

IWVGA ADMINISTRATIVE OFFICE

STAFF REPORT

TO: IWVGA Board Members **DATE:** December 17, 2020

FROM: IWVGA Staff

SUBJECT: **Agenda Item No. 10 – Second Reading and Adoption of Ordinance 04-20 – Requiring the Installation of, Use of, and Reporting on Metering Equipment for Groundwater Extraction Facilities in the Indian Wells Valley Groundwater Basin**

DISCUSSION

Ordinance 01-20, “Requiring the Installation of, Use of and Reporting on Metering Equipment for Groundwater Extraction Facilities in the Indian Wells Valley Groundwater Basin”, was adopted by the Board March 19, 2020.

The Ordinance, which was introduced at that last Board meeting, includes the following requirements for **non de minimis** groundwater extractors.

ARTICLE 2. INSTALLATION AND USE OF METERING EQUIPMENT

Section 1. Extraction Facility Metering Installation Requirements

Groundwater Extractors in the Basin shall, at their own expense, install a Water Meter and an Hour Meter on each and every one of their Extraction Facilities by **no later than June 1, 2020**.

Section 2. De Minimis Extractor Exemptions to the Metering Requirements.

De Minimis Extractors are exempt from the requirements of this Ordinance provided that they have registered their Extraction Facility with the Authority.

Section 5. Secondary Metering Equipment Requirements

Hour Meters, installed in conformance with the Authority’s then adopted “Groundwater Well Flowmeter Standards,” shall be used as the secondary metering device on all Extraction Facilities in the Basin by **no later than June 1, 2020**.

Section 6. Metering Equipment Exemptions

If special circumstances exist which make it impossible for a Groundwater Extractor to meet either of the metering requirements of this Ordinance, the Groundwater Extractor may make a written request for an alternative measuring requirement by **no later than May 1, 2020**. The request must be provided in writing and it must set forth a specific alternative method for measuring Extractions from the Extraction Facility.

ARTICLE 3. METER TESTING REPORTS AND REPAIRS.

Section 1. Meter Testing

All Metering Equipment shall be checked for accuracy, in accordance with the Authority's then adopted "Groundwater Well Flowmeter Standards," by **August 1, 2020**, and every 2 years thereafter, by a person qualified to test, repair, and install such equipment. In addition, whenever Metering Equipment is installed or repaired, it shall be checked for accuracy, in accordance with the Authority's then adopted "Groundwater Well Flowmeter Standards," by a person qualified to test, repair, and install meters.

Section 2. Accuracy Test Report Submission

All Groundwater Extractors shall submit a test report, in accordance with the Authority's then adopted "Groundwater Well Flowmeter Standards," on an Authority provided form by **August 1, 2020**, and every 2 years thereafter, certifying the Metering Equipment accuracy.

A letter dated September 22, 2020 was mailed to all registered non de minimis groundwater extractors that had not complied with the requirements of the Ordinance as of the date of the letter. In response to the letter, Staff has received inquiries from non de minimis extractors pumping relatively small amounts of water containing questions/concerns about compliance including the ability to pay the cost of purchasing, installing, and testing new metering and recording equipment.

At the October 15th Board meeting, the Board heard these concerns raised by small mutuals and co-ops and requested staff bring a recommendation on potential changes to the Ordinance to the November meeting. In consideration of the request from the Authority Board for a recommendation to accommodate the comments received from small mutuals and co-ops regarding compliance to Metering Ordinance 01-20, staff is recommending an Article 8 be added to the Ordinance.

ARTICLE 8. VARIANCE REQUEST FOR QUALIFYING SMALL MUTUAL WELL OWNERS/OPERATORS

Small mutual and co-op well owners/operators, and others that can demonstrate pumping volumes of under 10af per year, may apply in writing for a Board variance to the requirements of Article 2 and Article 3 of this Ordinance. Additionally, those pumping solely for residential purposes that can demonstrate a severe economic hardship may also apply in writing for a Board variance to the requirements of Article 2 and Article 3 of this Ordinance. Requests must be provided in writing to the Clerk of the Board and they must clearly stating what is being requested and the justification for the request. The request will be forwarded to the General Manager and Water Resources Manager for review, consideration and Board recommendation. The Board shall consider the request at a subsequent Board meeting at which time the requestor may be asked to provide further support for the request.

Authority staff has reviewed and considered the environmental impacts of this action and concluded that this action is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines section 15273 and Public Resources Code section 21080(b)(8) because it is for the establishment of operational rates and charges. Additionally, it has been determined that this action is exempt from further environmental review pursuant

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. Moreover, it has been determined that this action is exempt from further environmental review pursuant Guidelines section 15378(b)(5) because it involves administrative activities that will not result in direct or indirect physical changes in the environment.

RECOMMENDED BOARD ACTION(S)

In recognition of the impact of the current metering structure on small mutuals and co-ops and the additional cost burden for full compliance to Ordinance 01-20 in addition to the fact some of these groundwater extractors have a relatively insignificant impact on pumping within the basin, Staff recommends Board consider and approve the addition of Article 8 to Ordinance 01-20. Therefore it is recommend that the Board:

- 1) Make a finding that the proposed Ordinance is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines section 15273 and Public Resources Code section 21080(b)(8) because it is for the establishment of operational rates and charges. Additionally, it has been determined that this action is exempt from further environmental review pursuant 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. Moreover, it has been determined that this action is exempt from further environmental review pursuant Guidelines section 15378(b)(5) because it involves administrative activities that will not result in direct or indirect physical changes in the environment.
- 2) Introduce the attached Ordinance by reading aloud its Title: Ordinance No 04-20 Requiring the Installation of, Use of and Reporting on Metering Equipment for Groundwater Extraction Facilities in the Indian Wells Valley Groundwater Basin.
- 3) Waive reading the entirety of the Ordinance and adopt.

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

In the matter of:

Ordinance No. 04-20

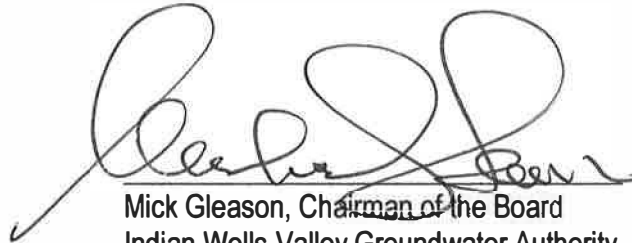
**REQUIRING THE INSTALLATION OF, USE OF AND
REPORTING ON METERING EQUIPMENT FOR
GROUNDWATER EXTRACTION FACILITIES IN
THE INDIAN WELLS VALLEY GROUNDWATER BASIN.**

I, April Keigwin, Clerk of the Board of Directors for the Indian Wells Valley Groundwater Authority, do certify that the following ordinance, on motion of Director Page seconded by Director Hayman, was duly passed and adopted by the Board of Directors at an official meeting this 17th day of December, 2020, by the following vote:

AYES: Hayman, Gleason, Page, Vallejo, Saint-Amand

NOES:

ABSENT:


Mick Gleason, Chairman of the Board
Indian Wells Valley Groundwater Authority

ATTEST:

Clerk of the Board of Directors
Indian Wells Valley Groundwater Authority


April Nordenstrom

WITNESSETH

(a) The Indian Wells Valley Groundwater Authority ("Authority") was formed for the express purpose of cooperatively carrying out the requirements of the Sustainable Groundwater Management Act ("SGMA"), including, but not limited to, the funding, development, adoption and implementation of a Groundwater Sustainability Plan ("GSP") that achieves groundwater sustainability in the Indian Wells Valley Groundwater Basin.

(b) The Authority is the exclusive Groundwater Sustainability Agency for the Indian Wells Valley Groundwater Basin, which is designated as Basin number 6-54 in Department of Water Resources' Bulletin No. 118.

(c) The Authority adopted the "Groundwater Sustainability Plan for the Indian Wells Valley Groundwater Basin" on January 16, 2020.

(d) A fundamental component of the Groundwater Sustainability Plan for the Indian Wells Valley Groundwater Basin is the accurate measurement, reporting and monitoring of groundwater extractions and, with the exception of certain extraction facilities, SGMA provides the Authority with the express power to require the metering of all extraction facilities in the Basin.

(e) While the Authority previously adopted Ordinance 01-20, there is now a desire to add an additional Article 8 to said Ordinance to provide a variance request procedure. For operational reasons, this Ordinance shall completely supersede the prior Ordinance 01-20 upon this Ordinance's effective date but prior to said date, Ordinance 01-20 shall remain in full force and effect.

(f) The Authority has reviewed and considered the environmental impacts of this action and concluded that this action is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines section 15273 and Public Resources Code section 21080(b)(8) because it is for the establishment of operational rates and charges. Additionally, it has been determined that this action is exempt from further environmental review pursuant 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. Moreover, it has been determined that this action is exempt from further environmental review pursuant Guidelines section 15378(b)(5) because it involves administrative activities that will not result in direct or indirect physical changes in the environment.

NOW THEREFORE, the Board of Directors of the Indian Wells Valley Groundwater Authority ordains as follows:

ARTICLE 1. GENERAL

Section 1. Title

This Ordinance shall be known as the "Metering Ordinance of the Indian Wells Valley Groundwater Authority."

Section 2. Jurisdictional Findings

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

Section 3. Effective Date

This Ordinance shall take effect thirty days after its adoption on the 17th day of January 2021 and it shall remain in full force and effect until expressly rescinded, and/or amended, by the Authority's Board of Directors. Authority Ordinance 01-20 shall remain in full force and effect until said date at which time this Ordinance shall supersede Ordinance 01-20. Dates prior to the Effective Date of this Ordinance are contained herein because those dates were valid under Ordinance 01-20 and this Ordinance does not change the effectiveness of those dates or the regulation prescribe therein.

Section 4. Certification

The Clerk of the Board of Directors shall certify the passage and adoption of this Ordinance and shall cause the same to be published in accordance with applicable law.

Section 5. Definitions

As used in this Ordinance, the following terms shall have the meanings stated below:

- A) **"Authority"** shall mean and refer to the Indian Wells Valley Groundwater Authority.
- B) **"Basin"** shall mean and refer to the Indian Wells Valley Groundwater Basin which is designated in DWR Bulletin 118 as Basin No. 6-54.
- C) **"De Minimis Extractor"** shall mean and refer to any person who extracts, for domestic purposes, two acre-feet or less per year.
- D) **"Extraction"** shall mean and refer to the act of obtaining groundwater by pumping or other controlled means.
- E) **"Extraction Facility"** shall mean and refer to any device or method used (e.g. water well) for the extraction of groundwater within the Basin.
- F) **"Groundwater"** shall mean and refer to any and all waters found beneath the surface of the earth.
- G) **"Groundwater Extractor"** shall mean and refer to a person who operates a groundwater Extraction Facility. The owner of land upon which a groundwater Extraction Facility is situated shall be conclusively presumed to be the operator unless a satisfactory showing is made to the Authority that the Extraction Facility is operated by some person other than the owner.
- H) **"Groundwater Well Flowmeter Standards"** shall mean and refer to the Authority's adopted standards setting forth meter specifications and containing information from meter manufacturers, distributors, installers and accuracy testers.
- I) **"Hour Meter"** shall mean and refer to a manufactured instrument for accurately measuring and recording elapsed pumping times in hours and tenths of an hour.

- J) **“Metering Equipment”** shall mean and refer to both the primary and secondary metering equipment used to record extractions by an Extraction Facility.
- K) **“Person”** shall mean and refer to any person, firm, association, organization, partnership, business trust, corporation, limited liability company or company.
- L) **“Water Meter”** shall mean and refer to a manufactured instrument for accurately measuring and recording the flow of water in a pipeline.
- M) **“Water Year”** shall mean and refer to the period from October 1 through the following September 30, inclusive.

ARTICLE 2. INSTALLATION AND USE OF METERING EQUIPMENT

Section 1. Extraction Facility Metering Installation Requirements

Groundwater Extractors in the Basin shall, at their own expense, install a Water Meter and an Hour Meter on each, and every one, of their Extraction Facilities by no later than June 1, 2020.

Section 2. De Minimis Extractor Exemptions to the Metering Requirements.

De Minimis Extractors are exempt from the requirements of this Ordinance provided that they have registered their Extraction Facility with the Authority.

Section 3. Federal Extraction Facility Metering

Federally owned Extraction Facilities are exempt from the requirements of this Ordinance.

Section 4. Primary Metering Equipment Requirements

Water Meters, installed in conformance with the Authority's then adopted "Groundwater Well Flowmeter Standards," shall be used as the primary metering device on all Extraction Facilities in the Basin by no later than June 1, 2020.

Section 5. Secondary Metering Equipment Requirements

Hour Meters, installed in conformance with the Authority's then adopted "Groundwater Well Flowmeter Standards," shall be used as the secondary metering device on all Extraction Facilities in the Basin by no later than June 1, 2020.

Section 6. Metering Equipment Exemptions

If special circumstances exist which make it impossible for a Groundwater Extractor to meet either of the metering requirements of this Ordinance, the Groundwater Extractor may make a written request for an alternative measuring requirement by no later than May 1, 2020. The request must be provided in writing and it must set forth a specific alternative method for measuring Extractions from the Extraction Facility.

ARTICLE 3. METER TESTING REPORTS AND REPAIRS.

Section 1. Meter Testing

All Metering Equipment shall be checked for accuracy by August 1, 2020, and every 2 years thereafter, by a person qualified to test, repair, and install such equipment. In addition, whenever Metering Equipment is installed or repaired, it shall be checked for accuracy by a person qualified to test, repair, and install meters.

Section 2. Accuracy Test Report Submission

All Groundwater Extractors shall submit a test report on an Authority provided form by August 1, 2020, and every 2 years thereafter, certifying the Metering Equipment accuracy.

Section 3. Inaccuracy Reporting and Repair

Metering Equipment found to be in error by more than 3 percent (3%) shall be immediately reported to Authority and repaired, or replaced, by the Extractor.

Section 4. Special Circumstances Requiring Further Accuracy Testing

If the Authority has reason to believe that Extraction reported from an Extraction Facility is in error, the Authority may, at its sole discretion, order the Extractor to immediately have the Extraction Facility's Metering Equipment checked for accuracy by a person qualified to test, repair, and install meters.

ARTICLE 4. ANNUAL EXTRACTION STATEMENT

On, or before, June 1, 2020, and thereafter annually on, or before, each November 1st, all Extractors must provide the Authority with an Annual Extraction Statement ("Statement") on a form provided by the Authority. The Annual Extraction Statement will report on the Extractions over the last Water Year from each Extraction Facility operated by the Extractor.

ARTICLE 5. IMPLEMENTATION ASSISTANCE

Groundwater Well Flowmeter Standards will be developed, adopted and periodically reviewed by the Authority. The adopted Standards shall set forth meter specifications and it will contain information from meter manufacturers, distributors, installers and accuracy testers.

ARTICLE 6. ENFORCEMENT PENALTIES

Section 1. Violations

Violations of this Ordinance shall be subject to the provisions of all applicable laws including, but not limited to, the penalties and procedures set forth in Water Code section 10732.

Section 2. Altering of Metering Equipment.

Any person who individually, or through direction to another, alters, adjusts, manipulates, obstructs, or in any manner interferes with, or tampers with, any groundwater Extraction Facility, and/or its Meter or Meter Equipment, shall be found to have intentionally violated this Ordinance and may be subject to potential criminal and civil penalties.

ARTICLE 7. AUTHORITY INSPECTION OF METERING EQUIPMENT

The Authority may inspect metering equipment installations for compliance with this Ordinance at any reasonable time.

ARTICLE 8. VARIANCE REQUEST FOR QUALIFYING SMALL MUTUAL WELL OWNERS/OPERATORS

Small mutual and co-op well owners/operators, and others that can demonstrate pumping volumes of under 10af per year, may apply in writing for a Board variance to the requirements of Article 2 and Article 3 of this Ordinance. Additionally, those pumping solely for residential purposes that can demonstrate a severe economic hardship may also apply in writing for a Board variance to the requirements of Article 2 and Article 3 of this Ordinance. Requests must be provided in writing to the Clerk of the Board and they must clearly stating what is being requested and the justification for the request. The request will be forwarded to the General Manager and Water Resources Manager for review, consideration and Board recommendation. The Board shall consider the request at a subsequent Board meeting at which time the requestor may be asked to provide further support for the request.