Authority, recording all votes and keep a record of the proceedings of the Authority to be kept for such purpose, and perform all duties incident to the Secretary's office. The Secretary shall maintain a record of all official proceedings of the Board. The Secretary shall also establish and maintain a list of persons interested in receiving notices regarding plan preparation, meeting announcements, and availability of draft plans, maps, and other relevant documents pursuant to Water Code Section § 10723.4 and **the Brown Act.**

**Response:**

To the extent the suggested change is referring to the Agenda notice provisions of the Brown Act those issues are addressed in Section 2.5 wherein we provide that the agenda will be “post[ed] in accordance with the Ralph M. Brown Act.” Included in that posting is the requirement that the Authority send the Agenda to those that have requested notice pursuant to GC 54954.1.

Additionally, it is important to note that Government Code Section 54954.1 does not require the Board Secretary to maintain the list and given the General Manager’s other duties relative to the Agenda, and staff recommends no change to the Bylaws because this duty is a better fit for delegation and supervision by the General Manager.

Therefore, while staff wishes to assure the public that the requirements of Government Code Section 54954.1 will be met, staff is not recommending any changes to this Section 3.4 because the assignment of this administrative task should be left to the supervision of the General Manager.

**Proposed Change 4**

**3.5 GENERAL COUNSEL.** ~~The Authority's General Counsels shall be the attorneys appointed by the County of Kern, the City of Ridgecrest and the Indian Wells Valley Water District.~~ **As soon as possible, the Board shall hire an independent General Counsel**

**who will oversee the total scope of operations. The independent General Council shall be hired prior to the Board assessing any fees or the adoption of the GSP.** General Counsel shall be appointed by the Board, and shall be directly responsible to the Board. The General Counsel shall give advice or written opinions as needed and/or directed by the Board, and shall prepare proposed resolutions, laws, rules, contracts and other legal documents for the local authorities as needed. The General Counsel shall attend to all lawsuits and other matters assigned by the board. **The Independent General Council will be paid for by Kern County.**

**In the interim, prior to hiring an Independent General Counsel,** the local **agencies,** including the County of Kern, the City of Ridgecrest, and the Indian Wells Valley Water District, shall appoint their own Counsels who **will collectively act as one body, and will assume the duties of the interim General Council.** **In addition, individual agency attorney's will take turns presiding over public meetings on an annual rotational basis whenever their agency director is the Chairperson. Chairmen hold the post for one year, and therefore their counsel would preside over meetings for a one-year term.**

The General Counsel shall attend to all lawsuits and other matters to which the Authority is a part or in which the Authority may be legally interested and do such other things pertaining to the General Counsel's office as the Authority may request. ~~Authority Counsel will recommend appointment of Special Counsel for matters involving more specialized legal service as required.~~ The Board will set the compensation of **General** Counsel.

**Response:**

Initially, it should be noted that the above requested change does not completely track with the existing language found in the Bylaws.

Government Code Section 895.2 expressly provides that the General Members to the Authority are jointly and severally liable for the torts of the Authority. As a practical matter, this means that the attorneys for the General Members must be actively engaged in the Authority's business because ultimately those General Members will be held liable for torts of the Authority.

Consequently, the Authority adopted the Co-Counsel role so that the attorneys for the General Members would have complete access to the workings of the Authority. Additionally, the Authority voted last fall to have the attorney functions shared and donated as in kind services by the General Members. Also note that the search for independent legal counsel is already under way.

In conclusion, staff is not recommending any changes to this Section 3.5.

**Proposed Change 5**

**3.5.1 Retainer Agreements. Prior to obtaining Independent General Counsel,** the Board of Directors shall execute a retainer agreement with the Authority's General Counsels which shall expressly provide that each attorney acting as General Counsel shall be afforded the full and complete opportunity to represent their General Member in any dispute or action regardless of any actual or perceived conflicts with the Authority or any of its other Members.....

**Response:**

This has already been done or is in the process of being done. Accordingly, staff is not recommending any changes to this Section 3.5.1.

**Proposed Change 6**  
**(New Proposed Section)**

**3.5.2 Special Counsel. The Board will hire or contract for Special Counsel as needed when recommended by the Authority General Counsel for matters of specialized legal services.**

**Response:**

This is already covered in the existing language of Section 3.5 which states in part, "Authority Counsel will recommend appointment of Special Counsel for matters involving more specialized legal service as required. Accordingly, staff is not recommending adding a new Section 3.5.2.

**Proposed Change 7**

**3.6 OFFICER COMPENSATION Appointed Employees Compensation.** Officers of the Authority which are not Directors shall receive compensation as designated by the Board in written contract. When, and only if, specifically called upon by the Board in advance, non-Director officers may receive reimbursement of their actual and necessary expense at the then current IRS reimbursement rate.

**Response:**

This change seems to be based on the false premise that employees cannot be officers of the Authority. The General Manager position is both an employee and an "Officer of the Authority."

Therefore, staff is not recommending any changes to this Section 3.6.

**Proposed Change 8**

**3.7 FISCAL AGENT AND TREASURER.** The County of Kern shall serve as the Fiscal Agent and Treasurer for the Authority unless otherwise directed by a vote of the Board. The Fiscal Agent shall be depository for and shall have the responsibility for all money of the Authority from whatever source. All funds of the Authority shall be strictly and separately accounted for and regular reports shall be rendered of all receipts and disbursements during the Fiscal Year as designated by the Board. The books and records of the Authority shall be open to inspection by the General and Associate Members **and the general public.** The Treasurer shall provide strict accountability of said funds in accordance with Government Code sections 6505 and 6505.5 and all other applicable provisions of law, including any amendments thereto.

**Response:**

The Public Records Act generally demands public access to the fiscal books and records of the Authority and the Authority may not limit the mandates of the Act. Simply put, if the Public Records Act requires the release of a document to the public the Authority must and will release that document.

With that said, there are some very limited circumstances wherein records that could be categorized as fiscal books and records **cannot** be released to the general public by the Authority. As an example, while the public is entitled to the information about an employee's salary, the Act cannot and does not allow for the release of certain payroll records such as W2s.

Therefore, staff is recommending no change because this proposed change is unwarranted and it could be read as inconsistent with the Public Records Act and legal privacy mandates.

**Proposed Change 9**

5.5 POLICY ADVISORY COMMITTEE. The Board shall establish a standing committee named the Policy Advisory Committee (PAC). The PAC, ~~when specifically designated and assigned by the Board, when appointed by the board,\*~~ will advise the Board ~~on the development and implementation of the GSP~~ **Authority policy matters important to the water users.** The Board shall establish the time and place for PAC meetings in consultation with the members of the PAC.

\* (Note that the redline changes from the public do not accurately quote the existing bylaws. The struck-out phrase "when appointed by the board" was not contained in the original bylaw draft).

**Response:**

We understand that some have argued that these revisions are required by law. Unfortunately, despite our best efforts to address this misconception on several occasions, the misconception seems to still exist.

Public participation is described in two sections of the Sustainable Groundwater Management Act (SGMA). Water Code § 10723.2 requires the Authority to "consider the interests of all beneficial uses and users of groundwater . . .", while Section § 10727.8 suggests that "[t]he groundwater sustainability agency **may** appoint and consult with an advisory committee consisting of interested parties for the purposes of developing and implementing a groundwater sustainability plan. The groundwater sustainability agency shall encourage the active involvement of diverse social, cultural, and economic elements of the population within the groundwater basin prior to and during the development and implementation of the groundwater sustainability plan." (Emphasis added).

SGMA does not require that a PAC be formed, or that a PAC take on any particular shape, or that certain individuals be appointed to a PAC, or that it be charged with any particular

responsibilities. Even SGMA's reference to the creation of an "advisory committee" is stated as something the Authority "may" do — not something that they are required to do.

With that said, the Authority's Board has clearly stated on numerous occasions that it is an important goal of the Authority, to provide the public with opportunities for meaningful participation in the decisions of the GSA. Accordingly, the Board intends to solicit the involvement of PAC well beyond what is simply required by SGMA. The Board has indicated its intention to use the PAC as a means to solicit public participation on topics such as the imposition of fees and other matters of interest to water users. In fact, the Authority intends to establish the PAC as soon as practicable following adoption of these Bylaws to improve public involvement. Lastly, the Board must maintain the ability to direct the issues before the PAC so it remains a valuable resource in the development and implementation of the GSP.

Therefore, staff believes that the current language is consistent with SGMA and the stated policy objectives of the Authority and recommends no change.

### Proposed Change 10

5.6 POLICY ADVISORY COMMITTEE MEMBERSHIP. The Board shall appoint the PAC members as set forth in this Article 5. ~~and nothing herein shall be interpreted to prevent the Board from modifying PAC membership or removing a particular PAC member.~~ PAC members must be water users within the Authority's boundary or represent agencies/organizations who are PAC members. **Board members, alternate board members, and staff are not eligible to serve as PAC voting or non-voting members. Upon 4/5 majority recommendation from the PAC Committee, the Board may remove a particular member's representative on the PAC. The removal must then be approved by a 4/5 majority vote of the Board as well. The Board shall have the sole discretion to approve or disapprove of a particular individual's representation on the PAC regardless of the agency or organization they represent. The below authorized membership in no way imposes an obligation upon any agency/organization to provide a member. In addition, the Board may add PAC members if necessary.**

#### Response:

The Authority has made a policy decision that the Authority shall control the PAC membership based on the voting requirements approved in the JPA agreement.

Additionally, the proposed voting requirements are inconsistent with Section 7.07 of the Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority ("JPA Agreement"). As a legal matter, the Board may not alter voting requirements without amending the JPA Agreement itself.

Therefore, staff is recommending no change to this Section 5.6.



### Proposed Change 11

The written comments also include a request to change the PAC membership. Under the request, representatives from the entirety of the Board would be placed on the PAC in a non-voting roll and the non-voting Planning position would be removed from the PAC.

Aside from adding two at large members and a new disadvantaged community representative, the written proposal largely leaves the voting membership of the PAC as set forth in the bylaws. With that said, it appoints the Ridgecrest Chamber of Commerce and the IWV Board of Realtors to the PAC under business interests and it splits the domestic well owners into one private and one co-op/mutual.

### Response:

The issue of how many Board members can sit on the PAC is a legal issue. Pursuant to the Brown Act, a majority of Authority Board members (or their alternates) cannot sit as part of the PAC committee. The Brown Act requires that a notice of all public meetings be provided to the public. (Government Code sections 54954.1 and 54954.2.) The Attorney General has stated that a majority of legislative body cannot attend a meeting of one of its standing committees without violating the notice requirements of the Act. (79 Ops. Cal. Atty. Gen. 69 (1996)). The AG reasoned that the presence of a majority of the board would constitute a quorum of the entire legislative body resulting in a "meeting" of the legislative body contrary to the agenda. Therefore, only two Voting Board Members (or their alternates) may participate in the PAC. The rest may not do so without making the PAC meetings into an unlawful meeting of the Board.

It has been suggested that the Voting Board Members can get around this problem by appointing someone to the PAC other than their Board Member (or alternate) such as a member of staff. This suggestion creates a practical problem because it places unelected staff members in the position of addressing policy matters without any input from the elected official that has appointed them to the Board.

Under the provisions of the Brown Act, if three Committee Members consult with their appointing Board Members before the vote, then the vote will become a serial meeting of the Authority Board in violation of the Brown Act. To avoid this problem, at least some of the Committee Members will be forced to guess the intentions of their Board Members.

It has also been suggested that the "non-voting" nature of the position cures the Brown Act issue. However, the Brown Act is not limited to voting. It also covers the "fact finding" and "expression of opinion" that leads to action. On this point, the AG has expressly declared that "[i]t is well settled that the Brown Act's definition of "meeting" encompasses informal deliberative and fact-finding sessions, in addition to those in which formal action is taken. . . ." Thus, a "meeting" is not limited to those legislative sessions in which a legislative body decides upon a particular course of action, but also includes sessions conducted for the "collective acquisition and exchange of facts preliminary to the ultimate decision." For this reason the Authority's legal staff has recommended that a maximum of two Board member representatives sit on the PAC Board.

The issue of which two Board members, if any, sit on the PAC Committee is a policy issue. Members of the public have expressed views ranging from having all of the Board members sit on the Committee to having none of them sit on it. The written public comments advance both contradictory views. The Authority Board has considered all of these comments and reached a compromise position wherein the Water District will have a representative sit on the Committee as a non-voting member and the Kern County Planning and Natural Resources Department has a non-voting roll for the limited purpose of providing land use expertise and input to the Committee

Finally, the Board has directed that the descriptions the committee seats be defined in the PAC Charter, not the Bylaws. The Bylaws are intended to generally describe the constituency of each seat. The Charter will provide more specific details. An Exhibit to the Charter will name the initial appointments.

Therefore, while staff is not recommending the adoption of the proposed change, staff is recommending a minor change for the purpose of more clearly communicating to the public the position held by the Kern County planning professional.

**Compromise Language:**

The categories for initial PAC membership shall consist of the following non-voting members:

- 1 representative from the Indian Wells Valley Water District
- 1 representative from the Department of the Navy
- 1 representative from the Bureau of Land Management

The categories for initial PAC membership shall consist of the following voting members:

- 2 representatives from Large Agriculture
- 1 representative from Small Agriculture
- 2 representatives from Business Interests
- 2 representatives from Domestic Well Owners
- 1 representative from Eastern Kern County Resource Conservation District
- 1 representative for Wholesaler and Industrial User

Additionally, while not considered an official member of the PAC and not holding any voting rights on matters before the PAC, land use expertise shall be provided to the PAC through the appointment of:

- 1 representative from Kern County Planning and Natural Resources Dept.

**Proposed Change 10**

5.7 TECHNICAL ADVISORY COMMITTEE. The Board shall establish a standing committee named the Technical Advisory Committee (TAC). The TAC, ~~when specifically designated and assigned appointed by the Board~~, will advise the Board and the Authority's

Water Resource Manager ~~on the development and implementation of the GSP technical matters including but not limited to the development and implementation of the GSP.~~

**Response:**

Again, the existing language in the Bylaws is needed so the Board can maintain the ability to direct the issues before the TAC so it remains a valuable resource in the development and implementation of the GSP.

Therefore, staff is not recommending any changes to this Section 5.7.

**Proposed Change 11**  
**(New Proposed Section)**

**8.6 WEBSITE POLICY. The Authority shall establish a public website where all pertinent documentation, not specifically protected by law, may be openly inspected by the public. Documents shall include, but are not limited to: all Board and committee minutes, written correspondence not protected by law, Board resolutions and ordinances, all briefings, and all financial and technical reports generated for or by the Authority.**

**Response:**

The Authority currently maintains a webpage on the County website that contains these documents. With that said, this seems like a welcome addition to the bylaws and Staff recommends that this change be added with some minor adjustments for clarity.

**Compromise Language:**

8.6 WEBSITE POLICY. The Authority shall establish a public website where all pertinent documentation, not specifically protected by law, may be openly inspected by the public. Documents shall generally include, but are not limited to: all agendas, minutes, resolutions, and ordinances of the Board and its standing committees; all public written briefings, presentations and correspondence of the Board and its standing committees; and, all public financial and technical reports that are not protected by law.

**Proposed Change 12**

7.1 DEBTS AND LIABILITIES. Except as may be specifically provided for in the Agreement and/or California Government Code Section 895.2 as amended or supplemented, the debts, liabilities and obligations of the Authority are not and will not be the debts, liabilities or obligations of any or all of the Members. ~~However, nothing in this Article or in the Agreement prevents, or impairs the ability of, a Member or Members, from agreeing, in a separate agreement, to be jointly and/or severally liable, in whole or in part, for any debt, obligation or liability of the Authority, including but not limited to, any bond or other debt instrument issued by the Authority.~~

**Response:**

Firstly, we should point out that the existing language expressly provides that the Member **must** agree in a separate agreement before any of this liability and debt can become an issue for the member.

Secondly, this section is written to address the special project provisions in the Joint Powers Agreement. (See Section 10.01 of the Joint Powers Agreement). Simply put, the individual Members of the Authority may engage in special projects that only benefit those participating Members. In those instances, the benefited members must take responsibility for the special project and this provision, along with Section 10.01 of the Joint Powers Agreement, provides for that process while also providing protection from any potential liability from the special project for the non-benefited members.

Therefore, staff is not recommending any changes to this Section 7.1.

**Proposed Change 13**

9.2 RESPONSIBILITIES OF PUBLIC OFFICE. Public officials ~~and employees~~ are agents of public purpose and hold office for the benefit of the public.

**Response:**

This change seems to be based on the false premise that employees cannot be officers of the Authority. The General Manager position is both an employee and an "Officer of the Authority."

Therefore, staff is not recommending any changes to this Section 9.2.

**RECOMMENDATION**

Adopt the Resolution Approving the IWVGA Bylaws

**BYLAWS**

**of the**

**INDIAN WELLS VALLEY  
GROUNDWATER AUTHORITY**

**February 16, 2017**

TABLE OF CONTENTS

BYLAWS OF THE  
INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

ARTICLE 1. THE AUTHORITY

1.1 NAME OF THE AGENCY .....1

1.2 SEAL .....1

1.3 PRINCIPAL OFFICE OF THE AUTHORITY.....1

1.4 AUTHORITY POWERS.....1

ARTICLE 2. MEETINGS

2.1 OPEN MEETINGS.....1

2.2 REGULAR MEETINGS .....1

2.3 SPECIAL MEETINGS .....1

2.4 EMERGENCY MEETNGS.....1

2.5 AGENDA .....1

2.6 QUORUM.....2

2.7 OFFICIAL ACT .....2

2.8 VOTING .....2

2.9 RULES OF ORDER .....2

2.10 MINUTES.....2

ARTICLE 3. OFFICERS

3.1 OFFICERS OF THE BOARD.....3

3.2 APPOINTMENT OF OFFICERS OF THE BOARD .....3

3.3 GENERAL MANAGER .....3

3.4 BOARD SECRETARY .....3

3.5 GENERAL COUNSEL .....3

3.5.1 RETAINER AGREEMENTS.....4

3.6 OFFICER COMPENSATION.....4

3.7 FISCAL AGENT AND TREASURER.....4

3.8 WATER RESOURCES MANAGER.....5

ARTICLE 4. DIRECTOR COMPENSATION AND EXPENSES

4.1 COMPENSATION .....55

4.2 EXPENSES.....

ARTICLE 5. COMMITTEES	
5.1	ESTABLISHMENT OF STANDING COMMITTEES .....5
5.2	CONDUCT OF STANDING COMMITTEES .....6
5.3	STANDING COMMITTEE MEMBERSHIP .....6
5.4	STANDING COMMITTEE DIRECTION.....6
5.5	POLICY ADVISORY COMMITTEE .....6
5.6	POLICY ADVISORY COMMITTEE MEMBERSHIP .....6
5.7	TECHNICAL ADVISORY COMMITTEE .....7
5.8	TECHNICAL ADVISORY COMMITTEE MEMBERSHIP [RESERVED].....7
5.9	AD HOC COMMITTEE .....7
ARTICLE 6. BUDGET AND FINANCES	
6.1	BUDGET .....7
6.2	APPROVAL OF WARRANTS AND SIGNATURE OF CHECKS .....7
6.3	GENERAL AND SPECIAL BOOKS OF ACCOUNT.....7
6.4	FUND DEPOSITORIES .....8
ARTICLE 7. DEBTS AND LIABILITIES	
7.1	DEBTS AND LIABILITIES .....8
ARTICLE 8. RECORDS RETENTION	
8.1	RECORDS RETENTION POLICY .....8
8.2	MAINTENANCE AND INSPECTION OF AGREEMENT AND BYLAWS.....8
8.3	INSPECTN RIGHTSOF MEMBERS .....8
8.4	INSPECTION BY DIRECTORS .....8
8.5	INSPECTION BY THE PUBLIC .....8
ARTICLE 9. CODE OF ETHICS	
9.1	DECLARATON OF POLICY .....9
9.2	RESPONSIBILITIES OF PUBLIC OFFICE .....9
9.3	DEDICATED SERVICE.....9
9.4	FAIR AND EQUAL TREATMENT .....9
9.5	POLITICAL ACTIVITIES.....9
9.6	EX PARTE COMMUNICATIONS .....10
9.7	AVOIDANCE OF IMPRESSIONS OF CORRUPTIBILITY .....10
9.8	NO DISTRIMINATION IN APPOINTMENTS .....10
9.9	AUTHORITY ALLEGIANCE AND PROPER CONDUCT.....10
9.10	PENALTIES .....10
ARTICLE 10. CLAIMS AGAINST THE AUTHORITY	
10.1	[RESERVED].....11

ARTICLE 11. PURCHASING POLICY	
11.1 [RESERVED] .....	11
ARTICLE 12. INVESTMENT POLICY	
12.1 [RESERVED] .....	11
ARTICLE 13. CONFLICT OF INTEREST CODE	
13.1 [RESERVED] .....	11
ARTICLE 14. AMENDMENT	
14.1 AMENDMENT .....	11
ARTICLE 15. DEFINITIONS AND CONSTRUCTION	
15.1 DEFINITIONS AND CONSTRUCTION .....	11



## **PREAMBLE**

These Bylaws are adopted pursuant to Section 8.05 of the Joint Exercise of Powers Agreement creating the Indian Wells Valley Groundwater Authority (the "Agreement").

### **ARTICLE 1. THE AUTHORITY**

- 1.1 **NAME OF THE AGENCY.** The name of the Agency created by the Agreement shall be the Indian Wells Valley Groundwater Authority ("Authority").
- 1.2 **SEAL.** The seal of the Authority shall be in the form of a circle and shall bear the name of the Authority and the year 2016 which is the year of its organization.
- 1.3 **PRINCIPAL OFFICE OF THE AUTHORITY.** The principal office of the Authority shall be at the offices of the Indian Wells Valley Water District, located at 500 W. Ridgecrest Boulevard, Ridgecrest, California, 93555.
- 1.4 **AUTHORITY POWERS.** The powers of the Authority are established in accordance with Article VI of the Agreement and vested in the Authority's Board of Directors ("Board"). The Board reserves the right to delegate such powers as are appropriate and permissible by law.

### **ARTICLE 2. MEETINGS**

- 2.1 **OPEN MEETINGS.** Meetings of the Board and any Authority committees shall be held in accordance with the Ralph M. Brown Act (California Government Code sections 54950, et seq.). No action shall be taken by secret ballot at such meetings. Meetings of the Board and Authority committees shall be held within the geographical boundaries of the Basin, except as permitted by the Brown Act.
- 2.2 **REGULAR MEETINGS.** The regular meetings of the Authority shall be held at a location within the geographical boundaries of the Basin on a day and time, which the Authority's Board may from time-to-time designate. In the event a regular meeting would take place on a legal holiday, the meeting may be rescheduled to another date and time as determined by the Board.
- 2.3 **SPECIAL MEETINGS.** Special meetings of the Board shall be conducted pursuant to California Government Code section 54956 and they may be called by the Chairperson, or by the concurrence of any two Primary Directors.
- 2.4 **EMERGENCY MEETINGS.** Emergency meetings of the Board shall be conducted pursuant to California Government Code section 54956.5 and they may be called by the Chairperson, or by the concurrence of any two Primary Directors.
- 2.5 **AGENDA.** The General Manager, in consultation with IWVGA General Counsel and staff of the Members, shall prepare the draft agenda, which must be reviewed and

approved by the General Counsel. In the event there is a disagreement between the General Manager and the General Counsel on any topic, the Board Chairperson will be consulted to provide the necessary direction. The Chairperson or his or her delegate shall then approve the draft agenda before its finalization and posting in accordance with the Ralph M. Brown Act.

- 2.6 QUORUM. A quorum of the Board shall consist of a majority of the Directors representing the then active General Members. In the absence of a quorum, no business may be transacted beyond the adjournment of a meeting by the remaining Directors. A Director shall be deemed present for the determination of a quorum if the Director is present at the meeting in person or if they participate in the meeting telephonically as provided for by the Ralph M. Brown Act.
- 2.7 OFFICIAL ACT. Except as otherwise provided by statute, the Authority shall adopt every official act by a vote of the Board in accordance with the applicable provisions of the Agreement.
- 2.8 VOTING. As set forth in the Agreement, the affirmative vote of a majority of the Board shall be required for the approval of any Board action. In addition, 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.

Notwithstanding the foregoing, the Board may approve the Regular Monthly Receivables by a simple majority vote so long as the routine costs and bills making up the Regular Monthly Receivables have not been objected to by any Director. While a Director may voice an oral objection at the meeting, a Director's presence is not required and they may also file an objection in writing prior to the meeting. Likewise, any meeting of the Board may be adjourned by a simple majority vote of the then present Directors.

The voting on formal resolutions, matters drafted to federal, state, county or city agency, and on such other matters as may be requested by a majority of the Authority's Directors, shall be accomplished in a manner that readily signifies the vote of the individual Directors which shall be entered upon the minutes of such meeting.

- 2.9 RULES OF ORDER. All rules of order not otherwise provided for in these Bylaws shall be determined, to the extent practicable, in accordance with "Robert's Rules of Order;" provided, however, that no action shall be invalidated or its legality otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."
- 2.10 MINUTES. The Secretary shall prepare written minutes of the Board meetings, which shall be available for public inspection when approved by the Board. The record shall contain the votes and abstentions on each matter for which a vote is taken.

### ARTICLE 3. OFFICERS

- 3.1 OFFICERS OF THE BOARD. Officers of the Authority's Board shall consist of a Chairperson and Vice-Chairperson. The Chairperson shall preside at all meetings of the Board, while the Vice-Chairperson shall perform the duties of the Chairperson in the absence or disability of the Chairperson. The Chairperson and Vice-Chairperson shall exercise and perform such other powers and duties as may be assigned by the Board.
- 3.2 APPOINTMENT OF OFFICERS OF THE BOARD. The Chairperson and Vice-Chairperson shall hold office for a term of one year commencing on January 1 of each and every calendar year. Beginning in 2017, the Chairperson and Vice-Chairperson shall rotate annually between the Board members representing the County of Kern, City of Ridgecrest and the Indian Wells Valley Water District. The Board member representing the County of Kern shall be the first Chairperson followed in order by the City of Ridgecrest and then the Indian Wells Valley Water District. The Board member representing the City of Ridgecrest shall be the first Vice-Chairperson followed in order by the Indian Wells Valley Water District and then the County of Kern. Officers of the Board may be removed and replaced at any time, with or without cause by a vote of the Board. In the event that an Officer of the Board loses their position as a Primary Director, that Officer of the Board position shall become vacant and the Board shall elect a new individual to serve the remaining term.
- 3.3 GENERAL MANAGER. The General Manager shall have general supervision over the administration of Authority business and affairs, subject to the direction of the Board. The General Manager or designee may execute contracts, deeds and other documents and instruments as authorized by the Board.
- Until an General Manager is appointed, and except for the Authority's General Counsel and Treasurer functions, Authority administration and management will be conducted using a collaborative staffing model in which the professional and technical staff of the member agencies work together to provide staff leadership, management and administration of the Authority.
- 3.4 BOARD SECRETARY. The Secretary shall be elected by and serve at the discretion of the Board. The Secretary shall keep the administrative records of the Authority, act as secretary at meetings of the Authority, recording all votes and keep a record of the proceedings of the Authority to be kept for such purpose, and perform all duties incident to the Secretary's office. The Secretary shall maintain a record of all official proceedings of the Board. The Secretary shall also establish and maintain a list of persons interested in receiving notices regarding plan preparation, meeting announcements, and availability of draft plans, maps, and other relevant documents pursuant to Water Code Section § 10723.4.
- 3.5 GENERAL COUNSEL. The Authority's General Counsels shall be the attorneys appointed by the County of Kern, the City of Ridgecrest and the Indian Wells Valley

Water District. The primary responsibility to act as the Authority's General Counsel during public meetings shall rotate annually and be in coordination with who is the then acting Chairperson. For example, when the Chairperson is Kern County's representative, Kern County's attorney will act as the Authority's General Counsel during public meetings, or as otherwise directed by the Board. General Counsel shall be appointed by the Board, and shall be directly responsible to the Board. The General Counsel shall give advice or written opinions as needed and/or directed by the Board, and shall prepare proposed resolutions, laws, rules, contracts and other legal documents for the Authority when requested to do so by the Authority. The General Counsel shall attend to all lawsuits and other matters to which the Authority is a part or in which the Authority may be legally interested and do such other things pertaining to the General Counsel's office as the Authority may request. Authority Counsel will recommend appointment of Special Counsel for matters involving more specialized legal service as required. The Board will set the compensation of Special Counsel.

- 3.5.1 RETAINER AGREEMENTS. The Board of Directors shall execute a retainer agreement with the Authority's General Counsels which shall expressly provide that each attorney acting as General Counsel shall be afforded the full and complete opportunity to represent their General Member in any dispute or action regardless of any actual or perceived conflicts with the Authority or any of its other Members. Additionally, the General Counsel shall, when deemed appropriate or called upon, seek the advice and consultation of the legal counsels, and possibly staff, from Members of the Authority on legal issues facing the Authority; in such an instance, the communications shall be confidential and protected to the fullest extent possible in law and said communications shall not in any way preclude staff or legal counsels from fulfilling their duties and obligations to their Member, including representation in any dispute or action.
- 3.6 OFFICER COMPENSATION. Officers of the Authority which are not Directors shall receive compensation as designated by the Board in written contract. When, and only if, specifically called upon by the Board in advance, non-Director officers may receive reimbursement of their actual and necessary expense at the then current IRS reimbursement rate.
- 3.7 FISCAL AGENT AND TREASURER. The County of Kern shall serve as the Fiscal Agent and Treasurer for the Authority unless otherwise directed by a vote of the Board. The Fiscal Agent shall be depository for and shall have the responsibility for all money of the Authority from whatever source. All funds of the Authority shall be strictly and separately accounted for and regular reports shall be rendered of all receipts and disbursements during the Fiscal Year as designated by the Board. The books and records of the Authority shall be open to inspection by the General and Associate Members and the Treasurer shall provide strict accountability of said funds in accordance with Government Code sections 6505 and 6505.5 and all other applicable provisions of law, including any amendments thereto.

- 3.8 WATER RESOURCES MANAGER. The Authority shall hire a consultant or consultants with the appropriate technical background, expertise and experience to prepare and implement a Groundwater Sustainably Plan ("GSP"). This position shall be named the Water Resources Manager and they shall be responsible for preparing and implementing the GSP as directed by the Board. An engineering, or other technical, firm may perform these duties, but, in the event that they are performed by a firm, an individual shall be appointed to serve as the primary project manager. In preparing the GSP, the Authority's Water Resources Manager will consult with the Policy Advisory Committee and the Technical Advisory Committee as directed by the Board. The Authority's Water Resources Manager shall also provide technical information and reports to the Board as needed and/or directed by the Board. Following the adoption of the GSP, the Authority's Water Resources Manager shall be responsible for all work needed to implement the terms of the GSP as directed by the Board, including, if so directed, the preparation of an annual report.

#### **ARTICLE 4. DIRECTOR COMPENSATION AND EXPENSES**

- 4.1 COMPENSATION. Currently, the Directors are not compensated for their service by the Authority. In the event that changes, the Board will set Director compensation pursuant to a written policy adopted by the Board and included herein.
- 4.2 EXPENSES. If previously approved by the Board, a Director shall receive actual, reasonable and necessary reimbursement for travel, meals, lodging, registration and similar expenses incurred on Authority business. The reimbursement rates for lodging shall not exceed the posted rates for a trade conference, but if lodging at the posted rates is not available, the reimbursement rate shall be comparable to the posted rates. For travel of 250 miles or less, directors shall be reimbursed at the IRS mileage rate. For travel over 250 miles, directors shall be reimbursed at a rate determined by the Board. As used herein, "transportation" includes travel to and from terminals. Automobile rental expenses shall be approved in advance. Reimbursement for meals, other than alcoholic beverages, shall be at the rate established by the IRS or actual reasonable cost not to exceed \$90 per day. Directors may declare the amount of the meal under penalty of perjury in lieu of receipts if the amount is less than the IRS rate. Claims for expense reimbursement shall be submitted to the Board on forms provided by the Authority within 30-days after the expense has been incurred. The General Manager shall determine whether the claim satisfies the requirements of this section and if the claim is denied, the claimant may appeal to the Board.

#### **ARTICLE 5. COMMITTEES**

- 5.1 ESTABLISHMENT OF STANDING COMMITTEES. In accordance with Section 7.04 of the Agreement, the Board may from time to time establish standing committees for the purpose of making recommendations to the Board on the various activities of the Authority. The establishment of any standing committee and its duties shall require a vote of the Board and the activities of the standing committee shall be subject to the provisions of the Ralph M. Brown Act (California Government Code sections 54950, et

seq.). Standing committees shall exist for the term specified in the action creating the committee and the Board may dissolve a committee at any time through a vote of the Board.

- 5.2 CONDUCT OF STANDING COMMITTEES. All standing committee meetings shall be noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code sections 54950, et seq.). The Board shall appoint the respective committee chairs in consultation with the Committee members and the Board may further establish rules of conduct for said standing committees. Each standing committee may establish a time and place for regular meetings and may call special meetings in the same manner as the Board. Standing committee meeting minutes shall be recorded and upon approval shall be distributed to the Board.
- 5.3 STANDING COMMITTEE MEMBERSHIP. Standing committee membership and appointments shall be at the Board's sole discretion. Likewise, the Board shall have the sole discretion to remove or admonish any member, or members, of any standing committee at any time. The Board may, at its sole discretion, appoint an alternate to any standing committee.
- 5.4 STANDING COMMITTEE DIRECTION. In establishing a standing committee, the Board shall provide specific direction to the standing committee as to its tasks, expected duration for completion of its tasks, and a summary of the resources, including staff or consultant support available to the standing committee in performing its tasks.
- 5.5 POLICY ADVISORY COMMITTEE. The Board shall establish a standing committee named the Policy Advisory Committee (PAC). The PAC, when specifically designated and assigned by the Board, will advise the Board on the development and implementation of the GSP. The Board shall establish the time and place for PAC meetings in consultation with the members of the PAC.
- 5.6 POLICY ADVISORY COMMITTEE MEMBERSHIP. The Board shall appoint the PAC members as set forth in this Article 5 and nothing herein shall be interpreted to prevent the Board from modifying PAC membership or removing a particular PAC member if the Board so desires. PAC members must be water users within the Authority's boundary or represent agencies/organizations who are PAC members. The Board shall have the sole discretion to approve or disapprove of a particular individual's representation on the PAC regardless of the agency or organization they represent.

The initial PAC membership shall consist of the following non-voting members:

- 1 representative from the Indian Wells Valley Water District
- 1 representative from the Department of the Navy
- 1 representative from the Bureau of Land Management
- 1 representative from Kern County Planning and Natural Resources Dept.

The initial PAC membership shall consist of the following voting members:

- 2 representatives from Large Agriculture
- 1 representative from Small Agriculture
- 2 representatives from Business Interests
- 2 representatives from Domestic Well Owners
- 1 representative from Eastern Kern County Resource Conservation District
- 1 representative for wholesaler and industrial user

- 5.7 TECHNICAL ADVISORY COMMITTEE. The Board shall establish a standing committee named the Technical Advisory Committee (TAC). The TAC, when specifically designated and assigned by the Board, will advise the Board and the Authority's Water Resource Manager on the development and implementation of the GSP
- 5.8 TECHNICAL ADVISORY COMMITTEE MEMBERSHIP. [Reserved]
- 5.9 AD HOC COMMITTEE. This Article 5 shall not apply to ad hoc committees which shall be subject to the provisions of the Ralph M. Brown Act (California Government Code sections 54950, et seq.).

#### **ARTICLE 6. BUDGET AND FINANCES**

- 6.1 BUDGET. The Authority shall operate pursuant to an operating budget adopted in accordance with Section 9.07 of the Agreement. The Authority shall endeavor to operate each year pursuant to an annually balanced budget so that projected annual expenses do not exceed projected annual revenues. If the General Manager or Chairperson determines the approved budget is inadequate, he or she shall submit recommended modifications to the Board for consideration and action. The General Manager shall implement the approved or revised budget, provided, all expenditures for capital improvements shall be approved by the Board before they are undertaken.
- 6.2 APPROVAL OF WARRANTS AND SIGNATURE OF CHECKS. The Board shall approve all warrants and authorize issuance of checks in payment thereof. A check register showing the check number, payee, amount, and the purpose of each check, as prepared by the Treasurer, will be sent to the Board as required by the Brown Act. Checks in payment of utility bills, postage, payroll, payroll taxes, credit union collections, petty cash, emergency repairs and invoices subject to discount and interfund transfers may be disbursed prior to Board approval. Such items shall be set forth on the next regular check register and presented to the Board.
- 6.3 GENERAL AND SPECIAL BOOKS OF ACCOUNT. The Treasurer shall maintain books of account in accordance with accepted accounting principles showing the status of all monies received and disbursed. Such general and special fund accounts shall be maintained as are necessary to accomplish the purpose of the Authority.

- 6.4 **FUND DEPOSITORIES.** Currently the County of Kern is Fiscal Agent and Treasurer for the Authority and all funds of the Authority are deposited with the County of Kern. If the Board desires to designate a new depository for Authority funds, the Board shall do so through a written policy included herein.

#### **ARTICLE 7. DEBTS AND LIABILITIES**

- 7.1 **DEBTS AND LIABILITIES.** Except as may be specifically provided for in the Agreement and/or California Government Code Section 895.2 as amended or supplemented, the debts, liabilities and obligations of the Authority are not and will not be the debts, liabilities or obligations of any or all of the Members. However, nothing in this Article or in the Agreement prevents, or impairs the ability of, a Member or Members, from agreeing, in a separate agreement, to be jointly and/or severally liable, in whole or in part, for any debt, obligation or liability of the Authority, including but not limited to, any bond or other debt instrument issued by the Authority.

#### **ARTICLE 8. RECORDS RETENTION**

- 8.1 **RECORDS RETENTION POLICY.** The Authority shall adopt a records retention policy. This policy will provide criteria and procedures for the retention or destruction of Authority records.
- 8.2 **MAINTENANCE AND INSPECTION OF AGREEMENT AND BYLAWS.** The Authority will keep at its principal executive office the original or copy of the Agreement and these Bylaws as amended to date, which will be open to inspection by the Authority or any Member at all reasonable times during office hours.
- 8.3 **INSPECTION RIGHTS OF MEMBERS.** Provided that upon the advice of General Counsel no legal conflict exists, any Member may inspect any record of the Authority, including but not limited to the accounting books and records and minutes of the proceedings of the Board and committees of the Board, at any reasonable time. A designated representative of the entity may make any inspection and copying under this Section and the right of inspection includes the right to copy.
- 8.4 **INSPECTION BY DIRECTORS.** Provided that upon the advice of General Counsel no legal conflict exists, any Director may inspect any record of the Authority, including but not limited to the accounting books and records and minutes of the proceedings of the Board and committees of the Board, at any reasonable time. A designated representative of the entity may make any inspection and copying under this Section and the right of inspection includes the right to copy.
- 8.5 **INSPECTION BY THE PUBLIC.** As directed and permitted by law, Authority records are open to inspection by the public.



## ARTICLE 9. CODE OF ETHICS

- 9.1 **DECLARATION OF POLICY.** The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a code of ethics for all officers and employees, whether elected or appointed, paid or unpaid. This article establishes ethical standards of conduct for Authority officers and employees by setting forth those acts or actions that are incompatible with the best interests of the Authority and by directing the officers' disclosure of private financial or other interests in matters affecting the Authority.
- 9.2 **RESPONSIBILITIES OF PUBLIC OFFICE.** Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the United States and State Constitution and to carry out impartially the laws of the nation, State, and the Authority, thus to foster respect for all governments. They are bound to observe, in their official acts, the highest standards of performance and to discharge faithfully the duties of their office, regardless of personal considerations. Recognizing that the public interests must be their primary concern, their conduct in both their official and private affairs should be above reproach.
- 9.3 **DEDICATED SERVICE.** Officers and employees owe a duty of loyalty to the political objectives expressed by the electorate and the programs developed by the Board to attain those objectives. Appointive officers and employees should adhere to the rules of work and performance established as the standards for their positions by the appropriate authority. Officers and employees should not exceed their authority or breach the law, or ask others to do so, and owe a duty to cooperate fully with other public officers and employees unless prohibited from so doing by law or by the officially recognized confidentiality of their work.
- 9.4 **FAIR AND EQUAL TREATMENT.** The canvassing of members of the Board, directly or indirectly, to obtain preferential consideration in connection with any appointment to the municipal service, shall disqualify the candidate for appointment except with reference to positions filled by appointment by the Board. Officers and employees shall not request or permit the use of Authority-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided for the use of such officer or employee in the conduct of official business. Officers and employees shall not grant special consideration, treatment or advantage to a member of the public beyond what is available to every other member of the public.
- 9.5 **POLITICAL ACTIVITIES.** Officers and employees shall not solicit or participate in soliciting an assessment; subscription of contribution to a political party during working hours on property owned by the Authority and shall conform to Government Code

Sections 3202 and 3203. Officers and employees shall not promise appointment to a position with the Authority.

- 9.6 EX PARTE COMMUNICATIONS. A written communication received by an officer or employee shall be made part of the record of decision. A communication concerning only the status of a pending matter shall not be regarded as an ex parte communication.
- 9.7 AVOIDANCE OF IMPRESSIONS OF CORRUPTIBILITY. Officers and employees shall conduct their official and private affairs so as not to give a reasonable basis for the impression that they can be improperly influenced in performance of public duties. Officers and employees should maintain public confidence in their performance of the public trust in the Authority. They should not be a source of embarrassment to the Authority and should avoid even the appearance of conflict between their public duties and private interests.
- 9.8 NO DISCRIMINATION IN APPOINTMENTS. No person shall be appointed to, removed from, or in any way favored or discriminated against with respect to any appointive administrative office because of such person's race, color, age, religion, gender identification, national origin, political opinions, affiliations, or functional limitation as defined by applicable State or federal laws, if otherwise qualified for the position or office. This provision shall not be construed to impair administrative discretion in determining the requirements of a position or in a job assignment of a person holding such a position, subject to review by the Board.
- 9.9 AUTHORITY ALLEGIANCE AND PROPER CONDUCT. Officers and employees shall not engage in or accept any private employment, or render services for private interest, when such employment or service is incompatible with proper discharge of official duties or would tend to impair independence or judgment or action in the performance of those duties. Officers and employees shall not disclose confidential information concerning the property, government, or affairs of the Authority, and shall not use confidential information for personal financial gain. Officers and employees shall not accept a gift in excess of limits established by state law. Officers and employees shall not accept any gift contingent upon a specific action by the Board. Officers and employees shall not appear on behalf of business or private interests of another before the Board where such appearance would create a potential of having to abstain from Officers participating on that matter or be incompatible with official duties. Officers and employees shall not represent a private interest of another person or entity in any action or proceeding against the interest of the Authority in any litigation to which the Authority is a party. A Director may appear before the Authority on behalf of constituents in the course of duties as a representative of the electorate or in the performance of public or civic obligations.
- 9.10 PENALTIES. In addition to any other penalties or remedies provided by law, violation of this Article shall constitute a cause for suspension, removal from office or employment or other disciplinary action after notice and hearing conducted by the appropriate appointed authority or, in the case of the Board, a majority of such Board.

**ARTICLE 10. CLAIMS AGAINST THE AUTHORITY**

10.1 [RESERVED]

**ARTICLE 11. PURCHASING POLICY**

11.1 [RESERVED]

**ARTICLE 12. INVESTMENT POLICY**

12.1 [RESERVED]

**ARTICLE 13. CONFLICT OF INTEREST CODE**

13.1 [RESERVED]

**ARTICLE 14. AMENDMENT**

14.1 AMENDMENT. These Bylaws may be amended from time to time by resolution of the Board.

**ARTICLE 15. DEFINITIONS AND CONSTRUCTION**

15.1 DEFINITIONS AND CONSTRUCTION. Unless specifically defined in these Bylaws, all defined terms shall have the same meaning ascribed to them in the Agreement. If any term of these Bylaws conflicts with any term of the Agreement, the Agreement's terms shall prevail, and these Bylaws shall be amended to eliminate such conflict of terms. Unless the context or reference to the Agreement requires otherwise, the general provisions, rules of construction and definitions in the California Civil Code will govern the interpretation of these Bylaws.

# IWVGA ADMINISTRATIVE OFFICE

MEMORANDUM

---

**TO:** IWVGA Board Members **DATE:** March 16, 2017

**FROM:** Alan Christensen, IWVGA Staff *AC*

**SUBJECT:** Discussion/Approval of Policy Advisory Committee (PAC) Charter

## DISCUSSION

The Policy Advisory Committee (PAC) was established pursuant to Section 5.5 of the Bylaws of the Indian Wells Valley Groundwater Authority. The PAC will advise the Board on the development and implementation of the GSP when directed to do so by the Board. The objectives of the PAC are to:

- Provide meaningful representation and a voice to all types of water users in the Basin.
- Work collaboratively for the benefit of the Indian Wells Valley Groundwater Basin as a whole.
- When called upon to provide input and recommendations to the Board in support of actions that facilitate bringing the Indian Wells Valley Groundwater Basin into compliance with the requirements of the Sustainable Groundwater Management Act of 2014 (SGMA).
- Work in good faith to achieve consensus and make unified recommendations to develop a Groundwater Sustainability GSP and for management actions to achieve groundwater sustainability in accordance with the requirements of SGMA.

The PAC is established pursuant to Article 5 of the Bylaws.

The Board shall appoint the PAC members as set forth in this Article 5 of the Bylaws and nothing herein shall be interpreted to prevent the Board from modifying PAC membership or removing a particular PAC member if the Board so desires. PAC members have a duty to represent the interests of the Basin as a whole and the constituent group they are appointed for and not their own person or agency interests. The Board shall have the sole discretion to approve or disapprove of a particular individual's representation on the PAC regardless of the agency or organization they represent.

## Membership

The categories for initial PAC membership shall consist of the following non-voting members:

- 1 representative from the Indian Wells Valley Water District
- 1 representative from the Department of the Navy
- 1 representative from the Bureau of Land Management

The categories for initial PAC membership shall consist of the following voting members:

- 2 representatives from Large Agriculture
- 1 representative from Small Agriculture
- 2 representatives from Business Interests
- 2 representatives from Domestic Well Owners
- 1 representative from Eastern Kern County Resource Conservation District
- 1 representative for Wholesaler and Industrial User

Additionally, while not consider an official member of the PAC and not holding any voting rights on matters before the PAC, land use expertise shall be provided to the PAC through the appointment of:

- 1 representative from Kern County Planning and Natural Resources Dept.

The names of individuals serving as members on the PAC are left blank in the Charter. Once individuals are approved by the IWVGA Board to sit on the PAC, then those names will be added to the PAC Charter.

**RECOMMENDATION**

Staff recommends adoption of the resolution approving the PAC Charter.

**BEFORE THE BOARD OF DIRECTORS  
INDIAN WELLS VALLEY GROUNDWATER AUTHORITY**

In the matter of:

Resolution No. \_\_\_\_\_

**RESOLUTION ADOPTING THE  
POLICY ADVISORY COMMITTEE  
CHARTER FOR THE INDIAN WELLS  
VALLEY GROUNDWATER AUTHORITY.**

---

I, \_\_\_\_\_, Secretary 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 16th day of March, 2017, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Secretary of the Board of Directors  
Indian Wells Valley Groundwater Authority

---

**RESOLUTION**

Section 1. WHEREAS:

- (a) The attached Policy Advisory Committee Charter, which generally regulates the affairs of the Committee, has been presented to, and considered by, the Board of Directors; and
- (b) This Board deems it to be in the best interests of the Authority to adopt the attached Policy Advisory Committee Charter; and
- (c) Staff has reviewed this matter and determined that it is exempt from further environmental review pursuant to California CEQA guidelines section 15378(b)(5).

Section 2. **IT IS HEREBY RESOLVED** by the Board of Directors of the Indian Wells Valley Groundwater Authority, as follows:

**1. Authority.**

This Board finds the facts recited are true, finds that this Board has jurisdiction to consider, approve, and adopt the subject of this Resolution, and incorporates and makes all the findings recommended by Staff, whether verbally or in their written reports.

**2. Environmental Review.**

This Board finds and determines that the action being taken is exempt from further environmental review under the California Environmental Quality Act of 1970, pursuant to Section 15378(b)(5) of the State CEQA Guidelines.

**3. Adoption.**

The Policy Advisory Committee Charter is hereby adopted, until amended or repealed by this Board, in the form presented at this meeting and attached hereto and incorporated by reference.

**4. Receipt of Bylaws.**

The Secretary of the Board is directed to place a certified copy of the Policy Advisory Committee Charter at the Principal Office of the Authority and post the same on the Authority's website.

**5. Committee Member Listing**

Staff is directed to update "Exhibit A" to the Policy Advisory Committee Charter as individual persons are appointed to the positions listed on the Committee.

**6. Effective Date.**

The Policy Advisory Committee Charter shall become effective immediately and remain in full force and effect unless, and until, amended or repealed by the Board of Directors.

**Indian Wells Valley Groundwater Authority**

**Policy Advisory Committee Charter**

**March 16, 2017**



## Contents

<u>ARTICLE 1 – DEFINITIONS</u> .....	1
<u>ARTICLE 2 – MISSION AND OBJECTIVES</u> .....	1
<u>ARTICLE 3 – COMMITTEE STRUCTURE AND ATTENDANCE</u> .....	2
3.1. <u>Membership</u> .....	2
3.2. <u>Attendance</u> .....	2
3.3. <u>Officers</u> .....	3
3.4. <u>Roles and Responsibilities</u> .....	3
3.5. <u>Meetings</u> .....	3
3.6. <u>Record of Proceedings</u> .....	4
3.7. <u>Rules of Conduct</u> .....	4
3.8. <u>Agenda</u> .....	5
3.9. <u>Participation by the Public</u> .....	6
<u>EXHIBIT A – COMMITTEE MEMBER LISTING</u> .....	7

# **Indian Wells Valley Groundwater Authority Policy Advisory Committee Charter**

## **ARTICLE 1 – DEFINITIONS**

“Authority” means the Indian Wells Valley Groundwater Authority.

“Basin” means the Indian Wells Valley Groundwater Basin.

“Bylaws” means the Bylaws of the Indian Wells Valley Groundwater Authority.

“Board” means the Indian Wells Valley Groundwater Authority Board of Directors.

“GSP” means the Indian Wells Valley Groundwater Sustainability Plan, to be formally adopted by the Indian Wells Valley Groundwater Authority Board.

“GSP Area” means the Indian Wells Valley Groundwater Basin.

“PAC” means the Indian Wells Valley Policy Advisory Committee.

“PAC Member” means a person or representative appointed by the Board to the PAC.

“Quorum” shall consist of a majority of voting members of the PAC.

## **ARTICLE 2 – MISSION AND OBJECTIVES**

The Policy Advisory Committee (PAC) was established pursuant to Section 5.5 of the Bylaws of the Indian Wells Valley Groundwater Authority. The PAC will advise the Board on the development and implementation of the GSP when directed to do so by the Board. The objectives of the PAC are to:

- Provide meaningful representation and a voice to all types of water users in the Basin.
- Work collaboratively for the benefit of the Indian Wells Valley Groundwater Basin as a whole.
- When called upon to provide input and recommendations to the Board in support of actions that facilitate bringing the Indian Wells Valley Groundwater Basin into compliance with the requirements of the Sustainable Groundwater Management Act of 2014 (SGMA).
- Work in good faith to achieve consensus and make unified recommendations to develop a Groundwater Sustainability GSP and for management actions to achieve groundwater sustainability in accordance with the requirements of SGMA.

**ARTICLE 3 – COMMITTEE STRUCTURE AND ATTENDANCE**

**3.1. Membership:**

The PAC is established pursuant to Article 5 of the Bylaws.

The Board shall appoint the PAC members as set forth in this Article 5 of the Bylaws and nothing herein shall be interpreted to prevent the Board from modifying PAC membership or removing a particular PAC member if the Board so desires. PAC members have a duty to represent the interests of the Basin as a whole and the constituent group they are appointed for and not their own person or agency interests. The Board shall have the sole discretion to approve or disapprove of a particular individual's representation on the PAC regardless of the agency or organization they represent.

The categories for initial PAC membership shall consist of the following non-voting members:

- 1 representative from the Indian Wells Valley Water District
- 1 representative from the Department of the Navy
- 1 representative from the Bureau of Land Management

The categories for initial PAC membership shall consist of the following voting members:

- 2 representatives from Large Agriculture
- 1 representative from Small Agriculture
- 2 representatives from Business Interests
- 2 representatives from Domestic Well Owners
- 1 representative from Eastern Kern County Resource Conservation District
- 1 representative for Wholesaler and Industrial User

Additionally, while not consider an official member of the PAC and not holding any voting rights on matters before the PAC, land use expertise shall be provided to the PAC through the appointment of:

- 1 representative from Kern County Planning and Natural Resources Dept.

The representatives appointed to the PAC are on the attached "Exhibit A".

**3.2. Attendance:**

PAC members must regularly attend all meetings of the PAC. PAC members who regularly miss PAC meetings without leave from the Board Chairperson may be replaced by the action of the Board.

### **3.3. Officers:**

The Board shall appoint a PAC Chair and Vice-Chair in consultation with the Committee members.

### **3.4. Roles and Responsibilities:**

As set forth in Section 5.5 of the Bylaws, the PAC, when specifically designated and assigned by the Board, will advise the Board on the development and implementation of the GSP.

As part of membership, PAC members agree to:

- Arrive at each meeting fully prepared to discuss the issues on the agenda. Preparation includes reviewing meeting summaries, technical information, and draft documents distributed in advance of each meeting.
- Present and represent the views of their constituent group on the issues being discussed and be willing to engage in respectful, constructive dialogue with other members of the PAC.
- Develop a problem-solving approach in which they consider the interests and viewpoints of all stakeholders in the Basin.
- Keep their constituent group informed about ongoing issues and actively seek their input.
- Pursue the PAC's purpose and goals and support GSP implementation.

### **3.5 Meetings:**

The Board shall establish the time and place for PAC meetings in consultation with the members of the PAC. A regular meeting may be adjourned by the PAC or by less than a quorum to another time. An adjourned regular meeting is a regular meeting for all purposes if held within five days of the regular meeting. If the adjourned meeting is held more than five days after the regular meeting, a new agenda shall be posted.

Meetings of PAC shall be open to the public and conducted pursuant to the Ralph M. Brown Act (California Government Code 54950 *et seq*). No action shall be taken by secret ballot at such meetings. Meetings of PAC shall be held within the GSP Area, except: to comply with State or Federal law or court order; to inspect real property or personal property which cannot be moved; to meet with another public agency at the other agency on multi-agency matters; to discuss legislative or regulatory matters with state or federal officials; to discuss matters relating to a Authority facility in the facility; and to consult with legal counsel at counsel's office if so doing will result in reduction in legal fees associated with the meeting.

Meetings include any congregation of a quorum of the PAC at the same time and place to hear, discuss or deliberate on any ruling within the jurisdiction of the PAC; and any use of direct communications, personal intermediaries or technological devices by a quorum of the PAC to develop a collective concurrence to action by the PAC. Meetings do not include: individual contacts between members and other person; attendance at a conference or similar gathering open to the public involving discussions of issues of interest to the public generally by public agencies specifically, if a quorum does not discuss Authority business; attendance at open and publicized meetings addressing topics of community concern by someone not associated with the Authority, if a quorum does not discuss Authority business; or attendance at social or ceremonial events, if quorum does not discuss Authority business.

### **3.6 Record of Proceedings:**

An individual appointed by the Board shall prepare written minutes of all PAC meetings, which shall be available for public inspection once reviewed and approved by the PAC. The record shall contain the votes and abstentions of each PAC Member on each matter for which a vote is taken.

### **3.7 Rules of Conduct:**

The affirmative vote of at least 5 voting members of the PAC is necessary for the PAC to take formal action on any item. The PAC shall only take action by motion. Motions may be adopted on voice vote; however roll call shall be taken if requested by any member. The Indian Wells Valley Water District; the Department of the Navy; and the Bureau of Land Management are non-voting members and, as such, will not vote on any matter before the PAC. The Kern County Planning and Natural Resources Department is a non-voting roll limited to land use advisory matters only. All other PAC Members are voting members.

All rules of order not otherwise provided for in this Charter shall be determined, to the extent practicable, in accordance with "Robert's Rules of Order;" provided, however, that no action shall be invalidated or its legality otherwise affected by the failure or omission to observe or follow "Robert's Rules of Order."

A PAC member desiring to speak on any matter shall first gain recognition from the Presiding Officer.

The PAC shall not prohibit public criticism of the policies, procedures, programs or services of the Authority, the PAC, or of the acts or decisions of the PAC.

The following procedure shall be followed in connection with any Agenda item requiring a motion:

- (a) The Presiding Officer reads the agenda item.
- (b) Presiding Officer calls for a staff report (if any).
- (c) PAC Members question staff (if any)
- (d) Presiding Officer allows public comment.

- (e) Presiding Officer calls for additional PAC Member questions.
- (f) A PAC Member makes a motion,
- (g) A PAC Member either seconds the motion or makes a competing motion.
- (h) If a motion is made that does not receive a second there is no vote on the motion.
- (i) In cases where two motions have been made and seconded, the Presiding Officer shall choose which motion is discussed and voted on first.
- (j) The maker of the motion on the floor has the opportunity to speak last.
- (k) The Presiding Officer restates the motion.
- (l) The PAC Members vote on the motion.
- (m) The Presiding Officer announces result.

The Authority's General Counsel shall be deemed the parliamentarian and if there is a dispute on the process for bringing an item forward or voting on an item, the Presiding Officer shall confer with the General Counsel.

### **3.8 Agenda:**

An individual appointed by the Board, in consultation with the Authority's General Counsel shall prepare the draft agenda, which will be reviewed and approved by the General Counsel and the Board Chairperson.

At least seventy-two hours before a regularly scheduled meeting, the Authority shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting in accordance with the Brown Act. The posting shall be freely accessible to the public.

The agenda shall include the opportunity for the public to address the PAC prior to taking action on any matter.

No action shall be taken on matters not shown on the posted agenda, except members may briefly respond to statements made or questions posed during public comment; request for clarification; provide a reference to staff or other resources for factual information.

The business of the PAC shall be conducted in the order and manner specified below. The order may be changed by a majority vote of those present. The following is the order of business:

- (a) Call to Order.
- (b) Salute to the Flag and Invocation
- (c) Roll Call.
- (d) Public Comment
- (e) Discussion items and reports.
- (f) Adjournment

### **3.9 Participation by the Public:**

Members of the public wishing to address the PAC on any agenda item may do so at the time the item is considered. However, members of the public do not have the right to give testimony outside the scope of, or unrelated to, the agenda item under consideration or outside the scope of the jurisdiction given to the PAC.

Comments are limited to no more than 3 minutes per speaker, but that time limit may be modified at the Presiding Officer's discretion.

To ensure efficient proceedings, the PAC may require those desiring to speak to register prior to commencement of the meeting. Under those circumstances, the public will be requested to complete a speaker card and submit it to the Presiding Officer prior to the start of the meeting, if possible, but no later than prior to the public hearing on that item.

After being recognized by the Presiding Officer, each member of the public addressing the PAC shall go to the podium, state their name and whom they represent, if any. Each member of the public is encouraged, but not required, to also state his or her address, neighborhood, or location of residence. All remarks shall be addressed to the Presiding officer as a whole and not to any individual PAC Member thereof.

When the PAC is in session, all persons present must preserve safety and order. Members of the public should sit in the audience seating area, unless addressing the PAC or entering or leaving the meeting.

Any person who disrupts the meeting shall be called to order by the Presiding Officer. If such conduct continues, the Presiding Officer may require that such person(s) be removed before proceeding with the meeting.

## **EXHIBIT A**

### **COMMITTEE MEMBER LISTING**

#### **NON-VOTING**

- 1 representative from the Indian Wells Valley Water District
- 1 representative from the Department of the Navy
- 1 representative from the Bureau of Land Management

#### **VOTING**

- 2 representatives from Large Agriculture
  - A)
  - B)
- 1 representative from Small Agriculture
  - A)
- 2 representatives from Business Interests
  - A)
  - B)
- 2 representatives from Domestic Well Owners
  - A)
  - B)
- 1 representative from Eastern Kern County Resource Conservation District
- 1 representative for Wholesaler and Industrial User
  - A)

#### **LAND USE STAFF**

- 1 representative from Kern County Planning and Natural Resources Dept.



# IWVGA ADMINISTRATIVE OFFICE

MEMORANDUM

---

**TO:** IWVGA Board Members **DATE:** March 16, 2017

**FROM:** Alan Christensen, IWVGA Staff *Ac*

**SUBJECT:** Report on Plan of Action and Milestones (POAM) for a Groundwater Sustainability Plan

## DISCUSSION

On January 19, 2017, the Board directed that a Plan of Action and Milestones (POAM) be developed and that it be placed as a standing item on the IWVGA monthly agenda. The POAM timeline is attached for the Board's review.

Staff also anticipates that the Water Resource Planner will have significant input into the POAM moving forward, so the POAM is expected to be updated throughout the GSP development process.



# PRELIMINARY GROUNDWATER SUSTAINABILITY PLAN OUTLINE

## Executive Summary (*Reg. § 354.4*)

### 1.0 Introduction

#### 1.1 Purpose of the Groundwater Sustainability Plan (GSP or Plan)

#### 1.2 Sustainability Goal

#### 1.3 Agency Information (*Reg. § 354.6*)

##### 1.3.1 Organization and Management Structure of the Groundwater Sustainability Agency (GSA or Agency)

##### 1.3.2 Legal Authority of the GSA

##### 1.3.3 Estimated Cost of Implementing the GSP and the GSA's Approach to Meet Costs

### 1.4 GSP Organization

- Description of how the GSP is organized
- Preparation Checklist for GSP Submittal

## 2.0 Plan Area and Basin Setting

### 2.1 Description of the Plan Area (*Reg. § 354.8*)

#### 2.1.1 Summary of Jurisdictional Areas and Other Features (*Reg. § 354.8 b*)

- Map(s) (*Reg. § 354.8 a*):
  - Area covered by GSP
  - Adjudicated areas, other Agencies within the basin, and areas covered by an Alternative
  - Jurisdictional boundaries of federal or State land
  - Existing land use designations
  - Density of wells per square mile

#### 2.1.2 Water Resources Monitoring and Management Programs (*Reg. § 354.8 c, d, e*)

- Description of water resources monitoring and management programs
  - Description of how monitoring networks of those programs will be incorporated into the GSP
  - Descriptions of how those programs may limit operation flexibility in the basin
  - Description of conjunctive use programs

#### 2.1.3 Land Use Elements or Topic Categories of Applicable General Plans (*Reg. § 354.8 f*)

- Summary of general plans and other land use plans
  - Information could include crop types and acreages, urban land designation, and identification of open spaces.
- Description of how implementation of the GSP may change water demands or affect achievement of sustainability and how the GSP addresses those effects
- Description of how implementation of the GSP may affect the water supply assumptions of relevant land use plans
- Summary of the process for permitting new or replacement wells in the basin
- Information regarding the implementation of land use plans outside the basin that could affect the ability of the Agency to achieve sustainable groundwater management

#### 2.1.4 Additional GSP Elements (*Reg. § 354.8 g*)

- Control of saline water intrusion
- Wellhead protection

- Migration of contaminated groundwater
- Well abandonment and well destruction program
- Replenishment of groundwater extractions
- Conjunctive use and underground storage
- Well construction policies
- Groundwater contamination cleanup, recharge, diversions to storage, conservation, water recycling, conveyance, and extraction projects
- Efficient water management practices
- Relationships with State and federal regulatory agencies
- Land use plans and efforts to coordinate with land use planning agencies to assess activities that potentially create risks to groundwater quality or quantity
- Impacts on groundwater dependent ecosystems

#### **2.1.5 Notice and Communication (Reg. § 354.10)**

- Description of beneficial uses and users in the basin
- A Communications Section that describes:
  - Decision-making processes
  - Public engagement opportunities
  - Encouraging active involvement
  - Informing the public on GSP implementation progress

### **2.2 Basin Setting**

#### **2.2.1 Hydrogeologic Conceptual Model (Reg. § 354.14)**

- Graphical and narrative description of the physical components of the basin
- At least two scaled cross-sections
- Map(s) of physical characteristics
  - Topographic information
  - Surficial geology
  - Soil characteristics
  - Delineation of existing recharge areas that substantially contribute to the replenishment of the basin, potential recharge areas, and discharge areas
  - Surface water bodies
  - Source and point of delivery for local and imported water supplies

#### **2.2.2 Current and Historical Groundwater Conditions (Reg. § 354.16)**

- Groundwater elevation data
- Estimate of groundwater storage
- Seawater intrusion conditions
- Groundwater quality issues
- Land subsidence conditions
- Identification of interconnected surface water systems
- Identification of groundwater-dependent ecosystems
  - Including potentially related factors such as instream flow requirements, threatened and endangered species, and critical habitat.

#### **2.2.3 Water Budget Information (Reg. § 354.18)**

- Description of inflows, outflows, and change in storage
- Quantification of overdraft (as applicable)

- Estimate of sustainable yield
- Quantification of current, historical, and projected water budget
- Description of surface water supply used or available for use for groundwater recharge or in-lieu use

#### 2.2.4 Management Areas (as Applicable) (Reg. § 354.20)

- Reason for creation of each management area
- Level of monitoring and analysis
- Description of management areas
- Explanation of how management of management areas will not cause undesirable results outside the management area

### 3.0 Sustainable Management Criteria

#### 3.1 Sustainability Goal (Reg. § 354.24)

- Description of sustainability goal, including:
  - Information from the basin setting used to establish the sustainability goal
  - Discussion of the measures that will be implemented to ensure that the basin will be operated within its sustainable yield
  - Explanation of how the sustainability goal is likely to be achieved within 20 years of Plan implementation and is likely to be maintained through the planning and implementation horizon

#### 3.2 Measureable Objectives (Reg. § 354.30)

- Description of each measureable objective and how the measureable objectives were established for each relevant sustainability indicator
- Description of how a reasonable margin of safety was established for each measureable objective
- Description of a reasonable path to achieve and maintain the sustainability goal including a description of interim milestones for each relevant sustainability indicator
  - Measurable Objective for Sustainability Indicator 1
    - Interim Milestone at 5 years
    - Interim Milestone at 10 years
    - Interim milestone at 15 years
    - Milestone at 20 years
  - Measurable Objective for Sustainability Indicator 2
    - Interim Milestone at 5 years
    - Interim Milestone at 10 years
    - Interim milestone at 15 years
    - Milestone at 20 years
  - Measurable Objective for Sustainability Indicator X
- If management areas are used, a description of (Reg. § 354.20 b):
  - The measurable objectives established for each management area, and an explanation of the rationale for selecting those values, if different from the basin at large.
  - An explanation of how the management area can operate under different measurable objectives without causing undesirable results outside the management area, if applicable.

### 3.3 Minimum Thresholds (Reg. § 354.28)

- Description of each minimum threshold and how they were established for each relevant sustainability indicator
- Relationship for each sustainability indicator
- Description of how minimum thresholds have been selected to avoid causing undesirable results
- Description of how minimum thresholds may affect the interests of beneficial uses and users of groundwater or land uses and property interests.
- Standards related to sustainability indicators
- How each minimum threshold will be quantitatively measured for each relevant sustainability indicator
- If management areas are used, a description of (Reg. § 354.20 b):
  - The minimum thresholds established for each management area, and an explanation of the rationale for selecting those values, if different from the basin at large.
  - An explanation of how the management area can operate under different minimum thresholds without causing undesirable results outside the management area, if applicable.

### 3.4 Undesirable Results (Reg. § 354.26)

- Description of undesirable results for any of the sustainability indicators
- Cause of groundwater conditions that would lead to undesirable results
- Criteria used to define undesirable results based on minimum thresholds
- Potential effects on the beneficial uses and users of groundwater, on land uses and property interests, and other potential effects that may occur or are occurring from undesirable results

### 3.5 Monitoring Network

#### 3.5.1 Description of Monitoring Network (Reg. § 354.34)

- Description of how the monitoring network is capable of collecting sufficient data to demonstrate short-term, seasonal, and long-term trends in groundwater and related surface conditions, and yield representative information about groundwater conditions as necessary to evaluate Plan implementation
- Description of monitoring network objectives including explanation of how the network will be developed and implemented to monitor:
  - Groundwater and related surface conditions
  - Interconnection of surface water and groundwater
- Description of how implementation of the monitoring network objectives demonstrate progress toward achieving the measurable objectives, monitor impacts to beneficial uses or users of groundwater, monitor changes in groundwater conditions, and quantify annual changes in water budget components
- Description of how the monitoring network is designed to accomplish the following for each sustainability indicator:
  - Chronic Lowering of Groundwater Levels. Demonstrate groundwater occurrence, flow directions, and hydraulic gradients between principal aquifers and surface water features
  - Reduction of Groundwater Storage. Estimate the change in annual groundwater in storage
  - Seawater Intrusion. Monitor seawater intrusion
  - Degraded Water Quality. Determine groundwater quality trends
  - Land Subsidence. Identify the rate and extent of land subsidence
  - Depletions of Interconnected Surface Water. Calculate depletions of surface water caused by

groundwater extractions

- Description of how the monitoring plan provides adequate coverage of the sustainability indicators
- Density of monitoring sites and frequency of measurements required to demonstrate short-term, seasonal, and long-term trends
- Scientific rationale (or reason) for site selection
- Consistency with data and reporting standards
- Corresponding sustainability indicator, minimum threshold, measurable objective, and interim milestone
- Location and type of each site on a map
- If management areas are used, a description of the level of monitoring and analysis appropriate for each management area. (Reg. § 354.20 b)

### 3.5.2 Monitoring Protocols for Data Collection and Monitoring (Reg. § 352.2)

- Description of technical standards, data collection methods, and other procedures or protocols to ensure comparable data and methodologies.

### 3.5.3 Representative Monitoring (Reg. § 354.36)

- Description of representative sites if designated
- Demonstration of adequacy of using groundwater elevations as proxy for other sustainability indicators
- Adequate evidence demonstrating site reflects general conditions in the area

### 3.5.4 Assessment and Improvement of Monitoring Network (Reg. § 354.38)

- Review and evaluation of the monitoring network
- Identification and description of data gaps
- Description of steps to fill data gaps
- Description of monitoring frequency and density of sites

## 4.0 Projects and Management Actions to Achieve Sustainability Goal (Reg. § 354.44)

### 4.1 Project #1 Description

- Measureable objective that is expected to benefit from the project or management action
- Circumstances for implementation
- Public noticing
- Overdraft mitigation projects and management actions
- Permitting and regulatory process
- Time-table for initiation and completion, and the accrual of expected benefits
- Expected benefits and how they will be evaluated
- How the project or management action will be accomplished. If the projects or management actions rely on water from outside the jurisdiction of the Agency, an explanation of the source and reliability of that water shall be included.
- Legal authority required
- Estimated costs for the projects and managements and plans to meet those costs (economic analysis and finance strategy for projects and management actions)
- Management of groundwater extractions and recharge
- Relationship to additional GSP elements as described in Water Code §10727.4.

## 4.2 Project #2 Description

## 4.3 Project #X Description

## 5.0 Plan Implementation

### 5.1 Estimate of GSP Implementation Costs (*Reg. § 354.6*)

### 5.2 Schedule for Implementation

### 5.3 Annual Reporting

- GSA's plan for required annual reporting

### 5.4 Periodic Evaluations

- GSA's process for required periodic evaluations

## 6.0 References and Technical Studies (*Reg. § 354.4*)

### Appendices

- Interbasin and Coordination Agreements (as applicable) (*Reg. § 357*)
- Contact Information for Plan Manager and GSA Mailing Address (*Reg. § 354.6*)
- List of Public Meetings (*Reg. § 354.10*)
- Technical Appendices
- Groundwater Model Documentation
- Comments and Responses (*Reg. § 354.10*)

*Reference: California Department of Water Resources "Groundwater Sustainability Plan (GSP) Annotated Outline, December 2016.*

DRAFT