

INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

Ridgecrest City Hall 100 W California Ave., Ridgecrest, CA 93555 760-499-5002

BOARD OF DIRECTORS SPECIAL MEETING AGENDA

Thursday, May 6, 2021

Open Session: 10:00 a.m.

NOTICE: *In accordance with the evolving public health declarations, we are temporarily limiting most public attendance to virtual alternatives only. Please see the Public Comment Notice below for detailed instructions on submitting public comment as well as websites for livestream broadcasting. Telephonic participation by the majority of Board Members and staff is expected.*

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 April Keigwin at (805) 764-5452. 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 Ridgecrest City Hall, 100 W California Ave, Ridgecrest, CA 93555, or online at <https://iwvga.org/>.

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. All Public Comment portions of the meeting shall be limited to three (3) minutes per speaker. Each person is limited to one comment during Public Comments.

Due to the length of the agenda, one or more recesses should be expected.

1. CALL TO ORDER

2. OPEN SESSION –

- a. Pledge of Allegiance
- b. Roll Call

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. PUBLIC HEARING AND POSSIBLE ORDER ON SEARLES VALLEY MINERALS FOR FAILURE TO REPORT AND PAY REPLENISHMENT FEES (Does not include domestic water service provided through Searles Domestic Water)

5. CLOSING COMMENTS

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

6. DATE OF NEXT MEETING – May 12, 2021

7. ADJOURN

PUBLIC COMMENT NOTICE

On March 17, 2020, Governor Newsom issued Executive Order N-29-20, relating to the convening of public meetings in light of the COVID-19 pandemic. At this time, the Indian Wells Valley Groundwater Authority is continuing to hold board meetings in order to conduct essential business. However, as suggested by the Center for Disease Control and set forth in the Executive Order, we are temporarily limiting public attendance through the following virtual alternatives:

• **Watch meetings on-line:**

All of our meetings are streamed live at <https://ridgecrest-ca.gov/369/Watch> (4 second streaming delay) or on YouTube at <https://www.youtube.com/cityofridgecrest/live> (22 second streaming delay) and are also available for playback after the meeting.

• **Call in for public comments:**

If you wish to make verbal comment, *please call (760) 499-5010*. This phone line will allow only one caller at a time, so if the line is busy, please continue to dial. We will be allowing a 20-30 second pause between callers to give time for media delays and callers to dial in. Due to media delays, please mute your streaming device while making public comment. If you wish to comment on multiple items, you will need to call in as each item is presented.

*Please Note – This process will be a learning curve for all, *please be patient*.

• **Submit written comments:**

We encourage submittal of written comments supporting, opposing, or otherwise commenting on an agenda item, for distribution to the Board prior to the meeting. Send emails to akeigwin@rgs.ca.gov written correspondence may be sent to April Keigwin, Clerk of the Board, 100 W. California Ave., Ridgecrest, CA 93555. Please specify to which agenda item your comment relates.

• **Large Groups:**

If you are part of a large group that would like to comment on an agenda item, please consider commenting in writing. This will be as impactful to the Board as having a large group in attendance.

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IWVGA ADMINISTRATIVE OFFICE

Memorandum

TO: IWVGA Board Members **DATE:** May 6, 2021

FROM: IWVGA Staff

SUBJECT: Agenda Item No. 4 – Public Hearing and Possible Order on Searles Valley Minerals for Failure to Report and Pay Replenishment Fees (Does not include domestic water service provided through Searles Domestic Water).

DISCUSSION

On August 21, 2020, pursuant to California Water Code Section 10730.2, this Board passed its Ordinance 03-20, thereby establishing a fee referred to as a “Replenishment Fee “in the amount of \$2,130 per acre foot of water extracted from the Indian Wells Groundwater Basin (“the Basin”). Two of the stated purposes for the fee were to fund the acquisition of water rights which could be the basis for bringing a firm source of supplemental water needed to create a state of sustainability in the Basin and to provide funds for mitigating damages to small, shallow wells located in the Basin susceptible to damage caused by continuing drops in Basin groundwater elevations.

The Replenishment fee was set to first become applicable to water production from the Basin during January 2021 and the first report of production and payment of the fee were set to be due on February 15, 2021, almost seven months after passage of the ordinance.

An important feature of the ordinance was that it specifically exempted from the fee water produced from the Basin by Searles to be provided by the Searles Valley Domestic Water Company to “Trona Domestic” for domestic use. Simply stated, water pumped from the Basin by Searles for the domestic use of residents in Trona was intended to be and is exempt from the Replenishment Fee and any order issued to Searles to cease and desist Basin water production would not apply to water to be provided through the existing public utility to residential customers in Trona.

As of March 31, 2021, the Authority had not received a pumping report or the tender of a fee payment from Searles based on Searles Basin water production during January, 2021. Written notice of that delinquency was transmitted to Searles on March 31, 2021. That notice contained the text of California Water Code section 10730.6 which, among other things, specifies enforcement approaches available to the Authority to deal with Searles’ delinquency including bringing suit to collect all fees, interest and penalties and seeking an attachment on Searles’ property to secure payment, administratively applying remedies such as liens or taking other actions available to collect fees, and ordering Searles water production of Basin water (other than for public utility domestic use) to cease and desist until all delinquent fees are paid.

A public hearing is required to be conducted by the Authority Board prior to its approval and issuance of a cease and desist water production order. Accordingly, that hearing has been noticed as required by law and is set to occur at 10 a.m. on May 6, 2021. That notice has been provided to Searles.

Staff requests that the Board conduct the required public hearing and then direct the staff to pursue an appropriate authorized remedy or remedies for Searles' delinquency. A cease and desist pumping order has been prepared and provided to the Board for consideration should the Board decide to utilize that option.

RECOMMENDATION

Staff recommends the Board adopt Resolution No 04-21 - Approving and Adopting an Order Directing Searles Valley Minerals to Pay All Outstanding Replenishment Fees Along with Interest or Cease Pumping.

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

In the matter of:

Resolution No. 04-21

**A RESOLUTION OF THE INDIAN WELLS VALLEY GROUNDWATER
SUSTAINABILITY AUTHORITY APPROVING AND ADOPTING AN ORDER
DIRECTING SEARLES VALLEY MINERALS TO PAY ALL OUTSTANDING
REPLENISHMENT FEES ALONG WITH INTEREST OR CEASE PUMPING**

I, _____, Clerk of the Board of Directors for the Indian Wells Valley Groundwater Authority, do certify that the following resolution, on motion of Director _____, seconded by Director _____, was duly passed and adopted by the Board of Directors at an official meeting this 12th day of May 2021, by the following vote:

AYES:

NOES:

ABSENT:

Clerk of the Board of Directors
Indian Wells Valley Groundwater Authority

RESOLUTION

**THE BOARD OF DIRECTORS OF INDIAN WELLS VALLEY GROUNDWATER
AUTHORITY RESOLVES AS FOLLOWS:**

Section 1. WHEREAS The Indian Wells Valley Groundwater Authority conducted a hearing on May 6th, 2021 at the Ridgecrest City Hall located at 100 W California Ave Ridgecrest CA 93555 and reviewed all evidence presented by all interested parties.

Following this hearing the Authority finds that Searles Valley Minerals has not paid the replenishment fee as required by Ordinance Number 03-20. On that basis, the authority finds that Searles Valley Minerals is in violation of Ordinance number 03-20.

Section 2. THEREFORE, IT IS RESOLVED, the Indian Wells Valley Groundwater Authority approves and adopts the order attached hereto as Exhibit 1.

PASSED, APPROVED, AND ADOPTED, by the Indian Wells Valley Groundwater Authority this 12th day of May, 2021.

SIGNED:

President of the Board of Directors

ATTEST:

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Resolution 04-21
EXHIBIT1

**ORDER OF THE INDIAN WELLS VALLEY GROUNDWATER AUTHORITY DIRECTING SEARLES VALLEY
MINERALS TO PAY ALL OUTSTANDING REPLENISHMENT FEES ALONG WITH INTEREST OR CEASE
PUMPING**

Having conducted a hearing on May 6th, 2021 at the Ridgecrest City Hall located at 100 W California Ave Ridgecrest CA 93555 and after reviewing all evidence presented by all interested parties, the Indian Wells Valley Groundwater Authority (Authority) finds as follows.

The Authority is the groundwater sustainability agency (GSA) under the Sustainable Groundwater Management Act (SGMA), Water Code section 10720 et seq., charged with managing the Indian Wells Valley Groundwater Basin (Basin). The Basin's sustainable yield of 7,650 acre feet per year (AFY) is insufficient to meet the Basin's most minimal needs and current pumping is estimated to be roughly four times the sustainable yield. "Undesirable results" have already been observed such as infrastructure damage to high value sensitive facilities at the Naval Air Weapons Station (NAWS) China Lake, impact to groundwater dependent ecosystems, increased desertification caused by declining water tables, and jeopardy to domestic, industrial, and agricultural supplies. The Authority estimates that a minimum of 5,000 AF must be imported to the Basin each year at a cost of \$52,800,000.

The Authority has adopted a Basin Replenishment Fee that provides the funding for two projects: (1) the augmentation/importation of water supplies and (2) the mitigation of damages to shallow wells which will continue to occur until augmented supplies delivered to the Basin. Augmentation projects are required as the Basin's most basic water supply needs alone exceed the Basin's safe yield. This project must be immediately funded because the Authority anticipates that demand for imported water will increase throughout the State due to drought conditions and the requirements of SGMA and so too will the price of importing water increase. If the Authority does not promptly raise revenue to secure the rights to such imported water, that cost could quickly become prohibitive.

Likewise, a shallow well mitigation program is needed immediately because it will take some time to build the required infrastructure to augment the Basin's supplies and during that time it would be impossible to reduce water supply demands to a level that does not cause impacts to shallow wells. The estimated damages that will occur without the implementation and funding of the Shallow Well Mitigation program are set forth in GSP's Shallow Well Impact Analysis. In sum, that analysis provides that without pumping changes 81 shallow wells, roughly 1 in 10, will be substantially impacted by 2030. By 2040, those impacts will increase and 231 wells, or roughly 1 in 4 will be impacted. These shallow wells provide domestic service to an estimated total of 1,588 homes.

Based on the foregoing the Authority finds that it is necessary to strictly enforce Replenishment Fee to collect the money needed to promptly address these exigent water supply conditions and avoid additional deleterious effects to the basin.

Based solely on the record for this hearing, the Authority finds that Searles Valley Minerals has not paid the Replenishment Fee as required by Ordinance Number 03-20. Because Searles Valley Minerals has paid a replenishment fee during this period it has self-reported to the Authority that it has pumped from January 1st to the present without paying the required replenishment fee. On that basis, the authority finds that Searles Valley Minerals is in violation of Ordinance number 03-20.

Resolution 04-21
EXHIBIT1

Searles Domestic Water Company produces 217 acre feet annually for domestic purposes in the Trona community. This production is not subject to any replenishment fee and is not the subject of this order.

Now therefore, based on the findings set forth above it shall be ordered as follows:

Pursuant to applicable law, Water Code section 10730.6 and Section 6 of Indian Wells Valley Groundwater Authority Ordinance 03-20, Searles Valley Minerals shall cease production of all groundwater from the Indian Wells Valley Groundwater Basin until all fee payments are made current along with interest at a rate of 1% per month on the delinquent amount as well as a 10% penalty on the delinquent amount. In the event that Searles Valley Minerals refuses to pay the outstanding fees and continues water production, Authority legal counsel is hereby authorized to initiate all appropriate court proceedings to enforce this order.

Further, in the event of additional non-compliance by Searles Valley Minerals staff is directed to send notice of a further hearing for the Board to consider the imposition of additional penalties pursuant to its legal authority.

This order does not include production by the Searles Domestic Water Co. for its domestic purposes.

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