

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

**MINUTES**

**Indian Wells Valley Water District  
500 W. Ridgecrest Blvd.  
Ridgecrest, CA 93555**

**Thursday February 7, 2019 6:00PM**

**Members Present:**

Ed Imsand, Patricia Quist, Tim Carroll, Nick Panzer, Renee Westa-Lusk, West Katzenstein, Judie Decker, Raj Jonnalagadda, Don Zdeba, John Kersey, David Janiec, Josh Nugent, James Mower, Lorelei Oviatt

**Members Absent:**

Lyle Fisher, Ryan Klausch

**1. CALL TO ORDER:**

The meeting was called to order by Chairperson David Janiec at 6:01 p.m. Chairperson David Janiec led the pledge of allegiance. A quorum of 11 voting members present was established after roll call was taken by Renee Westa-Lusk. A quorum is 7 out of 12 voting members when all appointments are filled.

**ANNOUNCEMENTS**

1. The Chairperson David Janiec stated the requirement that Form 700 must be filled out by each Member of the PAC by March 1, 2019. The following PAC Members still need to submit Form 700 are: David Janiec, Ed Imsand, Pat Quist, Tim Carroll, James Mower and Renee Westa-Lusk.
2. David Janiece reminded PAC Members to turn their microphones on and speak into them so everyone can hear and that it gets recorded on the audio system.

**2. PUBLIC COMMENT**

The Chairperson David Janiec called for the public to address the Committee about matters NOT on the agenda. No action could be taken on non-agenda items unless authorized by law. Comments are limited to three minutes per person.

Sophia Merk announced that the INM-IRWM will be hosting a town hall meeting in Inyokern on February 20, 2019 at 6:30PM. The topic discussed will be about resources available to DACs.

**3. REVIEW AND APPROVE MINUTES FOR SEPTEMBER 6, 2018, NOVEMBER 1, 2018, AND DECEMBER 6, 2018.**

A motion to accept the September 6, 2018 minutes made by Pat Quist and seconded by West Katzenstein was approved.

Passed 5 ayes: Imsand, Quist, Westa-Lusk, Katzenstein, Janiec

0 naves

6 abstentions: Carroll, Panzer, Decker, Jonnalagadda, Nugent, Mower

Chairperson David Janiec stated that he was advised to submit the September 6, 2018 minutes to Mr. Markman to review and will do so.

A motion to accept the November 1, 2018 minutes made by West Katzenstein and seconded by Josh Nugent and was approved.

Passed 9 ayes: Imsand, Quist, Carroll, Westa-Lusk, Katzenstein, Jonnalagadda, Janiec, Nugent, Mower  
0 naves  
2 abstentions: Panzer, Decker

A motion to accept the December 6, 2018 minutes made by Nick Panzer, and seconded by Pat Quist was approved.

Passed 10 ayes: Imsand, Quist, Carroll, Panzer, Westa-Lusk, Katzenstein, Jonnalagadda, Janiec, Nugent, Mower  
0 naves  
1 abstention: Decker

Chairperson David Janiec announced the January 3, 2019 minutes would be up for approval at the March 7, 2019 meeting. All PAC Members had been given a hard copy of the January 3, 2019 minutes for them to review and email in any corrections before the March 7, 2019 meeting.

#### **4.ALLOCATION STATUS REVIEW AND UPDATE**

**(please refer to audio recording of February 7, 2019 PAC meeting at iwvga.org)**

**B. Update Report and any assignment from Mr. Markman resulting from the January 11, 2019 meeting between attorneys representing major water pumpers in the IWV.**

Chairperson David Janiec read through orally a 3 page summary from Mr. Markman of subject matter covered by the attorneys regarding an allocation plan at the January 11, 2019 meeting. David Janiec stated he would be emailing to PAC Members a copy of Mr. Markman's summary. He further stated this report would be attached to the February 7, 2019 PAC meeting minutes.

#### **PAC MEMBERS COMMENTING**

Nick Panzer made the following comments: 1) he questioned if there was really any attorney representing the ratepayers of the IWV, 2) he questioned the assumption of the availability of supplemental water, 3) that the allocation numbers did not add up, and 4) it sounded to him like the lawyers are going in the direction of depopulating this valley by 50%.

West Katzenstein expressed concern: 1) that water for health and safety will need to be purchased and there is no protection for water used for health and safety and 2) by going to “average pumping” they appear to be giving water rights to those who are not legally entitled to receive water rights.

Lorelei Oviatt stated the following: 1) a different approach is being taken in the Central Valley. They are doing across the board allocations. Land where there is no water available the landowners are eligible to get a credit for their land being used for another use such as High Speed Rail. She further stated “we are trying to find a way to monetize the land like what uses can we find for this land?” 2) Another concern Lorelei has is if you are running a small business out of a residential home they are technically no longer a domestic water user. She cautioned the PAC not to get stuck on SGMA definition and not take care of our people. She said she did not want Kern County becoming known as a place where livelihoods are destroyed. 3) A third point Lorelei made was that “retirement of land” is being done in the Central Valley. It has worked in the Antelope Valley. Retirement of land is the fallowing of land. She emphasized that everyone needs to be compensated for their land. Retirement or fallowing of land needs to be part of the conversation. There is only so much water you can import and imported water is very very expensive. There is a point at which you cannot afford to import water.

Judie Decker requested this summary of the attorney meeting be put on the agenda for March that we would discuss Mr. Markman's letter then.

## **PUBLIC COMMENT**

Ralph Lockenmeyer (Member of the Public) thanked Ms. Oviatt for bringing up alternatives. He felt that Mr. Panzer and the public are not really being represented. He recommended that a whole list of alternatives with pros and cons of each alternative needs to be presented to the public. He further stated that the costs for all the alternatives need to be given to the public.

Tim Parker Consultant Hydro-Geologist IWV Water District (Member of the Public) stated there is a list of alternatives they just haven't been put into projects and management action yet. He gave a list of alternatives which included: 1) imported water, 2) recycled water, 3) brackish water, and 4) conservation. The allocations need to be moved along to meet GSP schedule and is becoming an obstacle in completing the GSP. He stated California water law is based on case law not based on rules and regulations. He said prescriptive water rights are for appropriators (public agencies and businesses) not for land owners. The courts recognized there is an investment of public agencies and businesses that need to be accounted for. If using water as a landowner you are not an appropriator. He advised not to get diverted and focusing on health and safety because if it ends up in the courts it will be decided on established case law.

### **4. A. Review of Individual submitted comments from allocation discussion of January PAC meeting.**

**(please refer to audio recording of February 7, 2019 PAC meeting at [iwvga.org](http://iwvga.org))**

Nick Panzer said he wrote his comments (in response to Mr. Markman's discussion of water allocation rights at the January 3, 2019 PAC meeting) addressing directly to Mr. Markman and the GA Board. Judie Decker a representative for the EKRCDD submitted her written comments to Chairperson David Janiec. David Janiec will forward them on to Mr. Markman and the GA Board. Judie made some summary remarks of her written comments. Nick Panzer stated his written comment pertained to health and safety in Article X Section 2 of the California Constitution. All written comments from Nick Panzer and Judie Decker will be forwarded to Mr. Markman and the GA from David Janiec.

## **PAC MEMBER COMMENTS**

James Mower (PAC Member) commented that he keeps hearing comment that “we do not have legal representation for the rate payers”. There are 5 elected water board members elected by the public and the water district retains an attorney Mr. James Worth.

Nick Panzer (PAC Member) It is the water district that sent out a white paper on January 4, 2018 that proposed a proportionate reduction of pumping taking an 80-90% proportionate reduction in the district's water and we will be looking for funding to monetize private homeowners who are going to lose their value. The water district does not represent me and James Worth Attorney does not represent me. Your district name was on the name of that white paper. I am hearing proportionate reductions out of these lawyer meetings and that does not represent me on behalf of my 31,000 constituents.

Don Zdeba (PAC Member) stated the water district has around 12,000 active accounts of rate payers. The water district does represent the public. A consortium of pumpers in the valley put that white paper out it was not the water district's white paper and the paper was from January 2018.

Lorelei Oviatt (PAC Member) made the following points in the discussion:

1. SGMA has not gone to the California Supreme Court yet, SGMA has not been challenged.
2. SGMA specifically exempted domestic well owners that use 2 AFY or less. That is a new context and they do now have rights. Mr. Markman and the lawyers can talk all they want we have our own water lawyers at the County and their answer is we are in a new territory it is written into the legislation. The California Supreme Court will not ignore it and the haircut that everybody has to take the legislature said they didn't but they do have to pay fees.
- 3..Domestic well owners are a special new class of water users. I am saying this because we are dragging in a hundred years of water law and SGMA just passed a few years ago and it has not gone to the California Supreme Court.
- 4.The legislature and the Supreme Court make the law.
5. It is a new world, honoring new language and it means the legislature carved out domestic well owners. We have to figure out what that means. I am giving hope that the law is not settled there.

## **PUBLIC COMMENT**

Stuart Fields (Member of Public and a domestic well owner) wanted to know when Mr. Panzer's question will be answered. He stated he is willing to pay \$1,000 AFY to help pay for imported water as a private well owner and will give you the water meter readings any time you want them.

Tom Mulvihill (Member of Public and former general manager of IWWVD) stated reasonable use has not been discussed by Mr. Markman. Anything that can bring water into this valley must be looked at. A serious look at research done in the past by the IWWVD about bringing supplemental water into this valley needs to be reviewed.

Raymond Kelso (Member of Public) stated he wanted comment on Agenda Item No. 5. He asked who in this meeting of attorneys represents me and the rest of the public? The attorneys don't and the attorney for the water district represents the water district not me.

Ralph Lockenmeyer asked Lorelei about some portions of land not getting any water allocated to them at all on what basis could they do that when they could say your out? Can we come up with

a different set of proposals for allocation than what Mr. Markman has proposed?

Lorelei Oviatt responded “it is based on each water district over there and a certain amount of water in the whole basin and a certain amount of recharge and they have to divvy it up. If a piece of property has not pumped water they don't get an allocation. There are 17 water agencies over there. No matter how much you pump we are still cutting the allocation it does not matter how large an amount you pump because at the end of the day you have to add the numbers up. Some peoples' allocation is close to zero but some don't get enough water to operate their land. The water district starts water trading. They start with a flat allocation across all over the land. They cannot allocate more water than they have in the basin. The water allocation conversation keeps coming back to how little water recharge we have. If you don't have a house on the land and have not pumped water then at some point you do not have a right to water. Current state of the law you can cut someone off completely if they never pumped water on that land before. This is under current California law that you can cut someone off from an allocation of water if they do not pump water currently on a piece of land. From a land use perspective how do we rebalance all that? The fact remains we have 12,000 homes that are here need water. These are uncomfortable conversations you have all gotten there. This whole thing has already gotten there to the place of where it is time for uncomfortable conversations. We are trying to save the 12,000 houses and businesses already here. You can come up with alternatives of what Mr. Markman has proposed.

West Katzenstein said our job is to look at alternatives.

Don Decker (Member of Public and Member of TAC) said mother nature has the last say. The shortfall here is really severe. The alternatives presented have got to take that to heart there is no way to avoid it . We can hope for magic but it is not going to happen.

## **5. REVIEW AND DISCUSS INDIVIDUAL SUBMITTED COMMENTS ON GSP DRAFT CHAPTER 1 AND NEXT UPDATE VERSION**

**(please refer to audio recording of January 3, 2019 PAC meeting at iwvga.org)**

A total of 6 individual written comments were submitted to the Chairperson David Janiec and PAC Members 5 from PAC Members(Don Zdeba, John Kersey, West Katzenstein, Nick Panzer, Lorelei Oviatt) and 1 from the public (Attorney Derek Hoffman).

No verbal comments were made by any PAC Members.

### **PUBLIC COMMENT**

Ralph Lockenmeyer (Member of the Public) made a comment on section 1.5. How much will the water level in the basin be allowed to be subsided? Are you going to stop it before any private wells go dry? Need a subject of how high we are going to hold the water table.

Chairperson David Janiec responded that this will be addressed later in the GSP under sustainable management criteria.

## **6. REVIEW AND APPROVE PAC AD-HOC COMMITTEE RECOMMENDATION FOR DE MINIMIS USER OUTREACH BY THE IWVGA**

**( please refer to audio recording of January 3, 2019 PAC meeting at iwvga.org)**

Derek Hoffman (Attorney for Meadowbrook Dairy Member of Public) had submitted his written comments to the Chairperson David Janiec and all PAC Members on GSP Draft Chapter 1 along with his suggested rewording of the recommendations for deminimis water user outreach written by the Ad hoc committee for the IWVGA. He verbally commented he wants full registration of all wells in the valley and that the GA has legal authority to require every well be registered.

## PAC MEMBER COMMENTS

Judie Decker said first I want to know what his definition of full well registration is? Why did you change registration to full registration? She said this document as amended by Derek is a turn off to domestic well owners you will push the deminimis well owner away.

Chairperson David Janiec commented.

Lorelei Oviatt asked what are similar domestic wells? She said this should go back to the Ad hoc committee to take the amendments Derek wrote out and look them over.

Judie Decker said the rewritten parts by Derek sounds like a demand to well owners. She further stated SGMA doesn't require well registration. She said the GA needs to spend money contacting well owners and rate payers. She said the only way to reach people is through the county tax collector via property tax mailings.

Lorelei Oviatt stated the Ad hoc Committee's draft recommendations about outreach to deminimis water users for the GA are too technical and they need to have a communications specialist.

West Katzenstein commented.

Josh Nugent commented.

Chairperson David Janiec made the following points: 1) the intent is to have a communications specialist actually write the communications to the deminimis water users, 2) show the domestic well owners the benefits of registration, 3) give the GA specific instructions on how to do this communication and 4) recommended the GA send out to all water users a communication overall in the valley.

A motion by Judie Decker and seconded by Nick Panzer to take these draft recommendations back to the Ad hoc Committee for further work reviewing the suggestions made at this meeting and written comments submitted was approved.

Passed 11 Ayes: Imsand, Quist, Carroll, Panzer, Westa-Lusk, Katzenstein, Decker, Jonnalagadda, Janiec, Nugent, Mower,  
Abstentions: 0            Nays: 0

## PUBLIC COMMENT

Lee Knudtson (of WellIntel Member of Public) stated in his experience with his company doing business in the valley he has spoken with a lot of individual well owners over the last couple of weeks offering them a free automated groundwater level sensor in exchange for registering their wells. They are into the free groundwater level sensor because they are into understanding the longevity of their well. They are nervous about registering their wells because they do not know what the GA will do with that information. **You need to control the message.** An approach that has worked for him is when he tells them: **we are looking for their help to better understand what the problem is and to prevent the problems. When I frame it like that they are open to working with you guys. They are looking for a reason to trust you. Right now they do not.**

Stuart Fields (Member of Public a domestic well owner) I am a domestic well owner, we put a meter on our well and we have had the well registration form filled out for some time now. I am nervous about turning the form in because I do not know what is going to happen with it. We should all be paying for this. It is going to cost us a whole bunch of money. I am willing to pay my share to fix this problem. I am willing to give you that data I am willing to register my well

but I am nervous about the money going to be spent on everything but mitigating the overdraft. If there is some way to fence the fees collected off that water meter of mine I am with you. I am willing to go \$1,000 per AF again if everybody pays the same amount for the water, I'll pay the same amount as the alfalfa growers. I am willing to do that right now anytime. I understand we have to raise money to solve this problem and you better get started now to raise the money because it will take a long time to raise that money to solve this. You can't spend money on stream gauges for dry streams and that sort of nonsense.

Skip Gorman(local newspaper op-ed writer) suggested the GA sponsor a reception similar to a church social might be an effective way to do outreach to the deminimis well owners. He said it could be held at the Kerr McGee Center or the Fairgrounds as an information session. He mentioned to provide tables to chat at along with high quality food such as barbecue, kiosks or booth info pamphlets i.e. like the water district has at events. Staff the booths with representatives from Inyokern, City of Ridgecrest, the GA, Stetson, organizations such as Pistachio growers, antagonists of SGMA, Domestic Well Owners etc. Make it informal, no moderator or organizer, have a woman in charge and keep lawyers away at an arms length.

## **7. SELECT 2 PAC MEMBERS FOR THE GA AD-HOC COMMITTEE ON IMPORTED /SUPPLEMENTAL WATER**

**( please refer to audio recording of January 3, 2019 PAC meeting at iwvga.org)**

The Chairperson David Janiec explained that the PAC needed to appoint 2 Members of the PAC to serve on the GA appointed Ad-Hoc Committee on Imported /Supplemental Water to evaluate four proposals of water marketing companies presented at the Jan.17, 2019 IWVGA meeting.

James Mower nominated Chairperson David Janiec to serve on the GA Ad-Hoc Committee.

Tim Carroll nominated Judie Decker to serve on the GA Ad-Hoc Committee. John Kersey pointed out there could be a conflict of interest as Don Decker Judie's husband was appointed to the same GA Ad-Hoc Committee on Imported/Supplemental Water at the TAC meeting earlier in the day. Josh Nugent nominated Raj Jonnalagadda to serve on the GA Ad-Hoc Committee. Raj expressed reluctance because he was hard pressed for time to make the meetings. Don Zdeba told Raj that all the meetings of the Ad-Hoc Committee could be done via conference calls and there would only need to be 1 to 2 meetings. Raj then accepted the nomination.

David Janiec was elected to serve GA Ad-Hoc Committee on Imported/Supplemental Water.

11 Ayes: Imsand, Quist, Carroll, Panzer, Westa-Lusk, Katzenstein, Decker, Jonnalagadda, Janiec, Nugent, Mower

0 Abstentions 0 Nays

Judie Decker was elected to serve the GA Ad-Hoc Committee on Imported /Supplemental Water.

8 Ayes: Imsand, Carroll, Panzer, Katzenstein, Decker, Jonnalagadda, Janiec, Nugent,

1 Abstention: Westa-Lusk

2 Nays: Quist, Mower

Raj Jonnalagadda was elected to serve GA Ad-Hoc Committee on Imported/Supplemental Water.

11 Ayes: Imsand, Quist, Carroll, Panzer, Westa-Lusk, Katzenstein, Decker, Jonnalagadda, Janiec, Nugent, Mower

0 Abstentions 0 Nays

## **8. FUTURE AGENDA ITEMS**

**( please refer to audio recording of January 3, 2019 PAC meeting at iwvga.org)**

Renee Westa-Lusk requested that 2 items be put on the agenda that were assignments given to the PAC at the January 3, 2019 meeting by the WRM Steve Johnson. The first assignment is for the PAC to figure out a policy on how and who is going to pay for imported supplemental water if it is needed in the future? The second assignment is for each major pumper group represented on the PAC to determine at what cost per AF of water of imported water would it render them unable to continue to operate?

Nick Panzer requested that items 49 and 50 on the POAM which had recently been assigned to the PAC be put on the agenda. Item No. 49 on the POAM is Discussion of baseline and Management Action Modeling results. Item No. 50 on the POAM is Recommendation of Management Actions for GSP and Outreach.

Chairperson David Janiec summarized the following to be on the next agenda: approval of minutes, allocation status update if assignment from Mr. Markman, next chapter of Draft GSP to review if assigned, Ad-Hoc Committee final report on recommendations to GA on deminimis well owner public outreach, and legal clarification needed of a PAC member's ability to comment publicly not representing the PAC but as a private individual of the community on water issues.

**9. FUTURE PAC MEETING DATES: MARCH 7, 2019, APRIL 4, 2019, May 2, 2019**

## **10. MEMBER COMMENT**

**( please refer to audio recording of January 3, 2019 PAC meeting at iwvga.org)**

Renee Westa-Lusk asked to see the entire technical memorandum on Alternative Water Supplies and Imported Water on the iwvga.org website because to date she stated she could not find it and the WRM at the Jan. 3, 2019 PAC meeting under agenda item 6 said it was provided on the iwvga.org website.

## **11. ADJOURN TO MARCH 7, 2019 6PM MEETING**

Hearing no objection the meeting was adjourned at 8:55PM by Chairperson David Janiec

Submitted by

Renee Westa-Lusk appointed minute taker Member of the PAC