

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, Aug 17, 2017, 10:00 a.m.

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/.

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 the public to address the Board about matters NOT on the agenda. No action will be taken on non-agenda items unless authorized by law. Comments are limited to three minutes per person.

4. SPECIAL PRESENTATIONS - None

5. CONSENT AGENDA (Items may be removed from the Consent Agenda for discussion by the Board)

- a. Approve Minutes of Board Meeting July 20, 2017
- b. Approve Resolution 05-17 to set meeting dates for the Policy Advisory Committee for 2017
- c. Approve Resolution 06-17 appointing members to the Technical Advisory Committee –Wade Major as representative in the large agriculture category

6. REPORT FROM TECHNICAL ADVISORY COMMITTEE

7. REPORT FROM POLICY ADVISORY COMMITTEE

8. **DISCUSSION/ACTION TO CONSIDER A REQUEST FROM THE INYOKERN COMMUNITY SERVICES DISTRICT TO APPOINT A MEMBER OF THAT DISTRICT TO THE IWVGA POLICY ADVISORY COMMITTEE**
9. **APPROVAL OF RETAINER AGREEMENT WITH MCMURTREY, HARTSOCK & WORTH TO SERVE AS IWVGA BOARD COUNSEL**
10. **APPROVE AGREEMENT WITH STETSON ENGINEERING TO SERVE AS WATER RESOURCES MANAGER**
11. **GENERAL MANAGER'S REPORT**
12. **CLOSING COMMENTS**
This time is reserved for comments by Board members and/or staff and to identify matters for future Board business.
13. **CLOSED SESSION – None**
14. **DATE AND TIME OF NEXT MEETING** September 21, 2017, 10:00 am
15. **ADJOURN**

INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

BOARD OF DIRECTORS MINUTES

Ridgecrest City Hall
100 W California Ave
Ridgecrest, CA 93555

Thursday, July 20, 2017, 10:00 a.m.

CALL TO ORDER:

The meeting was called to order by Chairperson Gleason at 10:09 a.m.

ROLL CALL:

Commander Brian Longbottom, Department of the Navy
Ryan Klausch, 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
Bob Harrington, Inyo County

Also Present:

Lauren Duffy, IWVGA Clerk
Alan Christensen, IWVGA Acting General Manager, Kern County
Phill Hall, IWVGA Counsel

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Jim Worth followed by a moment of silence.

PUBLIC COMMENTS:

None.

SPECIAL PRESENTATIONS:

None.

CONSENT CALENDAR:

- a) **Approve Minutes of Board Meeting June 15, 2017.**
- b) **Resolution 03-17 Adopting Conflict of Interest Code Approved by FPPC**

Public comment:

None.

Board comment:

None.

Motion was made by Peter Brown and seconded by Peggy Breeden to approve Minutes of Board Meeting June 15, 2017 and Resolution No. 03-17 Adopting Conflict of Interest Code Approved by FPPC. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Page Nays: None.)

APPROVE RESOLUTION APPOINTING RENEE WESTA-LUSK TO THE POLICY ADVISORY COMMITTEE (PAC):

Public comment:

None.

Board comment:

Vice-chair Breeden commented that she was contacted by someone else who wanted to know why they were not appointed. Ms. Breeden clarified that she did not take any action with regards to the person inquiring.

Bob Page asked that all those who applied for a seat on the Policy Advisory Committee (PAC) be included on the Interested Parties list so that they may continue participating in the group.

Chair Gleason asked that staff send an email to all parties that applied and were not appointed explaining why the Board chose the candidates that they did.

Motion was made by Bob Page and seconded by Peter Brown to approve Resolution No. 02-17 and directed staff to send an email of explanation to the applicants not appointed. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Page Nays: None.)

APPROVE RESOLUTION APPOINTING MEMBERS TO THE TECHNICAL ADVISORY COMMITTEE (TAC):

Alan Christensen read Resolution No. 04-17 Exhibit A stating the following changes:

- Large Agriculture – Eddy Teasdale
- Large Agriculture – ~~Anthony Brown~~ **Wade Major**
- Small Agriculture – Open
- Business Interests – Open
- Business Interests – Open
- Residential Customers of Public Water Agency – Open
- Residential Customers of Public Water Agency – Michael Powell
- Domestic Well Owners – Don Decker
- Domestic Well Owners – Open
- Eastern Kern County Resource Conservation District – Earl Wilson
- Wholesaler and Industrial User – Adam Bingham
- Indian Wells Valley Water District* - Renee Morquecho
- Department of the Navy* - Stephan Bork
- Bureau of Land Management* - Open

* Non-voting members.

It was at the request of Large Agriculture that Anthony Brown be replaced with Wade Major, due to Mr. Brown's requirements with aquilologic.

Joshua Nugent explained that due to Anthony Brown's busy schedule with aquilologic, he will still be involved, however it was requested that Wade Major replace Mr. Brown on the TAC.

Public comment:
None.

Board comment:
Peggy Breeden stated that it was asked that residents of the Indian Wells Valley Water Basin be TAC members, however Ms. Breeden clarified that there are members of the TAC which are not residents of the IWV Water Basin, but they are representatives of those residing in IWV Basin.

Motion was made by Peter Brown and seconded by Peggy Breeden to approve Resolution No. 04-17 and adopt the TAC members as shown in Exhibit A, with the correction that Wade Majors is now the representative for large agriculture. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Page Nays: None.)

REPORT FROM POLICY ADVISORY COMMITTEE:

Donna Thomas provided the Board with the report from the Policy Advisory Committee.

PAC Meeting Report from July 20, 2017:

- The PAC recommends that the GSA add the Inyokern Community Services District as a disadvantaged community representative as a voting member and to allow the Inyokern CSD to make appointments to the TAC. Also, to allow the Trona disadvantaged community as a representative as a member on the PAC.
- Motion was made and approved by committee members to accept the offer of services of Eddy Teasdale, at no cost to the PAC, to assist with a list of grant opportunities for funding.
- A list of questions and clarifications were provided at the PAC meeting. (List has been attached to these meeting minutes)
- The PAC asked the GSA Board to allow the committee members to appoint alternates.
- The PAC requests two evening meetings in August, the 3rd and the 24th at 6:00 pm.

Public comment:
None.

Board comment:
Vice-chair Breeden asked how the Board goes about answering questions provided by the PAC. Phill Hall answered that if the PAC would like something added to the IWVGA Board Agenda, then the PAC would need to meet two weeks prior to the IWVGA Regular Board Meeting, otherwise any items discussed by the PAC and that need Board approval will have to wait until the following month for the item to be on the agenda.

Lorelei Oviatt urged the Board to allow the PAC to make their own agenda and meeting schedule dates.

Phill Hall commented that a regular meeting date for the PAC needs to be decided on by the Board. Mr. Hall added that a Special Meeting for the IWVGA Board could be called and held if needed.

Chair Gleason authorized the PAC to have Committee Meetings on the 3rd and 24th of August.

Bob Page asked that future PAC agenda items be better described so that they are easily understood.

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

DISCUSSION/ACTION TO PREPARE PROPOSITION 1 GRANT FUNDING APPLICATIONS:

Alan Christensen provided Prop. 1 Grant timelines (sheet has been attached to these meeting minutes.)

Public comment:

Paige Gosney, Gresham Savage on behalf of Meadowbrook, stated that Meadowbrook is in support of the Water Resources Manager (WRM) being the lead for preparing, coordinating, finalizing and submitting the grant fund applications. Mr. Gosney also asked that at least one member of the TAC be involved with the grant fund application process.

Judie Decker commented that the Board needs to figure out a way to develop a Groundwater Sustainability Plan (GSP) and the ultimate goal has to be outside water, not brackish, wastewater, nor potable water.

Board comment:

Bob Page clarified that even if a WRM is selected today that they won't be receiving payment until a contract is reviewed and approved by the IWVGA Board.

Chair Gleason commented that in order to develop a GSP it requires technical and scientific background and knowledge. Chair Gleason feels the TAC is best equipped to be involved in the development of the GSP.

After much deliberation with regards to a volunteer facilitating the first TAC meeting, Peter Brown volunteered Don Zdeba of the Indian Wells Valley Water District to facilitate the first meeting.

Motion was made by Peggy Breeden and seconded by Peter Brown to utilize the Indian Wells Valley Water District to facilitate the TAC and use the IWVCGMG TAC and the IWVGA TAC to proceed as expeditiously as possible. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Page Nays: None.)

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

Alan Christensen stated that the POAM presented in the Board Packet is the same and no changes have been made. The POAM will be provided to the appointed WRM. Alan Christensen provided updates and deadlines met by the Board and PAC.

Public comment:
None.

Board comment:
Chair Gleason asked that the POAM online be fixed and legible. Staff agreed to fix the online POAM to allow public to view it easily and will send out the link for easier access.

APPROVE AGREEMENT WITH JAMES MARKMAN OF RICHARDS, WATSON & GERSHOM AS SPECIAL LEGAL COUNSEL:

Alan Christensen reported that a two member committee, consisting of Board members Bob Page and Vice-chair Breeden, screened applications for special legal counsel for IWVGA and narrowed it down to three applicants which were interviewed by the Board and the Board chose James Markman of Richards, Watson & Gershom (RWG).

Public comment:
Renee Westa-Lusk asked for clarification on “as needed basis” for the legal counsel. Chair Gleason answered that it will be an “as needed” function meaning the Board will use Mr. Markman as needed, he will be paid hourly. Each Chair will provide legal counsel on the Board, when the chair rotates as will the legal counsel.

Board comment:
None.

Motion was made by Peter Brown and seconded by Bob Page to accept agreement with James Markman to serve as Special Counsel to the IWVGA. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Page Nays: None.)

Bob Page asked for clarification – On the contract it states, “More specifically, the services to be performed by RWG shall be provided as directed by Authority’s Board of Directors, Chief Executive or General Counsel.” Mr. Page asked if the intent is to only have staff direct if they receive direction from the Board first. Mr. Hall answered yes; that is the intent at this stage.

GENERAL MANAGER’S REPORT:

Alan Christensen had nothing new to report.

CLOSING COMMENTS:

Board comment:
Commander Brian Longbottom asked that members who will be volunteered be made aware of it prior to the meeting.

Bob Harrington commented that Supervisor Matt Kingsley regrets not being able to attend.

Chair Gleason thanked the BLM and Ms. Quist for their help with the retention pools near Freeman Gulch. Mr. Gleason also thanked Dale Schafer for all of her hard work, it is very much appreciated.

CLOSED SESSION:

Motion made by Matt Kingsley to move the meeting to Closed Session at 11:40 a.m.

- a. PUBLIC EMPLOYEE APPOINTMENT - Title: Water Resources Manager (Government Code §54957(b)(1))
- b. PUBLIC EMPLOYEE APPOINTMENT – Title: Board Legal Counsel (Government Code §54957(b)(1))
- c. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Title: General Manager (Government Code §54957(b)(1))

The meeting was recalled to Open Session.

No action was taken that would require disclosure under the Brown Act.

DATE AND TIME OF NEXT MEETING:

The next IWVGA meeting will be held August 17, 2017, at 10:00 a.m., in the Council Chambers at Ridgecrest City Hall, 100 W. California Avenue.

ADJOURN:

Chairperson Gleason announced the meeting adjourned at 4:40 p.m.

Respectfully submitted,



Lauren Duffy

Clerk of the Board of Directors
Indian Wells Valley Groundwater Authority

Proposition 1 Grant Timelines

- Grant Projects Needs Assessment → WRM
- Solicitation Package Available to Agencies August 2017
- Applicant Workshops (July - Sept. 2017)
- Grant Application Deadline October 2017
- Grant Funding Awards November 2017
- Continuous Filing Deadline Dec 2017 - Jan 2018
- Release of Funding Awards TBD (Spring 2018)

Notes from PAC meeting ~~6.29.2017~~ 7.20.17
Questions /Clarifications needed

- 1) Why does a PAC member need to submit Form 700? PAC is not a decision making board; is one step removed from decision making entity. Phill Hall stated PAC Form 700 is required by law.
- 2) Will the TAC members need to submit Form 700? TAC is two steps removed from decision making entity; there is a filter between (that is the Water Resources Manager). Phill Hall stated he is not sure.
- 3) Prop. 1 Application window opens soon. PAC members should provide project ideas. PAC members should provide in-kind contributions. How is this to be done? To whom is information submitted? What is the deadline?
Who or what group will be submitting the Prop. 1 application? Water Resources Manager, Kern County Planning Department; TAC??? Question whether PAC has the technical data to prepare the Prop. 1 application. We are not sure that the PAC will be the group writing/preparing the Prop. 1 application. Who will be the Prop. 1 applicant – who will sign the grant agreement if the grant is awarded?
Who will get the information from DAC Groups about their ideas for the Prop. 1 DAC proposal and their in-kind contributions? The Water Resources Manager should work closely with the DACs.
- 4) Discussion about DAC representation on the PAC. Can members be added at any time to PAC?
- 5) Comments that PAC members should have alternates. Phill Hall stated that it is a GA Board decision that there should be no PAC Alternates. No provision for alternates is set forth in the By-Laws. The PAC can bring the idea up to the Board.
- 6) How do PAC members get items on the PAC agenda? Go through Lorelei. Will Water Resources Manager and IWVGA Board be making the agendas?
- 7) What is the PAC's role regarding choice of the Water Resources Manager/ Does the PAC have any input or review role in the selection?
- 8) How are committees set up? Does the PAC have the authority to set up its own committees/subcommittees? Discussion of need for a Funding Work Group and an Outreach work Group.
- 9) Who sets the action items for the PAC – the GA Board, the Water Resources Manager, the PAC itself? Phill Hall said – a little of all the above. Some things may not be “appropriate” for PAC action or review. Pac should express PAC opinion on how you want Prop. 1 process to work. Alan Christensen is focused on that. Hall does not know the Prop. 1 process.

- 10) Who develops the GSP? Plan itself is developed in concept with TAC input and PAC input, but will be written by the Water Resources Manager. Pac will advise and have input on it as it is developed.
- 11) Need for a PAC "brainstorming" session to collect ideas. Need to submit ideas early in the process.
- 12) PAC member Ed Imsand offered services of Eddy Teasdale and Kennedy-Jenks to PAC to assist with lists of grant opportunities and deadlines.
- 13) Put together PAC proposals to submit to GSA Board. Put together lists of PAC in-kind contributions. Submit to Alan Christensen so that items can be on the GSA July 20, 2017 agenda.

Notes submitted by PAC Chair Donna Thomas after review of tape recording of the June 29, 2017 Meeting.

Donna Thomas

BEFORE THE BOARD OF DIRECTORS INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

In the matter of:

Resolution No. 05-17

RESOLUTION SETTING MEETING DATES FOR THE POLICY ADVISORY COMMITTEE IN 2017.

I, Lauren Duffy, 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 17th day of August, 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 Bylaws of the Indian Wells Valley Groundwater Authority provide that the Board shall set regular meeting dates for the Policy Advisory Committee by Resolution;

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

1. This Board finds that the recited facts are true and that it has the jurisdiction to consider, approve, and adopt this Resolution,

2. The Board hereby sets regular meeting dates for the Policy Advisory Committee in the attached Exhibit "A":

EXHIBIT A
INDIAN WELLS VALLEY
GROUNDWATER AUTHORITY
POLICY ADVISORY COMMITTEE

Indian Wells Valley Water District 500 W. Ridgecrest Blvd. Ridgecrest, CA 93555
(Meeting place may vary)

2017 Meeting Schedule

June 2017

- Thursday, June 29, 2017 @ 10AM

July 2017

- Thursday, July 20, 2017 @ 8AM

August 2017

- Thursday, August 3, 2017 @ 6PM
- Thursday, August 24, 2017 @ 6PM

September 2017

- Wednesday, September 13, 2017 @ 6PM
- Thursday, September 21, 2017 @ 6PM

October 2017

- Thursday, October 12, 2017 @ 6PM
- Wednesday, October 18, 2017 @ 6PM

November 2017

- Thursday, November 2, 2017 @ 6PM
- Wednesday, November 15, 2017 @ 6 PM

December 2017

- Wednesday, December 6, 2017 @ 6PM
- Wednesday, December 20, 2017 @ 6PM

BEFORE THE BOARD OF DIRECTORS INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

In the matter of:

Resolution No. 06-17

RESOLUTION APPOINTING MEMBERS TO THE TECHNICAL ADVISORY COMMITTEE.

I, Lauren Duffy, 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 17th day of August, 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 Bylaws of the Indian Wells Valley Groundwater Authority provide that individuals shall be appointed to the Technical Advisory Committee by Resolution;

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

1. This Board finds that the recited facts are true and that it has the jurisdiction to consider, approve, and adopt this Resolution,
2. The Board hereby appoints the individuals on the attached Exhibit "A" to the Technical Advisory Committee:

EXHIBIT A

Technical Advisory Committee (TAC)

Member Names

<u>Category</u>	<u>Name</u>
Large Agriculture	Eddie Teasdale
Large Agriculture	Wade Major
Small Agriculture	Open
At-Large	Michelle Anderson (KDWA)
Business Interests	Open
Business Interests	Open
Residential Customers of Public Water Agency	Open
Residential Customers of Public Water Agency	Michael Powell
Domestic Well Owners	Don Decker
Domestic Well Owners	Open
Eastern Kern County Resource Conservation District	Earl Wilson
Wholesaler and Industrial User	Adam Bingham
Indian Wells Valley Water District	Renee Morquecho
Department of the Navy*	Stephan Bork
Bureau of Land Management*	Open

* Non-voting members

CURRICULUM VITAE

July 2017

Wade Major, MEng, MBA, PE

Senior Consultant

mobile: +1.714.336.2996

email: wade.major@aquilogic.com



Critical Competencies

Strategy Development, Implementation & Execution, Cross-Functional Liaison & Collaboration, Business Development, Lean Management & Operations Optimization, P&L Management, Internal & External Reporting & Presentation, Project Planning & Project Management, Leadership Development & Enhancement Through Coaching, Budgeting & Forecasting (Capital & Operating), Organizational Change Management, Cost Containment & Continuous Improvement, Creative Problem Solving, Financial Modeling (New Projects & Strategic Initiatives), Advanced Excel Skills

Education

MBA Executive Management, Royal Roads University, Victoria, BC, Canada, 2016

MEng Civil Engineering (Environmental Specialization), University of Alberta, Edmonton, AB, Canada, 1993

B.S. Civil Engineering, University of Alberta, Edmonton, AB, Canada, 1992

Professional Registrations

Professional Engineer (Civil), California (No. 73084)

Professional Engineer, Province of British Columbia (No. 23222)

Professional Experience

Business leader and senior consultant highly-skilled at leading multi-consultant, multi-disciplinary teams on complex projects. Broad-based career that has spanned the gamut from project engineering, project management, to general management and project management consulting in privately-held and publicly-traded companies ranging in size from 30 people to 30,000 people. Passionate about leadership and management, with a proven record of success in managing P&L centers. Extensive experience in strategy development and implementation, cost containment, and continuous improvement initiatives. A flexible leader with a strong record of engaging stakeholders and motivating teams for exceptional outcomes. A confident communicator offering high-caliber writing skills combined with well-honed presentation and public-speaking expertise.

Driven with an unsurpassed attention to detail and quality. Highly adept at simplifying and communicating complex issues that have myriad strategic and tactical linkages.

Location Manager - Pacific Northwest Region

Held P&L responsibilities and coordinated day-to-day operations for a department of 25 staff to achieve and exceed targeted annual revenue of \$5 million. Developed and implemented initiatives to improve cost effectiveness. Led the formulation of departmental strategy for new business opportunities and existing customer growth. Provided ongoing leadership, management, team-building, mentoring, and coaching to department staff. Oversaw project delivery including quality, schedules and budgets. Collaborated and strengthened networks internationally and internally across the company to coordinate multi-disciplinary activities including business pursuit, active project work, and workload forecasting. Significant achievements included:

- Developed and implemented several initiatives for cost reduction that included the creation of a simplified project and proposal forecasting workbook, initiated Lean practices utilizing the 5S tool for the equipment storage facility, and created business process maps for the equipment rental and field work processes.
- Negotiated a strategic alliance that allowed for the formation of a strong team to secure new port development work in the Canadian far north. Initial project work was valued at \$5 million, with a high potential for securing future design and construction services.
- Facilitated a number of training sessions and workshops on project management, financial planning and analysis, and creative problem solving.

Program Manager/Senior Project Management Consultant

Led a team of nearly two dozen consulting companies plus staff from Port Metro Vancouver (PMV) during the project definition phase of PMV's Container Capacity Improvement Program (CCIP). This multi-billion-dollar effort will include debottlenecking the existing 3-berth container terminal at Deltaport, and constructing a new 3-berth container terminal (Roberts Bank Terminal 2 [RBT2]) on 275 acres of reclaimed land. Directed and managed all project teams, including overseeing the scope of work, project health and safety, the budgets, the schedules, and the change management process. Monitored and reported monthly project progress to PMV's senior management, as well as WorleyParsons' senior management. Actively managed the interfaces between the project teams, PMV, and other stakeholders. Provided strategic advice, technical guidance and ongoing support in the key areas of cost containment and scheduling, cost estimating, field support services, document management, administration, and technical engineering support. Significant achievements included:

- Developed a \$100-million+ initial program budget for funding approval.

- Planned and developed internal project management processes including communication, risk management, quality control, cost estimating, project cost controls, and procurement.
- Supported the customer with developing annual program operating plans and multi-year plans for \$250-million+ of active project funding.
- Supported the evolution of the multi-billion-dollar capital and operating financial model by developing comprehensive capital cost input worksheets in Excel.
- Led the development, implementation, and continuous improvement of monthly cost tracking and reporting tools.
- Assisted the customer with developing and evolving management reports, board presentations, as well as KPIs and dashboards.
- Used a variety of advanced Excel functions such as pivot tables, financial functions, and complex charting options to perform ad hoc analyses during the first five years of the infrastructure program.
- Liaised with various technical disciplines, consulting entities, and customer departments to facilitate the effective exchange of relevant program data.
- Provided significant assistance to the customer for the development of their project management framework, based largely on the Project Management Institutes' Project Management Body of Knowledge (PMBOK). Developed and implemented the rollout schedule, and conducted the initial introduction and training sessions with staff on the use of the framework.

Business Unit General Manager - Infrastructure & Environment, West Coast Operations

Held P&L responsibilities and coordinated day-to-day operations for a business unit consisting of approximately 40 staff in three locations (Long Beach, Sacramento, and Martinez) to achieve and exceed targeted annual revenue of \$8 million. Led all aspects of business management including budget development and stewardship, resource allocation, and liaison between locations and other customer sector groups. Directed major projects and oversaw business development activities including client development and maintenance, bid development and positioning, as well as strategic planning and business improvements. Significant achievements included:

- Assumed leadership of a failing business unit and returned it to profitability after the first year with a change in net operating income of +\$1.2-million.
- Developed and fostered the three-tier strategy of Legacy (expanding business as usual), Synergy (consulting service offerings to other WorleyParsons customer sector groups), and Evolution (expanding into new service areas through strategic hires and capability development) leading to a sales increase of approximately +5% per year.
- Assisted in managing the integration of two customer sector groups (Infrastructure and Environment, and Hydrocarbons), into a common office location in Long Beach, as well as

the implementation and integration of revised management and financial systems. These efforts led to combined overhead cost reductions of approximately 15%.

Project Engineer, Senior Engineer, Project Manager

- Involved in over 170 projects within three main technical specialties including remediation assessment, engineering and cost estimating; water and wastewater treatment assessment and design; and marine / riverine assessments, oceanography, and outfall design.

Professional History

aquilogic, Inc., Senior Consultant, April 2017 to present.

Advisian (part of the WorleyParsons Group), Location Manager, 2015 to 2016.

WorleyParsons, Program Manager/Senior Project Management Consultant, 2010 to 2015.

WorleyParsons, Business Unit General Manager - Infrastructure & Environment, West Coast Operations, 2007 to 2010.

Novatec Consultants, Komex, WorleyParsons, Project Engineer, Senior Engineer, Project Manager, 1993 to 2007.

Michelle Anderson

6310 Ristow Ct
Bakersfield, CA 93312
(559) 920-0023
mcasterline93@gmail.com

Education

California State University, Bakersfield
Bachelor of Arts in Geology; minor in Biology 2001 GPA 3.08
Master of Science in Geology-Coursework Complete; Thesis Incomplete GPA 3.69
Applicable Thesis Classes: Petroleum Geology, Advanced Sedimentary Petrology, Environmental Soil Chemistry, Research in Carbonate Systems, Paleoclimate of Western N. America, Advanced Sedimentation, Advanced Structural Geology, Oil Field Development, and Hydrogeology

Certifications Professional Geologist CA #8898

Relevant Experience

8/2011 to Present **Kern County Water Agency-3200 Rio Mirada Bakersfield, CA 93308**

Geologist III (Full-time-40 hrs/week)

Same duties and responsibilities as Hydrogeologist I & II with the following additions:

Responsible for the administration of an \$800,000 contract to develop a groundwater model on the Kern River Alluvial Fan; Responsible for the preparation of all water level contour maps and basin water balances published in various reports by the Agency; Supervise and manage all interns and temporary employees as needed for various groundwater related projects; Prepared and certified two California Environmental Quality Act (CEQA) reports for the Agency relating to surface and groundwater projects; Attend various groundwater meeting as the geologic representative of the Agency; Provided input on AB591 a legislative bill regarding groundwater including the latest on hydraulic fracturing; Used the 3D model to locate three water production wells in the most prolific portions of the aquifer; On-site geologist while drilling the three water production wells which included identifying grab samples and catching the electric logs; In process of developing a GIS layer and map of all water wells permitted in Kern County through the California Department of Water Resources; Attended various management training courses; Attended performance evaluation training; Responsible for the planning and oversight of installing a set of cluster monitoring wells on the Agency owned banking project; Responsible for the administration of a \$50,000 database conversion contract to move the existing Microsoft Office Access database to a structured query language (SQL) based database.

6/07 to 8/12/2011 **Kern County Water Agency-3200 Rio Mirada Bakersfield, CA 93308**

Hydrogeologist I & II (Full-time-40 hrs/week)

Responsible for updating the groundwater banking operations and monitoring reports; Entered lithological data into an access database for use in various projects; Used Rockworks 2006 to hang shallow electric logs for evaluation of sedimentation along the Kern River Alluvial fan; Interpreted pump test data on 75 water wells using the Cooper-Jacob straight line method in order to determine Transmissivities; Developed groundwater maps which included depth, elevation, and change for water years 2005 thru 2011 using AutoCAD; Developed a three dimensional (3D) lithologic model of the Pioneer and Berrenda Mesa Banking projects using EVS Pro software; Incorporated water level data into the 3D model which aided in best management practices of the aquifer; Assisted in the development of a predictive model to determine production rates from the Pioneer and Berrenda Mesa projects which aided in water delivery schedules; Consulting Geologist for the Kern County Environmental Health Services Department Water Well Ordinance which requires interpretation of electric logs for sanitary seal requirements on newly construction water wells within Kern County; Appointed technical member on the Association of California Water

Agencies (ACWA) groundwater committee which advises California legislators on groundwater issues within the State.

9/06 to 6/07

California State University, Bakersfield-9001 Stockdale Hwy Bakersfield, CA 93311

Teaching Assistant (Part-time-20 hrs/week)

Conducted laboratory demonstrations; Instructed students on lab assignments; Worked with lecture instructors and associate Teaching Assistants to organize lab assignments for the year; Graded lab assignments and assigned final lab grades.

6/06 to 9/06

Kern County Water Agency-3200 Rio Mirada Bakersfield, CA 93308

Water Resource Intern (Full-time-40 hrs/week)

Responsible for gathering, organizing, and analyzing water supply data; Responsible for writing the 2001-2005 Water Supply Report; Collected and entered stream data from field stations.

8/05 to 6/06

California State University, Bakersfield-9001 Stockdale Hwy Bakersfield, CA 93311

Research Assistant (Part-time-20 hrs/week)

Gathered and scanned 1700 shallow oil and water well electric logs; Digitized and imported several hundred electric logs; Constructed geologic cross-sections using digitized electric logs; Taught undergraduate and graduate students how to scan and digitize electric logs, construct cross-sections, and enter data into Geographix™.

6/01 to 9/01

WZI Inc.

Intern (Full-time-40 hrs/week)

Prepared incidental take permits and habitat conservation plans; Conducted field studies on endangered species habitat; Prepared well sites for abandonment by classifying site accessibility, well size, and type of pumping units.

12/99 to 1/00

San Joaquin Facilities Management Inc.

Intern (Full-time-40 hrs/week)

Organized and maintained oil field data from company merger; Wrote reports and developed cross-sections for field use; Performed searches for geological maps to locate future drilling sites; Interpreted drilling logs locating fault lines and oil/gas accumulations for future drillings.

Other Experience

1993-1996

United States Forest Service

Biologist Technician/Summer Hire (Full-time-40 hrs/week)

Entered data and maintained databases on stream surveys; conducted studies of fisheries habitat; Gathered field data on stream gradients; Analyzed and mapped survey data on endangered green tree frogs; Performed field study on cattle impact in meadow environments; Team led field study on impact of ozone in conifer forests.

Computer Skills

Knowledge of Microsoft Office Suite/IMAC/Neuralog™/ Geographix™/ Environmental Visualization Software (EVS) PRO/ArcGIS/AutoCAD/Rockworks 2006

References

Current Supervisor-Martin Varga (661) 634-1400 mvarga@kcwa.com

Previous Kern County Water Agency Supervisor (retired)- Tom Haslebacher (661) 871-5244
t_haslebacher@yahoo.com (You may contact him regarding a reference).

California State University, Bakersfield Professor-Dirk Baron (661) 654-3044 dbaron@csub.edu (You may contact him regarding a reference).

IWVGA ADMINISTRATIVE OFFICE

Staff Report

TO: IWVGA Board Members **DATE:** August 17, 2017
FROM: Alan Christensen, General Manager *AC*
SUBJECT: Inyokern Community Services District Request for Membership on the Policy Advisory Committee

DISCUSSION

Staff has received a letter from Inyokern Community Services District requesting a seat on the Policy Advisory Committee (PAC). They've request to place this item on your agenda. Staff agrees that their request should be considered by the Board.

Inyokern CSD is a key stakeholder in the Indian Wells Valley Groundwater Basin. Therefore, we recommend the Board expand the PAC by one seat to accommodate their request. Staff has communicated with the Inyokern CSD to present a specific member of their Board or other designee to be added to the PAC at the next regular meeting.

RECOMMENDATION

Approve adding Inyokern Community Services District to the PAC new category, and adopt a resolution at the next regular meeting adding the category and assigning a person to fill the seat.

Directors
R.S. Bell
T. Carroll
R. Cline
W. Ernst
T. Lyster

H. Elmquist, General Manager
C. Dorey, Operations Manager



P.O. Box 1418
1429 Broadway
Inyokern, CA 93527

Telephone: (760) 377-4708

August 10, 2017

IWV Groundwater Authority
C/O Lauren Duffy
500 W Ridgecrest Blvd
Ridgecrest, CA 93555

The Inyokern Community Services District requests to be included as a member of the Policy Advisory Committee of the Indian Wells Valley Groundwater Authority. Please place an item on the Groundwater Authority Agenda for your meeting next week.

Thank you,
ICSD Directors

IWVGA ADMINISTRATIVE OFFICE

STAFF REPORT

TO: IWVGA Board Members

DATE: August 14, 2017

FROM: Alan Christensen, General Manager
Jim Worth, IWVWD Counsel

AC

SUBJECT: Appointment of McMurtrey, Hartsock & Worth as IWVGA Board General Counsel

DISCUSSION

The Board made an earlier decision to retain attorneys from the County of Kern, City of Ridgecrest and the Indian Wells Valley Water District (“District”) to serve as General Counsel to the IWVGA. To date, Phil Hall (Kern) and Keith Lemieux (City) have signed a Retainer Agreement with the IWVGA. Staff is now looking for Board authorization to enter into a Retainer Agreement with Jim Worth of McMurtrey, Hartsock & Worth (MHW).

Part of the delay in signing a Retainer Agreement with MHW was due to a potential conflict-of-interest related to MHW’s representation of KernCo Home and Farm Water LLC (“KernCo”)¹ with respect to the Fremont Valley Recovery Project (“Fremont Valley Project”). This Staff Report is intended to fully disclose the past relationship between MHW and KernCO with respect to the Fremont Valley Project and the potential retention of James Worth/MHW to serve as General Counsel for the Indian Wells Valley Groundwater Authority (“IWVGA”).

In approximately mid-year 2015, Gene McMurtrey of MHW was hired to represent KernCo in its development of a new imported water supply to help reduce the impacts from the drought and to prepare for implementation of the Sustainable Groundwater Management Act (“SGMA”). The Fremont Valley Project is the result of KernCo’s efforts, with the assistance of Mr. McMurtrey and others. Mr. McMurtrey is the only attorney with MHW that has provided legal services to KernCo. Mr. McMurtrey billed KernCo on an hourly basis only, and at no time did Mr. McMurtrey, Jim Worth or MHW ever possess an interest in the Fremont Valley Project, any related real property or any proceeds to be derived from the Fremont Valley Project. It should be noted that Gene McMurtrey/MHW no longer represents KernCo with respect to the Fremont Valley Project due to concerns expressed by the public and the IWVGA.

On July 1, 2016, Mr. McMurtrey transitioned to a role with MHW similar to “of counsel”. Mr. McMurtrey does not have an ownership stake in MHW and MHW does not receive any income from Mr. McMurtrey or the work he generates. Mr. McMurtrey has continued to provide legal work in a private capacity for KernCo on a number of unrelated projects, but KernCO is no longer a source of income for MHW.

On January 19, 2017, Mr. McMurtrey gave a presentation to the IWVGA outlining the Fremont

¹ KernCo is defined broadly and includes its subsidiaries and Keith Gardiner individually.

Valley Project and the potential for the Fremont Valley Project to provide a new imported water supply to the Indian Wells Valley groundwater basin.² No action was taken by the IWVGA Board of Directors ("Board") at the time of the presentation. Shortly after the January 19, 2017 presentation, Mr. McMurtrey and other representatives of KernCo had a couple of follow-up meetings with IWVGA Chairman Gleason to discuss the Fremont Valley Project in greater detail. Mr. McMurtrey has had no other communications with any representative of the IWVGA and I am not aware of any action taken by the IWVGA Board with respect to the Fremont Valley Project.

Legal research was conducted and it was determined that Jim Worth and/or MHW would recuse itself from participating in any decision making process regarding the Fremont Valley Project to avoid any potential conflict pursuant to Cal Gov. Code § 87100 et seq. or Cal. Gov. Code § 1090 et seq. In addition, KernCo will sign letters waiving any potential conflict of interest in MHW's representation of the IWVGA and/or the Indian Wells Valley Water District.

Jim Worth will respond to any questions about the Retainer Agreement.

RECOMMENDATION

Staff recommends approval of Attorney Retainer Agreement for and between McMurtrey, Hartsock & Worth and the Indian Wells Valley Groundwater Authority.

² I have not provided additional details on the Fremont Valley Project as the presentation was given to the IWVGA and detailed the progress on the project to date.

GENE R. McMURTREY
ROBERT W. HARTSOCK
JAMES A. WORTH
ISAAC L. ST. LAWRENCE
DANIEL N. RAYTIS

LAW OFFICES
McMURTREY, HARTSOCK & WORTH
A PROFESSIONAL CORPORATION
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AREA CODE 661
TELEPHONE 322-4417
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**Confidential
Attorney-Client &
Work-Product Privileges**

MEMORANDUM

**TO: BOARD OF DIRECTORS
INDIAN WELLS VALLEY GROUNDWATER AUTHORITY**

**FROM: McMURTREY, HARTSOCK & WORTH
BY: JAMES A. WORTH**

DATE: July 18, 2017

**SUBJECT: Potential Conflict of Interest – Fremont Valley
(Our File No.: Gen 9.11.4)**

This memorandum is intended to address the issue of a potential conflict of interest as it relates to McMurtrey, Hartsock & Worth's ("MHW") past representation of KernCo Home and Farm Water LLC ("KernCo")¹ with respect to the Fremont Valley Recovery Project ("Fremont Valley Project") and the potential retention of James Worth/MHW to serve as legal counsel for the Indian Wells Valley Groundwater Authority ("IWVGA"). It should be noted that Gene McMurtrey/MHW no longer represents KernCo with respect to the Fremont Valley Project due to concerns expressed by the public and the IWVGA. This memorandum will address issues as they relate to a potential conflict of interest.

FACTS

MHW's Representation of Kernco: In approximately mid-year 2015, Gene McMurtrey of MHW was hired to represent KernCo in its development of a new imported water supply to help reduce the impacts from the drought and to prepare for implementation of the Sustainable Groundwater Management Act ("SGMA"). The Fremont Valley Project is the result of KernCo's efforts, with the assistance of Mr. McMurtrey and others. Mr. McMurtrey is the only attorney with MHW that has provided legal services to KernCo. Mr. McMurtrey billed KernCo on an hourly basis only, and at no time did Mr. McMurtrey, James Worth or MHW ever possess an interest in the Fremont Valley Project, any related real property or any proceeds to be derived from the Fremont Valley Project.

¹ KernCo is defined broadly and includes its subsidiaries and Keith Gardiner individually.

On July 1, 2016, Mr. McMurtrey's employment relationship with MHW changed. On this date, Mr. McMurtrey transitioned to a role with MHW similar to "of counsel". Mr. McMurtrey does not have an ownership stake in MHW and MHW does not receive any income from Mr. McMurtrey or the work he generates. Mr. McMurtrey has continued to provide legal work in a private capacity for KernCo on a number of unrelated projects, but KernCO is no longer a source of income for MHW.

On January 19, 2017, Mr. McMurtrey gave a presentation to the IWVGA outlining the Fremont Valley Project and the potential for the Fremont Valley Project to provide a new imported water supply to the Indian Wells Valley groundwater basin.² No action was taken by the IWVGA Board of Directors ("Board") at the time of the presentation. Shortly after the January 19, 2017 presentation, Mr. McMurtrey and other representatives of KernCo had a couple of follow-up meetings with IWVGA Chairman Gleason to discuss the Fremont Valley Project in greater detail. Mr. McMurtrey has had no other communications with any representative of the IWVGA and I am not aware of any action taken by the IWVGA Board with respect to the Fremont Valley Project. As previously mentioned, Mr. McMurtrey/MHW no longer represent KernCo as it relates to the Fremont Valley Project.

MHW's Proposed Representation of the IWVGA: As a result of our representation of the Indian Wells Valley Water District, our office is now being considered to represent the IWVGA as legal counsel to provide legal advice on contractual, statutory, regulatory, and any other legal matters. This advice will include, without limitation, reviewing contracts, meeting agendas and notices, providing legal opinions and resolutions, reviewing policies and procedures, generally supervising and coordinating litigation, or legal advice related to SGMA.

MHW's Representation of the Indian Wells Valley Water District: Our office acts as general counsel to the Indian Wells Valley Water District. Additionally, our office or someone in our office has represented the Indian Wells Valley Water District as general counsel since the 1980's. Our office continues to represent the Indian Wells Valley Water District as general counsel to this date, which includes providing legal advice on contractual, statutory, regulatory, and any other legal matters. This advice will include, without limitation, reviewing contracts, meeting agendas and notices, providing legal opinions and resolutions, reviewing policies and procedures, handling litigation, and providing legal advice related to SGMA.

APPLICABLE LAW

The Political Reform Act of 1974, specifically (California Government Code ("Cal Gov. Code") §§ 87100 through 87500 dealing with conflict of interests, and Government Code Section 1090, dealing with contracts, must both be considered when analyzing whether a conflict of interest exists.

² I have not provided additional details on the Fremont Valley Project as the presentation was given to the IWVGA and detailed the progress on the project to date.

Government Code Sections 87100 et seq.: Generally speaking, public officials are disqualified from participating in government decisions in which they have a financial interest. Cal Gov. Code § 87100 states as follows:

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

The first step is to determine whether legal counsel for the IWVGA is a "public official". "Public official" may include a consultant of a state or local government agency (Cal Gov. Code § 82048). California Code of Regulations § 18700.3(a)(2) states:

(a) For purposes of Sections 82019 and 82048, "consultant" means an individual who, pursuant to a contract with a state or local government agency:

(2) Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision as defined in Regulation 18704(a) and (b) or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code under Section 87302.

Here, the office of IWVGA legal counsel is a position specified in the IWVGA's Conflict of Interest Code. Accordingly, for purposes of this memorandum, we assume that the office of IWVGA General Counsel is a "public official". We must now determine whether James Worth has a financial interest within the meaning of Cal Gov. Code § 87100. Cal Gov. Code § 87103 defines financial interests and will be addressed below. Cal Gov. Code § 87103 states in part as follows (statute in italics below):

A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

(a) *Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more:* James Worth is a principal/partner in MHW with an investment exceeding \$2,000.00 in value and therefore has a financial interest in MHW within the meaning of Cal Gov. Code § 87100. However, any decision relating to the Fremont Valley Project will not have a material financial effect on James Worth or MHW as neither has any interest in KernCo and will not receive any compensation from KernCo for any decision made by the IWVGA related to the Fremont Valley Project.

(b) *Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more:* Neither James Worth or MHW have or ever had a direct or indirect interest in real property that is part of the Fremont Valley Project or is owned or controlled by KernCo.

(c) *Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made:*

A public official has an economic interest in any "Source of Income" that is either received by or promised to the official and totals \$500 or more in the twelve months prior to the decision in question. A conflict-of-interest results whenever either the amount or the source of an official's income is affected by a decision (CCR § 18703.3(a)). To date, no decision has been made with respect to the Fremont Valley Project and neither James Worth nor MHW have received or been promised income from KernCo with the past 12 months.

Although James Worth or MHW have not received, or been promised, any income from KernCo within the past 12 months, Mr. McMurtrey has received income for his representation of KernCo within the past 12 months. In addition, any potential future decision by the IWVGA Board on the Fremont Valley Project could affect the source [KernCo] of Mr. McMurtrey's income. As such, James Worth/MHW would recuse itself from participating in any decision making process regarding the Fremont Valley Project.

(d) *Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management:* James Worth is a principal/partner in MHW. However, any decision relating to the Fremont Valley Project will not have a material financial effect on James Worth or MHW as neither has any interest in KernCo and will not receive any compensation from KernCo for any decision made by the IWVGA related to the Fremont Valley Project.

(e) *Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made:* Nothing has been promised to James Worth or MHW for any IWVGA decision related to the Fremont Valley Project within the past 12 months, or at any time.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater: No spouse or dependent child of James Worth has a direct or indirect investment or interest of any amount in KernCo or the Fremont Valley Project.

Accordingly, pursuant to Cal Gov. Code § 87103(c), MHW would recuse itself from participating in any decision making process regarding the Fremont Valley Project to avoid any potential conflict pursuant to Cal Gov. Code § 87100 et seq.

Government Code Section 1090: Cal Gov. Code § 1090 essentially prohibits a public official from being financially interested in a contract in both a public and private capacity and states in part, that members of a “district, ... officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members”. Initially, it should be noted that no contract between the IWVGA and KernCo has been executed and accordingly, there has been no § 1090 violation to date. However, to avoid any potential future violations of § 1090, this memorandum will discuss the elements and application to the relevant facts herein.

When evaluating a conflict of interest claim under § 1090 courts must consider “(i) whether the defendant is a member, official or employee of a governmental entity and thus a “public official” subject to § 1090; (ii) participated in the making of a contract in their official capacities; (iii) whether the defendants had a cognizable financial interest in that contract; and (iv) whether the cognizable interest falls within any one of section 1091's or section 1091.5's exceptions for remote or minimal interests. (*Davis v. Fresno Unified School Dist.* (2015) 237 Cal.App.4th 261, 298).

(i) Public Official Under §1090:

James Worth is not an officer or member of the IWVGA Board of Directors. Therefore, the question is whether, as legal counsel for the IWVGA, James Worth is a public official under § 1090. Under the common law test, independent contractors, such as outside legal counsel, are not employees. (See 3 Witkin, Summary of Cal. Law (10th ed. 2005) Agency and Employment, § 21, pp. 60–61; see also (*Reynolds v. Bement* (2005) 36 Cal.4th 1075, 1087.). However, courts appear divided when defining “employee” for purposes of § 1090.

In *Hub City Solid Waste Services, Inc. v. City of Compton* (2010) 186 Cal.App.4th 1114 and *California Housing Finance Agency v. Hanover/California Management & Accounting Center, Inc.* (2007) 148 Cal.App.4th 682, the courts found that independent contractors whose official capacities carry the potential to exert considerable influence over the contracting decisions of a public agency are “employees” subject to § 1090. However, in *People v. Christiansen* (2013) 216 Cal.App.4th 1181, 1189, the court rejected both *Hub City* and *California Housing Finance Agency* and found that independent contractors were not “employees” or subject to § 1090 in the criminal context of the § 1090 prohibition. Rather than delve into the many decisions addressing whether an independent contractor/attorney can be an “employee” for purposes of § 1090³, for the purpose of this memorandum and in an abundance of caution, we assume that James Worth as legal counsel for the IWVGA would be deemed a

³ E.g. *California Taxpayers Action Network v. Taber Construction, Inc.* (2017) 12 Cal.App 5th 115; *People v. Gnass* (2002) 101 Cal.App.4th 1271; *Campagna v. City of Sanger* (1996) 42 Cal.App.4th 533 et al.

public official subject to § 1090. This assumption is based on the fact that as legal counsel, James Worth could influence the development of a contract even though he has no actual power to execute the final contract.

(ii) Participation:

As of the date of this memorandum, a contract between IWVGA and KernCo has not even been considered. Even though participation in making a contract is broadly defined, as of this date, there has been nothing to participate in. Therefore, this element has not been satisfied. However, in the event that James Worth, as legal counsel for the IWVGA, is involved in any preliminary discussions or negotiations, the “participation” element would be met. Courts have held that individuals can influence the decision making board and the development of a contract during the preliminary discussions, even though they have no power to actually make the contract (*Schaefer v. Berinstein* (1956) 140 Cal.App.2d 278). However, by recusing one’s self from any participation in connection with the contract, a conflict of interest can be avoided (82 Ops.Cal.Atty.Gen. 126).

(iii) Financial Interest:

For purposes of § 1090 the term “financial interest” is not specifically defined by the statute. However, courts have clearly held that the term is to be liberally interpreted. While not defined by statute, we are provided insight and guidance as to the scope of the term “financial interest” by looking at statutorily defined “remote interests” and “non-interests”. Cal. Gov. Code §1091 sets forth the “remote interest” exception applicable to members of the decision making board. This exception lays out certain financial interests that are deemed “remote”. When a board member has a remote interest in a contract, the board member may recuse himself/herself and the remainder of the board may decide to enter into the contract. Thus, the prohibition from entering into the contract is excused under § 1091. Cal Gov. Code § 1091.5 delineates situations that might technically create a financial interest, but the legislature has declared them “non-interests” and thus they do not give rise to a conflict. Unlike the “remote interest” exception, “non-interests” apply to board members and employees/advisory consultants and recusal is not required.

In this instance, if James Worth was an IWVGA Board Member it would appear that James Worth would have a “remote interest” in any contract between the IWVGA and KernCo. Cal Gov. Code § 1091 states in pertinent part as follows:

- (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

(b) As used in this article, “remote interest” means any of the following:

(6) *That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm that renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of 10 percent or more in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm (Italics added).*

Here, James Worth is a principal in MHW with an ownership interest in excess of 10 percent, but neither he, nor MHW would receive any financial benefit if IWVGA entered into a contract with KernCo. Thus, if James Worth were an IWVGA Board Member, he would simply need to recuse himself from participation in the formation of any such contract and there would be nothing prohibiting IWVGA from entering a contract with KernCo. However, James Worth is not a Board Member, and thus the “remote interest” exception is not applicable. There is however a corresponding “non-interest” in Cal Gov. Code § 1091.5 which provides:

(a) An officer or employee shall not be deemed to be interested in a contract if his or her interest is any of the following: ...

(10) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm.

While this “non-interest” exemption would be applicable to James Worth as legal counsel, it is not applicable to the facts here as James Worth has more than a 10% ownership interest in MHW. Looking at these two exceptions, it appears that any “financial interest” that James Worth has in a potential contract between IWVGA and KernCo would be somewhere between a “remote interest” and a “non-interest”.

In conclusion, if we take the cautions approach that James Worth, as counsel for the IWVGA is a “public official” for purposes of § 1090, so long as he recuses himself and does not participate in any of the preliminary discussions or negotiations, there would be nothing prohibiting IWVGA and KernCo from entering into a contract. This position is further supported by the fact the even if James Worth was an IWVGA Board Member, his financial interest in a potential contact would only be “remote” and he could recuse himself to permit the negotiation and contract execution. Therefore, while it is questionable whether § 1090 would apply to the facts presented, it is recommended to take the safe approach and have James Worth recuse himself and refrain from participation in any decision making process related to the

Fremont Valley Project.

Attorney-Client relationship: California Rules of Professional Conduct (“RPC”) govern the relationship between attorney and client. RPC Rule 3-310 states in part as follows:

Rule 3-310(B) of the Rules of Professional Conduct provides:

A member [of the State Bar] shall not accept or continue representation of a client without providing written disclosure to the client where:

- (1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or
- (2) The member knows or reasonably should know that:
 - (a) the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and
 - (b) the previous relationship would substantially affect the member’s representation; or
- (3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should have known would be affected substantially by resolution of the matter; or
- (4) The member has or had a legal, business, financial, professional, or personal interest in the subject matter of the representation.

Rule 3-310(C) of the Rules of Professional Conduct provides:

A member shall not, without the informed written consent of each client:

- (1) Accept representation of more than one client in a matter in which the interests of the clients actually conflict; or
- (2) Accept or continue representation of more than one client in a matter in which the interests of the clients potentially conflict; or
- (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.

Rule 3-310(E) of the Rules of Professional Conduct provides:

A member shall not, without the informed written consent of the client or former client, accept employment adverse to the client or

former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment.

As a result of any potential conflict of interest in relation to MHW's representation of KernCo with respect to the Fremont Valley Recovery Project ("Fremont Valley Project") and the potential retention of James Worth/MHW to serve as legal counsel for the Indian Wells Valley Groundwater Authority ("IWVGA"), MHW is prepared to do the following:

1. Obtain a conflict of interest waiver whereby KernCo waives any claims under the Rules of Professional Conduct, including but not limited to Rules 3-310(B), (C) and (E), that MHW may not represent the IWVGA as legal counsel as set forth above; and
2. Obtain a conflict of interest waiver whereby KernCo waives any claims under the Rules of Professional Conduct, including but not limited to Rules 3-310(B), (C) and (E), that MHW may not represent the Indian Wells Valley Water District as legal counsel or the IWVGA as legal counsel; and
3. Obtain a conflict of interest waiver whereby the Indian Wells Valley Water District waives any claims under the Rules of Professional Conduct, including but not limited to Rules 3-310(B), (C) and (E), that MHW may not represent the IWVGA as legal counsel as set forth above.

I hope this memorandum and suggested response will alleviate any concerns the IWVGA Board may have with respect to retaining our firm to serve as legal counsel for the IWVGA. Of course, I look forward to addressing any concerns or questions that have not been addressed by this memorandum.

GENE R. McMURTREY
ROBERT W. HARTSOCK
JAMES A. WORTH
ISAAC L. ST. LAWRENCE
DANIEL N. RAYTIS

LAW OFFICES
McMURTREY, HARTSOCK & WORTH
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TELEPHONE 322-4417
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2001 22ND STREET, SUITE 100
BAKERSFIELD, CALIFORNIA 93301

August 2, 2017

KernCo Home and Farm Water LLC
P. O. Box 1200
Wasco, CA 93280

Attn.: Keith Gardiner

Re: Indian Wells Valley Groundwater Authority
Conflict of Interest Waiver
(Our File No.: GEN-9.11.4)

Dear Mr. Gardiner:

Please be advised that there may be a conflict of interest with regard to McMurtrey, Hartsock & Worth's ("MHW") past representation of KernCo Home and Farm Water LLC ("KernCo")¹ with respect to the Fremont Valley Recovery Project ("Fremont Valley Project") and the potential retention of MHW to serve as general counsel for the Indian Wells Valley Groundwater Authority ("IWVGA"). This letter requests a written waiver of any KernCo claims under the Rules of Professional Conduct, including but not limited to Rules 3-310(B), (C) and (E) that MHW may not represent the IWVGA as general counsel as set forth below.

Our office also acts as general counsel to the Indian Wells Valley Water District. Additionally, our office or someone in our office has represented the Indian Wells Valley Water District as general counsel since the 1980's. Our office continues to represent the Indian Wells Valley Water District as general counsel to this date, including representation on those matters that deal directly and indirectly with the IWVGA and implementation of the Sustainable Groundwater Management Act ("SGMA") in the Indian Wells Valley groundwater basin. The Indian Wells Valley Water District is a member of the IWVGA². The circumstances creating the potential conflict are as follows:

SGMA requires local agencies with "water supply, water management, or land use responsibilities" to form a Groundwater Sustainability Agency(s) ("GSA") to implement the provisions of SGMA over designated groundwater basins throughout California. In the Indian Wells Valley groundwater basin, the IWVGA was formed to act as the authorized GSA. As a result of our representation of the Indian Wells Valley Water District, our office is now being

¹ KernCo is defined broadly and includes its subsidiaries and Keith Gardiner individually.

² The City of Ridgecrest; the counties of Kern, San Bernadino and Inyo; the U.S. Navy and the Bureau of Land Management comprise the remaining members of the IWVGA.

considered to represent the IWVGA as general counsel to provide legal advice on contractual, statutory, regulatory, and any other legal matters. This advice will include, without limitation, reviewing contracts, meeting agendas and notices, providing legal opinions and resolutions, reviewing policies and procedures, generally supervising and coordinating litigation, and providing legal advice related to SGMA.

As you know, in approximately mid-year 2015, Gene McMurtrey of MHW was hired to represent KernCo in its development of a new imported water supply to help reduce the impacts from the drought and to prepare for implementation of the SGMA. As part of his representation of KernCo, Mr. McMurtrey gave a presentation to the IWVGA on January 19, 2017, outlining the Fremont Valley Project and the potential for the Fremont Valley Project to provide a new imported water supply to the Indian Wells Valley groundwater basin. Subsequent to the presentation, MHW has ceased its representation of KernCo as it relates to the Fremont Valley Project. To date, no action has been taken by the IWVGA as it relates to the Fremont Valley Project. As a result of MHW's past representation of KernCo, the potential of a conflict of interest between MHW's past representation of KernCo and MHW's proposed representation of the IWVGA as general counsel has been raised.

Rule 3-310(B) of the Rules of Professional Conduct provides:

A member [of the State Bar] shall not accept or continue representation of a client without providing written disclosure to the client where:

- (1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or
- (2) The member knows or reasonably should know that:
 - (a) the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and
 - (b) the previous relationship would substantially affect the member's representation; or
- (3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should have known would be affected substantially by resolution of the matter; or
- (4) The member has or had a legal, business, financial, professional, or personal interest in the subject matter of the representation.

Rule 3-310(C) of the Rules of Professional Conduct provides:

A member shall not, without the informed written consent of each client:

- (1) Accept representation of more than one client in a matter in which the interests of the clients actually conflict; or
- (2) Accept or continue representation of more than one client in a matter in which the interests of the clients potentially conflict; or
- (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.

Rule 3-310(E) of the Rules of Professional Conduct provides:

A member shall not, without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment.

Our office will assist the IWVGA as general counsel as discussed above and will not disclose to the IWVGA any confidential information of KernCo. We ask KernCo to formally waive any claim that McMurtrey, Hartsock & Worth may not represent the IWVGA as general counsel subject to the foregoing understanding.

If KernCo will agree to a waiver as discussed above, please sign the consent on the enclosed copy of this letter, and return it to us for our records.

Sincerely,

James A. Worth

JAW:gg

cc: IWVGA Board of Directors
IWVWD Board of Directors

KernCo Home and Farm Water LLC
May 18, 2017
Page 4 of 4

KernCo hereby waives any claims under the Rules of Professional Conduct, including but not limited to Rules 3-310(B), (C) and (E), that McMurtrey, Hartsock & Worth may not represent the IWVGA as general counsel as set forth above.

KERNCO HOME AND FARM WATER LLC

Dated: _____

By: _____

GENE R. McMURTREY
ROBERT W. HARTSOCK
JAMES A. WORTH
ISAAC L. ST. LAWRENCE
DANIEL N. RAYTIS

LAW OFFICES
McMURTREY, HARTSOCK & WORTH
A PROFESSIONAL CORPORATION

AREA CODE 661
TELEPHONE 322-4417
FAX 322-8123

2001 22ND STREET, SUITE 100
BAKERSFIELD, CALIFORNIA 93301

August 2, 2017

Board of Directors
INDIAN WELLS VALLEY WATER DISTRICT
500 West Ridgecrest Blvd.
Ridgecrest, CA 93556

Attn.: Peter Brown, President

Re: Indian Wells Valley Groundwater Authority
Conflict of Interest Waiver
(Our File No.: GEN-9.11.4)

Dear President Brown:

Please be advised that there may be a conflict of interest with regard to McMurtrey, Hartsock & Worth's ("MHW") continued representation of the Indian Wells Valley Water District ("District") and the proposed retention of McMurtrey, Hartsock & Worth ("MHW") to serve as legal counsel for the Indian Wells Valley Groundwater Authority ("IWVGA"). This letter requests a written waiver of any District claims under the Rules of Professional Conduct, including but not limited to Rules 3-310(B), (C) and (E) that MHW may not represent the IWVGA as general counsel as set forth below.

As you know, our office acts as general counsel to the District. Additionally, our office or someone in our office has represented the District as general counsel since the 1980's. Our office continues to represent the District as general counsel to this date, including representation on those matters that deal directly and indirectly with the IWVGA and implementation of the Sustainable Groundwater Management Act ("SGMA") in the Indian Wells Valley groundwater basin.

Furthermore, as a result of our representation of the District, our office is being considered to represent the IWVGA as legal counsel to provide legal advice on contractual, statutory, regulatory, and any other legal matters. This advice will include, without limitation, reviewing contracts, meeting agendas and notices, providing legal opinions and resolutions, reviewing policies and procedures, generally supervising and coordinating litigation, or legal advice related to SGMA. The District is a member of the IWVGA¹.

¹ The City of Ridgecrest; the counties of Kern, San Bernadino and Inyo; the U.S. Navy and the Bureau of Land Management comprise the remaining members of the IWVGA.

Rule 3-310(B) of the Rules of Professional Conduct provides:

A member [of the State Bar] shall not accept or continue representation of a client without providing written disclosure to the client where:

- (1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or
- (2) The member knows or reasonably should know that:
 - (a) the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and
 - (b) the previous relationship would substantially affect the member's representation; or
- (3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should have known would be affected substantially by resolution of the matter; or
- (4) The member has or had a legal, business, financial, professional, or personal interest in the subject matter of the representation.

Rule 3-310(C) of the Rules of Professional Conduct provides:

A member shall not, without the informed written consent of each client:

- (1) Accept representation of more than one client in a matter in which the interests of the clients actually conflict; or
- (2) Accept or continue representation of more than one client in a matter in which the interests of the clients potentially conflict; or
- (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.

Rule 3-310(E) of the Rules of Professional Conduct provides:

A member shall not, without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment.

Board of Directors
INDIAN WELLS VALLEY WATER DISTRICT
August 2, 2017
Page 3

Our office will assist the IWVGA as legal counsel as discussed above and will not disclose to the IWVGA any confidential information of the District. We ask the District to formally waive any claim that McMurtrey, Hartsock & Worth may not represent the IWVGA as general counsel subject to the foregoing understanding.

If the District will agree to a waiver as discussed above, please sign the consent on the enclosed copy of this letter, and return it to us for our records.

Sincerely,

James A. Worth

JAW:gg

The Indian Wells Valley Water District hereby waives any claims under the Rules of Professional Conduct, including but not limited to Rules 3-310(B), (C) and (E), that McMurtrey, Hartsock & Worth may not represent the IWVGA as general counsel as set forth above

INDIAN WELLS VALLEY WATER DISTRICT

Dated: _____

By: _____
Peter, Brown, President

IWVGA ADMINISTRATIVE OFFICE

Staff Report

TO: IWVGA Board Members

DATE: August 17, 2017

FROM: Alan Christensen, General Manager

AC

SUBJECT: Water Resources Manager Agreement

DISCUSSION

At their meeting on August 10, 2017, the Board appointed Stetson Engineering to serve as Water Resources Manager for the IWVGA, and the Board directed staff to negotiate an agreement with Stetson. Staff has done so, and the agreement is in the process of being finalized and executed. It will be available in final form prior to the Board meeting.

RECOMMENDATION

Approved agreement with Stetson Engineer to serve as the Water Resources Manager the Indian Wells Valley Groundwater Authority.

**INDIAN WELLS VALLEY GROUNDWATER AUTHORITY
AGREEMENT NO. _____**

**WATER RESOURCES MANAGER
SERVICES AGREEMENT**

As of August 17, 2017 ("Effective Date"), the **INDIAN WELLS VALLEY GROUNDWATER AUTHORITY** ("Authority") and **STETSON ENGINEERS, INC.** ("Consultant"), agree as follows:

RECITALS

WHEREAS, the Authority is in need of a consultant with the appropriate technical background, expertise, and experience to act as the Authority's Water Resources Manager and prepare, develop, and implement a Groundwater Sustainability Plan ("GSP") for the Indian Wells Valley Groundwater Basin ("Basin").

WHEREAS, the Consultant is a professional firm with roughly 65 professional employees comprising one of, if not, the most experienced groundwater management supporting staffs in Southern California.

WHEREAS, the Consultant's senior staff member for this project has 40 years of continuous professional engineering experience, and the Consultant has continuously provided cost-efficient Groundwater Management Engineering and Technical services to a variety of clients since 1964.

WHEREAS, after a detailed process, the Authority has determined that the Consultant is exceptionally well qualified to deliver the services need by the Authority in a cost-efficient manner.

WHEREAS, the Authority now desires to engage the services of Consultant, and the Consultant agrees to provide such services pursuant to this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, Authority and Consultant agree as follows:

AGREEMENT

I. INCORPORATION OF RECITALS

The Recitals and section titles set forth herein are incorporated herein and are an operative part of this Agreement.

II. SERVICES TO BE PERFORMED

Consultant hereby contracts to be the Authority's Water Resources Manager and to perform necessary services in connection with the Authority's preparation, filing, and implementation of a GSP for the Indian Wells Valley Groundwater Basin. For the consideration hereinafter stipulated, Consultant hereby accepts such contract under the hereinafter set forth terms and conditions.

III. TERM PERIOD

The term of this Agreement shall cover a three-year time period commencing on the Effective Date and continuing unless terminated as provided for herein.

IV. COMPENSATION

Authority shall pay Consultant on a time, materials, and expense basis in accordance with the **Fee Schedule** attached hereto as Exhibit A. In the alternative, the Authority and Consultant may agree to a written Task Order arrangement for certain work proposals and items, in which case compensation shall be set forth in the written Task Order.

Consultant shall not be compensated for any services, nor reimbursed for any expenses in excess of those authorized by this Agreement, or any Task Order, without prior written approval by Authority. If contingencies arise during the performance of a project which requires services outside the scope of the project, Authority may authorize, in writing, the work to be performed. Payment for such approved contingencies will be made in accordance with the **Fee Schedule** or as agreed upon by the parties. **Additional work performed without written authorization will not be approved for payment.**

Consultant shall submit monthly invoices for services rendered under this Agreement to:

**Indian Wells Valley Groundwater Authority
Ridgecrest City Hall
100 W. California Avenue
Ridgecrest, California 93555**

Invoices **MUST** identify the Agreement Number, Account Number, and Project Name (Title) as shown herein. Any invoice received without proper identification will be returned to Consultant. Approved invoices will be paid within thirty (30) days after receipt.

V. DATA AND SERVICES FURNISHED BY AUTHORITY

Authority shall provide Consultant with reasonably available information pertinent to the tasks to be performed by Consultant, and Consultant shall be entitled to use and rely upon all such information. Consultant shall apply reasonable caution in the interpretation and uses of Authority furnished data and promptly advise Authority of any actual or perceived errors.

VI. PREVAILING WAGES

By its execution of this Contract, Consultant certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Consultant and/or Consultant's subcontractors shall pay prevailing wages to all employees legally entitled to such payment. At present, it is anticipated that Consultant will, at a minimum, have employees working in the field of inspection, surveying, and soils testing which are entitled to such payment. Given the breadth of services to be performed under this Agreement, it is possible that other employees may be entitled to prevailing wages, and Consultant agrees to inform the Authority of any activity that may fall within the purview of prevailing wage laws before the activity begins.

If this project is subject to Federal funding, Consultant shall comply with the Davis-Bacon Act, as identified in the applicable Davis-Bacon Prevailing Wage. Payment of State prevailing wage rates, when higher, is required whenever Federally funded or assisted projects are controlled or carried out by California awarding bodies. Consultant shall submit U.S. Department of Labor WH-347 Davis-Bacon Certified Payroll Form and be prepared to submit additional labor compliance forms and reports, upon request.

VII. STATUS OF CONSULTANT

Consultant shall perform the services provided for herein in Consultant's own way as an independent contractor and in pursuit of Consultant's independent calling, and not as an employee of Authority. Consultant shall be under the control of Authority only as to the result to be accomplished. Neither Consultant nor any of its employees or agents shall have any claim under this Agreement or otherwise against Authority for vacation pay, paid sick leave, retirement benefits, social security, workers' compensation, health, disability, unemployment insurance benefits, or other employee benefits of any kind. Consultant is liable for all applicable Social Security, Federal, and State taxes required on payments made by Authority. In the event the Internal Revenue Service or any other governmental agency should question or challenge the independent contractor status of Consultant or any of its respective employees or agents, the parties hereby agree that both Consultant and Authority shall have the right to participate in any discussion or

negotiation occurring with such agency or agencies, regardless of with who or by whom such discussions or negotiations are initiated.

VIII. INSURANCE

Consultant shall not commence work under this Agreement until it has obtained the policies of insurance required hereunder, nor shall it allow any subcontractor to commence work until the policies of insurance required of the subcontractor have been obtained. Consultant shall verify and confirm proper coverage to Authority standards of the subcontractors.

Consultant shall, during the life of this Agreement, notify Authority in writing of any incident, either under its jurisdiction, or any of its subcontractors, giving rise to any potential Bodily Injury or Property Damage claim and resultant settlements, whether in conjunction with this or other project which may affect the limits of the required coverage, as soon as is reasonable and practical.

The Consultant and each of its subcontractors shall take out and maintain the following policies of "occurrence form" (where applicable) type insurance, with coverage and carriers acceptable to the Authority, at its sole cost and expense at all times during the life of this Agreement, including the entire time of the Consultant's guarantee. The Authority may request certificates of insurance from subcontractors to verify proper coverage and additional named insured requirements. Such requests shall be responded to within a reasonable time frame (48 -72 Hrs.):

- A. **Workers' Compensation Insurance.** Consultant shall cover employees as required by Labor Code Section 3600, and Consultant shall require subcontractors similarly to provide such Workers' Compensation insurance for subcontractors' employees. Such policy shall contain an endorsement which waives rights of subrogation against the Authority as designated in the policy of Worker's Compensation Insurance. Self-insured programs or PEO programs are generally not acceptable to the Authority and must be approved by the Authority in advance.

- B. **Commercial Liability Insurance.** The Consultant shall procure and maintain Commercial General Liability Insurance in amounts not less than the following:

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate

The policy is to be endorsed for the aggregate limit to apply to this Agreement. Where Excess liability insurance is used in connection with primary liability insurance, the combination of such must allow total limits of liability to be in amounts not less than the above specified amounts.

- C. **Automobile Liability Insurance.** The Consultant shall procure and maintain Commercial Automobile Liability Insurance in amounts not less than the following:

\$1,000,000 Combined Single Limit (BI/PD)
\$1,000,000 Combined Single Limit Uninsured/Underinsured Liability

Where excess liability insurance is used in connection with primary liability insurance the combination of such must allow total limits of liability to be in amounts not less than the above specified amounts.

- D. **Professional Liability Insurance.** Consultant shall procure and maintain Professional Liability Insurance in amounts not less than the following:

\$1,000,000 per Claim and Annual Aggregate

- E. **General Insurance Requirements.** Each such policy of insurance shall:

1. Be produced by agent/brokers who are licensed to transact insurance business in the State of California;
2. Be issued by insurance carriers which are:
 - i. Licensed by the State of California to write business in this state; and
 - ii. Rated no less than "A-, Class VIII" or better by the A.M. Best Consultant.
3. Any insurance carrier which is strategically affiliated with a parent insurance consultant or insurance group must disclose the name of the parent consultant or group in any certificate of insurance documentation provided to the Authority.
4. Name and list the Authority as "Additional Insured," by an endorsement executed by the insurance carrier (this requirement does not apply to Professional Liability or Workers' Compensation Insurance); such endorsement shall be ISO form GC2010 (11/85ed) or its equivalent. Any equivalent shall include the CG 2037- completed operations in favor of the Authority.
5. Specify that it acts as primary insurance and that no insurance held or owned by the additional insured shall be called upon to cover a loss under said policy;

6. Not be canceled until thirty (30) days after receipt by the Authority of a written notice of such cancellation as evidenced by receipt of a mailed letter;
7. Show evidence of renewal of an expiring policy once the insurance has been approved by the Authority. Prior approval must be obtained if the coverage or limits of the policy or the carrier has changed.

IX. HOLD HARMLESS AND INDEMNIFICATION

Consultant shall hold, and defend with counsel of Authority's choice, the Authority, its agents, officers, employees, and volunteers free and harmless from any and all claims, liabilities, penalties, fines, or any damage to property, whether real or personal, including attorney fees and court costs, arising from any negligent act or omission to act by Consultant, its officers, agents, and employees caused by, or resulting from, or claimed to have been caused by Consultant.

Notwithstanding the foregoing, in the event the subject action alleges negligence on the part of the Authority, or any third party not under contract with Consultant, Consultant's obligations regarding Authority's defense under this paragraph include only the reimbursement of Authority's reasonable defense costs incurred to the extent of Consultant's negligence as expressly determined by a final judgment, arbitration, award, order, settlement, or other final resolution. Consultant shall not be responsible for warranties, guarantees, fitness for a particular purpose, breach of fiduciary duty, loss of anticipated profits or for economic, incidental, or consequential damages to Authority or any third party arising out of breach of contract, termination, or for any other reason whatsoever. Additionally, Consultant shall not be responsible for acts and decisions of third parties, including governmental agencies, other than Consultant's subconsultants, that impact project completion and/or success.

X. STANDARD OF CARE

Consultant's services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. Services shall be performed to Authority's reasonable satisfaction.

XI. ASSIGNMENT

Authority has entered into this Agreement to receive professional services from Consultant. Consultant shall not sell, assign, or transfer Consultant's rights or obligations under this Agreement without Authority's prior written consent, which consent may be withheld in the Authority's sole discretion. Consultant may make use of the part-time

assistance of other experts possessing unique skills, the utilization of which will, in the opinion of Consultant, enhance the quality of service to Authority.

XII. SAFETY

Consultant will ensure that employees, and the employees of subcontractors, are notified of and observe and abide by safety regulations and laws. Consultant shall immediately notify Authority of damage to property and/or injury to, or death of persons, which occurs in connection with, or is related to the project. Consultant shall furnish Authority a written report of such damage or injury within three (3) working days.

XIII. TERMINATION

Authority may terminate this Agreement, in whole or in part, with or without cause, upon seven (7) days written notice to Consultant. Upon receipt of the termination notice, Consultant shall promptly discontinue services unless the notice directs to the contrary. In the event Authority renders such written notice to Consultant, Consultant shall be entitled to compensation for services rendered prior to the effective date of the notice and further services set forth in the notice. Authority shall be entitled to reimbursement for compensation paid in excess of services rendered. Consultant waives claims for damages that might arise from Authority's termination of this Agreement. Consultant shall deliver to the Authority and transfer title (if necessary) to all completed work and work in progress, including drafts, documents, plans, forms, maps, products, graphics, computer programs, and reports.

XIV. CONSULTANT RESPONSIBILITIES

A. EMPLOYEES:

1. **Background/Security:** Consultant warrants that all personnel engaged in the performance of this work are legal employees of the Consultant and possess sufficient experience.
2. **Health:** All personnel shall be in good health and free of contagious diseases. Consultant shall not allow any persons(s) under the influence of alcohol or drugs on Authority's property. Neither shall the Consultant allow the use of presence of alcohol or drugs on Authority's property.
3. **Conduct:** Any employee or subcontractor or Consultant performing work on Authority property while under the influence of alcohol or drugs or whose conduct interferes with proper performance of the work or with Authority's operations shall be immediately removed from the work site and not permitted at the worksite thereafter.

4. Supervision: Consultant shall provide a supervisor or foreman who shall be present at all times during contract operations and who shall be responsible for both conduct and workmanship. The supervisor or foreman shall be able to communicate effectively in both written and oral English.
 5. Training: Consultant shall have an ongoing training program for its entire staff. Consultant shall provide only personnel that have been fully trained for performance of this work. Supervisors shall have been trained in supervision as well as technical training.
 6. Gifts and Gratuities: Consultant shall establish precautions to prevent its employees or agents from making, providing, or offering gifts, entertainment, payments, loans, or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of the Authority.
- B. Conflict of Interest: Consultant shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the Authority. Consultant shall make a reasonable effort to prevent employees, Consultant, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others such as those with whom they have family business or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and State law. In the event the Authority determines a conflict of interest situation exists, any increase in costs associated with the conflict of interest situation may be disallowed by the Authority, and such conflict may constitute grounds for termination of this Agreement. This provision shall not be construed to prohibit employment of persons with whom Consultant's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

XV. MISCELLEANOUS:

- A. To the extent the terms and conditions contained herein are inconsistent with the terms and conditions contained in Consultant's proposal, the terms and conditions in this Agreement shall govern.
- B. There are no understandings or agreements except as herein expressly stated.

- C. If a provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated.
- D. As applicable, Consultant shall not be suspended or debarred pursuant to the provisions of 31 U.S.C. 6101, note, E.O. 12549, E.O. 12689, 48 CFR 9.404, and each agency's codification of the Common Rule for Non-procurement suspension and debarment.
- E. Original papers, maps, models, designs, studies, surveys, reports, data, notes, computer files, documents, drawings, and other work product (collectively "Work Product") of Consultant produced by Consultant, except documents which are required to be filed with public agencies, shall be deemed solely the property of Authority. Consultant will take such steps as are necessary to perfect or protect the ownership interest of Authority in such Work Product. Upon completion, expiration, or termination of this Agreement, Consultant shall turn over to Authority all such original Work Product in Consultant's possession or control. Consultant may retain a file copy. Any reuse of completed documents or use of partially completed documents without written verification or concurrence by Consultant for the specific purpose intended will be at Authority's sole risk and without liability or legal exposure to Consultant.
- F. Consultant shall not release information or Work Product to persons or entities other than Authority without the prior written consent of Authority, except as otherwise required by law. Consultant shall promptly notify Authority should Consultant, or its representatives be served summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions, other discovery request, or court order from any third party regarding this Agreement and the services performed.
- G. This Agreement may not be amended except by a subsequent writing which is signed by the Parties.
- H. This Agreement shall be governed by the laws of the State of California. Venue for a dispute shall be State courts located in Kern County, California. Parties consent to the exercise of personal jurisdiction over them by any such courts for purposes of any such action or proceeding.
- I. All work, labor, and materials shall be done and provided in strict conformity with each of the following: (i) all laws, ordinances, codes, rules, regulations, and standard specifications of governmental authorities having jurisdiction over Consultant's work; and (ii) this Agreement. Consultant shall also comply, at Consultant's expense, with all requirements of inspectors of any

governmental authority having jurisdiction over Consultant's work. The Consultant will be responsible for securing any and all required governmental inspections and approvals for the work completed.

- J. If any disputes should arise between the Parties concerning the work to be done under this Agreement, the payments to be made, or the manner of accomplishment of the work, Consultant shall nevertheless proceed to perform the work as directed by Authority pending settlement of the dispute.
- K. The fact that Authority has made payment shall not be interpreted to imply Authority has inspected, approved, or accepted the work which has been performed by Consultant. No delay or omission in the exercise of any right or remedy by the non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision.
- L. No director, officer, or employee of the Authority shall have any financial interest, direct or indirect, in this Agreement nor shall any such director, officer, or employee participate in any decision relating to this Agreement which affects his/her financial interest or the financial interest of any corporation, partnership, entity, or association in which he/she is directly or indirectly interested, in violation of any State or Federal statute or regulation. The Consultant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.
- M. Time shall be of the essence as to times of performance. Neither party shall be responsible for delays beyond their reasonable control.
- N. Each Party represents and warrants to the other Party that all necessary action has been taken by such Party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder.
- O. This Agreement is binding upon the successors and assigns of the Parties.
- P. The services to be performed by Consultant are intended solely for the benefit of Authority. No person or entity not a signatory to this Agreement shall be entitled to rely on Consultant's performance of its services hereunder, and no right to assert a claim against Consultant by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of Consultant's services hereunder.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

STETSON ENGINEERS INC.

By: _____
Stephen B. Johnson, P.E.
President, Stetson Engineers Inc.

Date: _____

**INDIAN WELLS VALLEY GROUNDWATER
AUTHORITY**

By: _____
Mick Gleason, Board Chairperson

Date: _____

Approved as to Form

By: _____
Phillip W. Hall, General Counsel

Date: _____

EXHIBIT A FEE SCHEDULE



2171 E. Francisco Blvd., Suite K • San Rafael, California 94901
Phone: (415) 457-0701 • FAX: (415) 457-1638 • Website: www.stetsonengineers.com

Northern California • Southern California • Arizona • Colorado

Standard Billing Rate Schedule Professional Fees

Principal	\$230.00	Per Hour
Special Project Director	\$230.00	Per Hour
Project Manager, Senior	\$200.00	Per Hour
Supervisor I	\$200.00	Per Hour
Supervising Soil Scientist	\$185.00	Per Hour
Supervisor II	\$185.00	Per Hour
Supervisor III	\$180.00	Per Hour
Senior I	\$160.00	Per Hour
Senior II	\$145.00	Per Hour
Senior III	\$130.00	Per Hour
Construction Manager	\$130.00	Per Hour
Construction Manager / Oversight	\$115.00	Per Hour
Senior Construction Inspector	\$115.00	Per Hour
Senior Field Geologist	\$130.00	Per Hour
Senior Associate	\$120.00	Per Hour
Associate I	\$115.00	Per Hour
Associate II	\$110.00	Per Hour
Associate III	\$105.00	Per Hour
Associate Soil Scientist	\$105.00	Per Hour
Senior Assistant	\$100.00	Per Hour
Assistant I	\$95.00	Per Hour
Assistant II	\$90.00	Per Hour
Assistant Soil Scientist	\$90.00	Per Hour
Assistant III	\$85.00	Per Hour
GIS Manager	\$115.00	Per Hour
GIS Specialist I	\$95.00	Per Hour
GIS Specialist II	\$85.00	Per Hour
Technical Illustrator	\$85.00	Per Hour
AutoCAD Technician	\$85.00	Per Hour
Soil Technician	\$75.00	Per Hour
Aide I	\$70.00	Per Hour
Aide II	\$60.00	Per Hour
Aide III	\$55.00	Per Hour
Project Coordinator I	\$130.00	Per Hour
Project Coordinator II	\$95.00	Per Hour
Project Coordinator III	\$85.00	Per Hour
Contract Management	\$100.00	Per Hour
Administrative I	\$70.00	Per Hour
Administrative II	\$65.00	Per Hour
Administrative III	\$60.00	Per Hour

Effective January 1, 2017

W A T E R R E S O U R C E P R O F E S S I O N A L S
S E R V I N G C L I E N T S S I N C E 1 9 5 7

Direct Expense Rates

Expense Description	Billing Rate
Fax	\$0.30 / Page
Mileage	\$* / Mile
Reproduction: Black & White (In-House)	\$0.15 / Page
Reproduction: Color - 8.5" x 11" (In-House)	\$0.89 / Page
Reproduction: Color - 11" x 17" (In-House)	\$1.89 / Page
Plotter Reproduction (In-House)	\$1.50 / Sq. Ft.
4x4 Truck with Drill Rig	\$150.00 / Day
Survey Equipment	\$120.00 / Day

*Mileage is billed at the current IRS approved mileage rate and may be subject to change.

All other project reimbursable expenses (i.e., telephone, commercial transportation, meals, lodging, postage, outside reproduction, etc.) will be billed at cost.

Note: Testimony fees are 150% of standard rates and apply to depositions, court time and time spent on stand-by at attorney's request. Travel time and preparation time is charged at standard rates. Stetson Engineers Inc. authorizes only staff at associate classification or higher to testify as expert witnesses.

INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

SGMA/GSP

POTENTIAL LIST – STETSON WORK TASKS

(The following Potential Work Tasks are included as a guide to the Water Resources Manager, engineering support work. Individual Work Tasks are anticipated to be developed and authorized with specific budgets and Job Number Accounting.)

1. Data/Information Collection and Assimilation
2. Develop Data Management Plan/Present to PAC and TAC, Implement Plan
3. Initial Safe Yield Review and Assessment. (Review all available and relevant documents related to Safe Yield and provide draft Technical Memorandum summarizing Initial Assessment.)
4. PAC Meetings Coordination and Management. Meeting schedule will set Annual Budget. Includes Stakeholder Public Information Process, as directed by PAC.
5. TAC Meetings Coordination and Management. Meeting schedule will set Annual Budget.
6. IWVGA Board Meetings Presentations, Attendance and Documentation/Follow Through. Meeting schedule will set Annual Budget.
7. Coordination with Department of Water Resources, SWRCB on SGMA/GSP development and schedule. Confirms regulatory compliance.
8. Indian Wells Valley Groundwater Basin Modeling
 - a. Review existing relevant models (hydrogeological, groundwater flow, etc.) and prepare a draft Technical Memorandum summarizing findings and recommendations.
 - b. Revise existing model and construct new model (Scope/Budget to be prepared at later date, as needed).
 - c. Model various basin operating scenarios (Scope/Budget to be prepared at a later date, as needed).
9. Evaluate Basin Management Areas. Define Basin Management Areas for SGMA/GSP. Prepare a draft Technical Memorandum presenting the evaluation

- and recommendations on SGMA Management Areas. Coordinate with Basin modeling, as necessary.
10. Evaluate Safe Yield for Development of Initial Budget. Prepare a draft Technical Memorandum presenting the evaluation and recommendation on the Initial Water Budget.
 11. SGMA Basinwide Groundwater Monitoring Network. Develop initial monitoring network based upon available resources and data. Identify monitoring gap areas. Prepare draft Technical Memorandum on the SGMA Basinwide Groundwater Monitoring Network.
 12. Prepare Initial Groundwater Sustainability Allocations with Alternatives. Coordinate discussions with all stakeholders, including large pumpers. Complete acceptable Initial Allocations. Describe planned sustainability goals, with measurable objectives, milestones and minimum thresholds. Define any potential undesirable results.
 13. Prepare Draft SGMA/GSP. Draft initial descriptive sections for PAC/TAC review. Outline GSP primary components for PAC/TAC review and final approval. Prepare draft GSP for PAC/TAC and IWVGA Board.
 14. Provide support for Public Hearing process for draft SGMA/GSP.
 15. Prepare and Maintain SGMA/GSP Implementation Schedule, Costs, and Periodic Updates to Plan Content.
 16. Ongoing Studies. Expected ongoing studies include WGS Recharge Study, Brackish Water Study, Desert Research Groundwater Model, and Aerial Electro-Magnetic Surveys. Scope/Budget for support of these ongoing studies will be prepared, as needed.