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

In the matter of:

Ordinance No. 02-18


**ESTABLISHING GROUNDWATER
EXTRACTION FEES AND THE RULES,
REGULATIONS AND PROCEDURES
FOR THEIR IMPOSITION**

I, Lauren Duffy, Clerk of the Board of Directors for the Indian Wells Valley Groundwater Authority, do certify that the following ordinance, on motion of Director Gleason, seconded by Director Brown, was duly passed and adopted by the Board of Directors at an official meeting this 19th day of July 2018, by the following vote:

AYES: Brown, Gleason, Page

NOES: Breeden

ABSENT: Harrington


Clerk of the Board of Directors
Indian Wells Valley Groundwater Authority


IWVGA Board Chair

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

Section 1. This Ordinance shall become effective 30 days from the date of adoption and the entire Ordinance shall be published in accordance with California Government Code section 25124.

Section 2. Definitions. As used in this Ordinance, the following terms shall have the meanings stated below:

2.1 "Authority" means the Indian Wells Valley Groundwater Authority.

2.2 "Basin" means the Indian Wells Valley Groundwater Basin which is designated as basin number 6-54 in Department of Water Resources' Bulletin No. 118.

2.3 "De Minimis Extractor" shall have the same meaning set forth in California Water Code section 10721(e).

2.4 "Groundwater Extraction Facility ("Facility")" means any device or method used for the extraction of groundwater from the Basin.

2.5 "Groundwater Extraction Fee" means the fee set forth in Section 3 below.

2.7 "Groundwater Extractor" means both the owner and the operator of a Groundwater Extraction Facility located within the Basin.

2.8 "Water Resources Manager" means the individual given said title and position with the Authority by the Board of Directors.

Section 3. Groundwater Extraction Fee. Effective September 1, 2018, and continuing until rescinded by the Board, all groundwater extractions from and within the Basin shall be subject to measurement and the Groundwater Extraction Fee of three dollars (\$3.00) per tenth (.10) of an acre foot for all groundwater extracted from the Basin. The Groundwater Extraction Fee shall be determined and paid on a monthly basis with water extraction measurements rounded down to the nearest tenth (.10) of an acre foot per month.

Section 4. Groundwater Extraction Facility Registration. No later than August 20, 2018, a Groundwater Extraction Facility within the boundaries of the Basin shall be registered with the Authority by the Groundwater Extractor. A Groundwater Extraction Facility is prohibited from extracting groundwater from the Basin if it is not registered by August 20, 2018 and said prohibition shall continue until the Facility is registered to the satisfaction of the Water Resources Manager.

A Groundwater Extraction Facility constructed after August 20, 2018 must register and must receive registration approval from the Water Resources Manager prior to the extraction of any groundwater from the Basin.

The registration of a Groundwater Extraction Facility shall be made to the satisfaction of the Water Resources Manager and, at a minimum, the registration shall include the following information: 1) the name and contact address of the owner and, if different, the operator of the Groundwater Extraction Facility; 2) the location of the Groundwater Extraction Facility; 3) the name and address of the owner of the land upon which the Groundwater Extraction Facility is located; 4) a description of the equipment associated with the Groundwater Extraction Facility; 5) a description of the method used by the owner and operator to measure groundwater extractions from the Groundwater Extraction Facility; 6) a statement describing whether the extracted groundwater is used for residential, commercial, industrial or agricultural purposes, or a combination thereof; and, 7) any other information that the Authority's General Manager deems to be prudent and necessary to achieve the legal purposes of the Authority.

The Water Resources Manager shall review all registrations and return, with corrective comment, any registration that does not meet the Water Resources Manager's approval. Approved registrations shall receive an approval notice from the Authority. A Groundwater Extraction Facility may not extract any groundwater

from the Basin until it has received a registration approval notice.

Section 5. Groundwater Extraction Measuring and Reporting Method. Effective September 1, 2018, all groundwater extractions from, and within, the boundaries of the Basin shall be measured in a method approved by the Water Resources Manager and reported to the Authority by the Groundwater Extractor.

A Groundwater Extractor shall seek the Water Resources Manager's method approval through the submission of an Authority approved form before August 20, 2018. The Water Resources Manager shall review all method requests and return, with corrective comment, any method request that does not meet the Water Resources Manager's approval. Approved method requests shall receive an approval notice from the Water Resources Manager. A Groundwater Extraction Facility may not extract any groundwater from the Basin until it has received a method approval notice from the Water Resources Manager.

The preferred method for monitoring groundwater extractions shall be through a flow metering device approved by the Water Resources Manager. A secondary method shall be through use of electrical records and pump efficiency data. If the above options are not available, the Groundwater Extractor must seek and receive approval from the Water Resources Manager of an alternative method prior to September 1, 2018.

Section 6. Groundwater Extraction Reporting and Fee Payment. On the first day of each calendar month, a Groundwater Extractor shall read and record the necessary data for the measuring method used by the Groundwater Extraction Facility. Before the 10th day of each calendar month, the Groundwater Extractor shall self-report the necessary data from its Groundwater Extraction Facility on the self-reporting form provided by the Authority and pay the Groundwater Extraction Fee set forth in Section 3 above.

If unusual circumstances exist, a Groundwater Extractor may request that its Groundwater Extraction Facility be placed on a modified reporting and billing schedule approved by both the Authority's General Manager and the Water Resources Manager.

Section 7. Delinquent Accounts. As prescribed by California Water Code section 10730.6, if a Groundwater Extractor knowingly fails to pay the Groundwater Extraction Fee within thirty (30) days of the due date, it shall be deemed delinquent and such Groundwater Extractor shall be assessed interest at the rate of one (1) percent per month on the delinquent amount of the Groundwater Extraction Fee and a one-time penalty charge of ten (10) percent on the delinquent amount of the Groundwater Extraction Fee, in addition to the Groundwater Extraction Fee owed to the Authority.

As an additional remedy, following a noticed public hearing, the Authority may order the Groundwater Extractor to cease extraction of groundwater until all delinquent fees, interest and penalties are paid. The Authority shall give notice to the Groundwater Extractor by certified mail not less than 15 days in advance of the public hearing.

The above cited rights are in addition to those rights which the Authority may otherwise be prescribed by law.

Section 8. Owner Responsibility. The owner of a Groundwater Extraction Facility is the primary party liable for the payment of the Groundwater Extraction Fee, interest and penalties if an operator of a Groundwater Extraction Facility fails to comply with the provisions of this Ordinance. The owner of a Groundwater Extraction Facility shall provide the requirements of this Ordinance in any agreement entered

into with well operators and water users.

Section 9. New Groundwater Extraction Facility. A Groundwater Extraction Facility constructed after the effective date of this Ordinance shall comply with the requirements set forth in this Ordinance prior to the extraction of any groundwater from the Basin at such Facility.

Section 10. Use of Extraction Revenues. Revenues collected through the Groundwater Extraction Fee program shall be used exclusively for the purposes authorized in California Water Code section 10730.

Section 11. Violations. Any violation of any provision prescribed in this Ordinance shall subject the violator to possible civil penalties and civil action by the Authority. The Authority's civil penalties and civil action rights are additional rights to those rights which may otherwise be prescribed to the Authority by law.

Section 12. Exemptions. As provided by law, and in particular California Water Code section 10730, federal entities are exempt from the provisions of this Ordinance, as are De Minimis Extractors, unless, and only if, the particular provision expressly provides otherwise.

Section 13. Severability. If any provision of this Ordinance, or its application to any person, entity, or circumstance, is held invalid or to any extent illegal or incapable of being enforced, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Section 14. California Environmental Quality Act. The Board of Directors finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to California Public Resources Code section 21080(b)(8) and CEQA Guidelines section 15273(a) because it concerns the establishment of operational rates and charges. The Board of directors also finds this Ordinance is exempt from CEQA requirements pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with a certainty that this action will not have a significant effect on the environment. In addition, the Board of Directors finds this Ordinance is exempt from CEQA requirements pursuant to CEQA Guidelines section 15378(b)(5) because it involves administrative activities that will not result in direct or indirect physical changes in the environment. The Board of Directors therefore directs that a Notice of Exemption be filed with the County Clerk in accordance with the CEQA Guidelines.