

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

In the matter of:

Resolution No. 05-21

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 AND APPLICABLE PENALTIES OR CEASE PUMPING WATER FROM THE INDIAN WELLS VALLEY GROUNDWATER BASIN FOR ANY PURPOSE EXCEPT PROVIDING WATER TO SEARLES DOMESTIC WATER COMPANY IN AMOUNTS NEEDED AND QUALITY REQUIRED TO MEET THE DEMAND OF ALL PERSONS WHO HAVE A WATER CONNECTION TO AND ARE LOCATED WITHIN THE SERVICE AREA OF THAT COMPANY

I, April Keigwin, Clerk of the Board of Directors for the Indian Wells Valley Groundwater Authority, do certify that the following resolution, on motion of Director Peters, seconded by Chairman Hayman, was duly passed and adopted by the Board of Directors at an official meeting this 9th day of June 2021, by the following vote:

AYES: Hayman, Peters, Vallejo

NOES: Itnyre

ABSENT: Rajtora


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 and continued and concluded that hearing on June 9th, 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 9th day of June, 2021.

SIGNED:


President of the Board of Directors

ATTEST:

Resolution 05-21

EXHIBIT 1

ORDER OF THE INDIAN WELLS VALLEY GROUNDWATER AUTHORITY DIRECTING SEARLES VALLEY MINERALS TO PAY ALL OUTSTANDING REPLENISHMENT FEES ALONG WITH INTEREST AND APPLICABLE PENALTIES OR CEASE PUMPING WATER FROM THE INDIAN WELLS VALLEY GROUNDWATER BASIN FOR ANY PURPOSE EXCEPT PROVIDING WATER TO SEARLES DOMESTIC WATER COMPANY IN AMOUNTS NEEDED AND QUALITY REQUIRED TO MEET THE DEMAND OF ALL PERSONS WHO HAVE A WATER CONNECTION TO AND ARE LOCATED WITHIN THE SERVICE AREA OF THAT COMPANY

Having conducted a hearing on May 6th, 2021, continued to and concluded on June 9th, 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 State of California has determined that the Basin is currently experiencing critical overdraft and Basin modeling has shown that if the overdraft is left unchecked the Basin's infrastructure will not be able to meet the required water demands in roughly 45 years.

On August 21, 2020, the Authority 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 are 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 31 wells, or roughly 1 in 4 will be impacted. These shallow wells provide domestic service to an estimated total of 1,588 homes and the well repair damages alone are estimated at roughly 17.3 million dollars. Additionally, as the Basin's water levels decline even further, its anticipated that water costs would be increased substantially and permanently because of the need for additional water treatment facilities and technologies to combat worsening water quality.

Based on the foregoing the Authority finds that it is necessary to strictly enforce the Replenishment Fee to collect the money needed to promptly address these exigent water supply conditions and avoid further irreparable damage to the Basin. Notably, when compared to the long-term solution costs of imported water supplies, the alternative of continuing to overdraft the Basin without working to the solution is no longer a rational choice given the anticipated damages costs caused by the overdraft.

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. Searles Valley Minerals 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.

Searles Domestic Water Company, a regulated Public Utility, receives water from Searles Valley Minerals as its sole source for providing water to meet the demands of persons within its service area for domestic purposes in the Trona community. The production of water by Searles Valley Minerals for domestic use in Trona is not subject to the Replenishment Fee and the Authority makes no orders herein which will hinder the supply or increase the cost of water put to domestic use in Trona.

Searles Valley Minerals has repeatedly threatened to stop delivering water to Searles Domestic Water Company in the event that it is required to pay the Replenishment Fee and it elects to stop its operations. However, pursuant to California Public Utilities Code section 1826, Searles Valley Minerals has a continuing legal obligation to provide water to ensure sufficient domestic water supply to the residents of Trona if its industrial or other business operations cease for any reason. This obligation is subject to enforcement by the California Public Utilities Commission. Accordingly, the Authority finds that the water supply of Trona cannot be legally disturbed by Searles' election to shut down its other operations.

Moreover, the California Public Utilities Commission regulates the rates that may be charged by a regulated public utility such as Searles Domestic Water Company and since the domestic use in Trona is not subject to the Replenishment Fee, the Authority finds that there is no basis to increase the domestic water supply rates in Trona without a rate setting process held by the California Public Utilities Commission; a process that would be predicated on the fact that the Authority's Replenishment Fee is not charged to the domestic use in Trona.

Searles Valley Minerals has also claimed that the configuration of its water system prevents it from only pumping the water needed to meet the demands of domestic use in the Trona community. Accordingly, this order shall not become effective until July 1, 2021 so that Searles Valley Minerals is afforded a reasonable time to modify its water system to ensure that domestic water service shall not be disturbed in the event that Searles Valley Minerals ceases pumping for its industrial uses rather than paying the Replenishment Fee.

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

1. Subject to the provisions of paragraph 2 below, and pursuant to applicable law, Water Code section 10730.6 and Section 6 of the Indian Wells Valley Groundwater Authority Ordinance Number 03-20, effective July 1, 2021, 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.
2. This order shall not apply to any groundwater extraction by Searles Valley Minerals to meet its continuing obligation to provide water to Searles Domestic Water Company in order to meet the demand of all persons within the service area of Searles Domestic Water Company.
3. If Searles Valley Minerals intends to not pay the outstanding fees by the effective date of this order, Searles Valley Minerals shall employ all reasonable efforts to maintain, repair or alter its water system so that it is capable of extracting and delivering to Searles Domestic Water Company sufficient water to meet the demand of all persons within the service area of Searles Domestic Water Company in the absence of groundwater extraction for other uses.
4. If Searles Valley Minerals continues to engage in the water production prohibited by this Order without paying replenishment fees following the effective date of this Order, legal counsel for the Authority shall initiate court proceedings to enforce this order. In addition, staff may send notice of a further hearing for the Board to consider the imposition of additional penalties pursuant to its legal authority.