

April 4, 2018

VIA ELECTRONIC MAIL

Indian Wells Valley Groundwater Authority
Board of Directors
c/o Clerk of the Board

Re: *IWVGA April 5, 2018 Workshop – Meadowbrook Dairy Comment Letter on Proposed Water Code Section 10730 Fee*

Dear IWVGA Board Members:

On behalf of our Firm's client, Meadowbrook Dairy ("Meadowbrook"), we submit this comment letter to the Indian Wells Valley Groundwater Authority ("IWVGA") to respectfully state, for the record, our concerns regarding the proposed California *Water Code* Section 10730 fee ("Proposed Fee") that is presented in the IWVGA Staff Report and Data Package (collectively, the "Staff Report") for April 5, 2018 IWVGA workshop meeting ("Workshop"). This letter supplements our March 14, 2018 letter to the IWVGA, a copy of which is enclosed as Attachment "1".

Our concerns with the Proposed Fee are summarized below and addressed in more detail in the corresponding sections that follow:

1. The Proposed Fee is being presented by the IWVGA without proper vetting through the PAC and the TAC and thereby fails to afford meaningful participation for the IWVGA's *only* standing (open to the public) committees.
2. The Proposed Fee fails to address or comply with California's Constitutional requirements for local fees and taxes.
3. The Proposed Fee contains substantial gaps and inconsistencies that must be resolved before imposing any type of volumetric fee.
4. The Proposed Fee is virtually the same amount if not more expensive than the State Water Board would charge to develop its own plan for this basin.

We reserve the right to raise additional concerns and objections to the Proposed Fee. We also request that the Board consider and publicly evaluate potential funding alternatives to pumping fees.

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1. The Proposed Fee is Being Presented by the IWVGA without Proper Vetting Through the PAC and the TAC and Thereby Fails to Afford Meaningful Participation for the IWVGA's *Only* Standing (Open to the Public) Committees.

The IWVGA has established a pattern of operating significantly by *ad hoc* committees that meet privately, including its *ad hoc* finance committee that was originally established many months ago. In our March 14, 2018 letter, we urged the Board to establish a *Standing* Finance Committee that would meet in *public* and would consider not just this Fee Proposal but also other potential funding options and issues. Many members of the public have made this same request. We also requested that the PAC and TAC be given a meaningful opportunity to evaluate the Proposed Fee through their regular meetings. The IWVGA Board determined instead that a Standing Finance Committee was simply not needed, and it set the Workshop to schedule just 30 minutes each for the entire PAC and the entire TAC to provide input.

Given the number of PAC and TAC members, this averages *even less* than the 3-minutes per person being allotted to members of the *general public*. This determination deprives the PAC and TAC of meaningful participation on this critical issue.

The Staff Report states that the IWVGA plans to approve the Proposed Fee in May 2018 and then immediately begin imposing assessments on pumping beginning in June 2018. This timeline is both aggressive and premature. We urge this Board not to rush a decision that will significantly impact pumpers and property owners throughout the basin, especially in light of the substantial flaws that exist in this Proposed Fee. Instead, we respectfully request that the PAC and the TAC be given an opportunity to address the Fee Proposal at one of their regular meetings, and that the IWVGA Board (and PAC/TAC) consider all viable funding alternatives rather than rushing into a volumetric fee.

Taking the necessary time to engage the PAC and TAC will not deprive the IWVGA of funds needed in the short run, in light of the Indian Wells Valley Water District's \$500,000 advance funds to the IWVGA and available Proposition 1 grant funds that will soon become available to the IWVGA. As stated in the IWVGA's 2018 Budget that was approved in February, "Staff took the following assumptions in developing the FY 20178 Operating Budget: ... 3. Short-term cash flow needs met by an Advance Funds Agreement with the IWV Water District." Through the PAC and the TAC, the IWVGA should also evaluate other funding alternatives such as, for example,

groundwater well and property-ownership fees, and other grant funding and low-interest financing available to the IWVGA.

2. The Proposed Fee Fails to Address or Comply with California's Constitutional Requirements for Local Fees and Taxes.

Under Article XIII C of the California Constitution (sometimes generally referred to as Proposition 26), any special levy, charge or exaction of any kind imposed by a local government is deemed a tax that must be submitted to and approved by a super-majority (two-thirds) approval of voters. To evade designation as a tax, the local government has the burden and must prove that at least one of the specifically enumerated Constitutional exemptions applies.

Those enumerated exemptions include:

- (1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.
- (2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.
- (3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.
- (4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.
- (5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.
- (6) A charge imposed as a condition of property development.
- (7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D (also commonly known as Proposition 218).

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Additionally, the local government has the burden to prove: (1) that a levy, charge, or other exaction is not a tax; (2) that the amount is no more than necessary to cover the reasonable costs of the governmental activity (see Section 3 below); and (3) that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity (see Section 3 below).

Neither the current Staff Report nor the IWVGA Staff's March 15 Draft Memorandum addresses or attempts to substantiate the Proposed Fee under these Constitutional requirements, despite the fact that both Kern County and IWVGA Staff have already acknowledged that *Water Code* Section 10730 fees must comply with the Constitutional limitations.

In its amicus brief filed with the California Supreme Court in the *City of San Buenaventura v. United Water Conservation District* case, Kern County made the following statements:

- *"Groundwater regulatory fees in SGMA would receive constitutional review under Proposition 26, which expressly covers regulatory fees through a specific exemption."*
- *"To support application of the exemption for regulatory fees and charges in Proposition 26's article XIII(e)(3), groundwater regulatory agencies will need to defend their charges as reasonable and fairly apportioned."*
- *"This constraint will discipline the section 10730(a) fee structures that future GSAs establish, and in cases where such discipline is lacking, provide for judicial voiding of unreasonable fees."*

We question why the IWVGA has chosen not to engage a fee consultant or to conduct a fee study necessary to support the Proposed Fee and for compliance with Propositions 26 and 218, particularly when IWVGA Staff previously made that recommendation to the IWVGA Board. The October 2016 IWVGA Staff Report states:

"The question of whether Proposition 26 applies would need to be addressed. Without knowing the type of fee proposed, it is difficult to determine if Proposition 218 and/or Proposition 26 may apply to imposing a fee under Water Code Section 10730. We proposed (sic) engaging a professional fee consultant with knowledge and experience in

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Proposition (sic) 218 and 26, and familiarity with SMGA (sic) would be help (sic) the Board consider a groundwater fee.”

Rather than follow Staff’s October 2016 recommendation, the Board shortly thereafter established its *ad hoc* finance committee that met in private and then, many months later, developed this present Fee Proposal with IWVGA Staff and without vetting through the PAC and the TAC.

We assume that, by neither addressing nor evaluating the Proposed Fee under the analytical framework required of Propositions 26 and 218, the IWVGA has taken the position that those requirements somehow do not apply. As acknowledged by Kern County, however, a failure to structure such fees in accordance with the Constitutional requirements renders the Proposed Fee subject to voiding.

We again request that the IWVGA publicly provide its analysis of the Proposed Fee in accordance with Propositions 26 and 218 and through vetting by the PAC and TAC, before any fees are considered for adoption.

3. The Proposed Fee Contains Substantial Gaps and Inconsistencies that Must Be Resolved before Imposing Any Type of Volumetric Fee.

In its current presentation, the Proposed Fee is a tax requiring super-majority voter approval. The IWVGA has not carried its burden to identify and establish the applicability of any of the narrow and specific non-tax “fee” exemption provisions. Additionally, the Proposed Fee contravenes Article XIIC because it fails to satisfy the requirements: (1) that it is no more than necessary to cover the reasonable costs of the governmental activity; and (2) that the manner in which those costs are allocated to a payor bears a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.¹

The Proposed Fee as presented in the Data Package contains several flaws that demonstrate its lack of compliance with Article XIIC, which are primarily as follows:

¹ We reserve the right to address additional issues under Proposition 218 / Article XIID.

- a. The Staff Report Describes a Purported “Gap” to Be Funded; But it Does Not Adequately Detail What the Proposed Fee Would Actually be Used For and Suggests that it Would be Used as a Slush Fund.

The Staff Report’s \$2,541,586 “Gap Funding Required” describes a purported gap in IWVGA resources; but, it does not specify what the Proposed Fee would actually be used for. For example, the “GSP Development and SDAC Costs” are listed at \$3,748,600² which, according to the Staff Report, is based upon the IWVGA’s Proposition 1 Grant Funding Application and comprises \$1,500,000 of Prop 1 grant funding and \$1,602,600 in “Cost Share.” The Proposition 1 grant application excerpts in the Staff Report describe Cost Share components in footnotes identifying the entity(ies) responsible for those costs. Most of those cost share components are attributed generally to the “IWVGA” but without specifying the manner in which the IWVGA would fund the cost share components.

The IWVGA cannot seek to recover the entire \$1,602,600 “Cost Share” through the Proposed Fee because it is not clear how the Proposed Fee would be allocated with respect to specific cost share components, such as but not limited to:

- “Task 3d: Install Transducers and Telemetry Equipment” – \$41,563
- “Task 5: Monitoring Wells:” “Design and Location Siting” – \$3,446 and “Work Plan and Well Construction” – \$16,213.
- “Task 6: Stream Gages” – \$34,346
- “Task 7: Weather Stations” – \$19,475

In other words, the Fee Proposal improperly combines all types of costs under the umbrella heading of “GSP Preparation” to be recovered through the Proposed Fee (as part of the “Gap to be Funded”) but without conducting the analysis required to conform to the limitations of *Water Code* Section 10730 and Propositions 26 and 218. The analysis requires establishing that the Proposed Fee is no more than necessary to cover the reasonable costs of the governmental activity, which includes careful allocation of funds to be recovered through a fee as distinct from other funding sources such as grant funding and in-kind services. The IWVGA must also demonstrate, for example, how the four cost share components listed above comprise GSP development or IWVGA administrative costs, particularly since these four items appear instead to be *projects*.

² The \$3,102,600 estimated cost for GSP Preparation is extremely high—and possibly among the highest of any basin in California.

b. The “City of Ridgecrest Reimbursable Costs” and “Legal Costs” Apparently Attempt to Seek Reimbursement for In-Kind Services Through Revenue from Pumpers through the Proposed Fee.

The Staff Report’s “Estimated Costs Required to be Funded by Groundwater Pumping Assessment” includes an amount of \$195,875.93 for “Attorney Costs” from August 2016 through December 2019. These line items raise several questions and appear to improperly seek to recover from pumpers a substantial amount of money that, as we understand, the City of Ridgecrest has committed to provide as an in-kind service to the IWVGA.

The Retainer Agreement between the IWVGA and Lemieux & O’Neill (who also represents the City of Ridgecrest) states under Paragraph 3 of that agreement:

“Compensation to Attorney. Attorney services are provided as “in kind” services from the City of Ridgecrest.”³

We request clarification for why the IWVGA now attempts instead to recover this substantial amount of the City’s attorney costs—including costs dating back to August 2016—from pumpers through the Proposed Fee. We further request clarification that all attorney costs for the IWVGA general counsel services will be excluded from the Proposed Fee in light of the general counsels’ contract provisions that such services are to be provided to the IWVGA as in-kind services.

The 2018 IWVGA Budget contains no line item for general counsel legal services. Rather, the staff report for that budget approval includes the following statements:

- “[M]uch of the work of the IWVGA is in the form of in-kind services provided by the member agencies.”
- “Staff took the following assumptions in developing the FY 2018 Operating Budget: ... 2. Management and legal services to be provided by staff members and from the member agencies.”
- “A traditional line-item budget is not practical given that so much in-kind work is provided by member agencies.”

³ The Retainer Agreements for each of the IWVGA’s three (3) general counsel firms/entities contain the same commitment to the IWVGA.

As a separate but related issue, since March, the “Legal Costs” projected by IWVGA Staff have more than tripled to \$350,000, but no explanation for the change has been provided. The Staff Report merely states: “Legal costs anticipated to be incurred by IWVGA Special Counsel for a *validation action* and *associated legal costs for GSP development and implementation*.” Notably, the 2018 IWVGA Budget includes a line item for “Legal Services” amounting to just \$12,000, which are explained in the budget staff report as “funds for legal services from the IWVGA’s outside legal counsel, James Markman.”

We request an explanation for this substantial increase in “Legal Costs” listed in the Staff Report for the Proposed Fee, particularly given its extensive contrast to the \$12,000 budgeted for Special Counsel legal services in 2018. We also request confirmation that none of the “Legal Costs” would be used to recover IWVGA general legal counsel costs in light of the in-kind commitments contained in those contracts with the IWVGA. We also request that legal justification be provided to support recovering any such “Legal Costs”—particularly special legal counsel services to fund a GSP validation litigation proceeding—under *Water Code* Section 10730 and the Constitutional requirements.

c. The “IWVGA Support Costs” Requires Additional Explanation and Detail

We respectfully request that each line item in the “IWVGA Support Costs” category be supported with additional detail and explanation such as, but not limited to:

- What is the basis for projecting \$52,000 for “additional project management costs to develop and maintain a Microsoft Project schedule with budget tracking following the Navy’s POAM format”? \$52,000 to run Microsoft Project software appears to be unusually high.
- What is included in and what is the basis for projecting \$121,500 for “Groundwater Pumping Assessment Support”? To whom would it be paid?
- What is the basis for projecting \$103,000 for “Prop 1 Application / Reporting” and how, for example, can the Proposed Fee be justified under the Constitution and *Water Code* Section 10730 to cover costs associated with the applying for and reporting on SDAC project funding?

d. The “IWVGA Administrative Costs” Requires Additional Explanation and Detail

We respectfully request that each line item in the “IWVGA Administrative Costs” category be supported with additional detail and explanation, such as but not limited to how each figure was derived and who and/or which agency would be receiving reimbursement for those items. This is a question that arises particularly for the IWVGA as a Joint Powers Authority.

Please also confirm that no portion of any category in this section would be used to pay IWVGA general counsel legal services.

e. The Nearly \$1 Million “Reserve” is Excessive and Is Itself Flawed Because it is a Percentage of Other Inadequately Established Categories in Proposed Fee

The Proposed Fee and “Gap” includes \$939,070 as a “20% Reserve.” The Staff Report states that this “is included for unanticipated expenditures.” A footnote states that the “Reserve is 20% of the total of GSP Development and SDAC Costs (\$3,748,600), IWVGA Support Costs (\$435,250), IWVGA Administrative Costs (\$161,500), and Legal Costs (\$350,000).” Since each of these categories contains legal flaws and gaps, the reserve amount itself is also flawed. Both the excessive amount of the reserve and the stated fact in the Staff Report that the IWVGA cannot identify how reserve funds would be used creates the opportunity for the Proposed Fee to be used to generate money for a “slush fund” from which expenses would be paid in a manner that does not comply with *Water Code* Section 10730 or the Constitutional Requirements.

f. The Pumper and Pumping Data on which the Proposed Fee is Based Contains Many Gaps that Must Be Filled Before Imposing Any Fees on Any Pumps—Not the Other Way Around.

The *pumping data* on which any *pumping fee* is based must be accurate and as complete as possible *before* the IWVGA seeks to impose any fee based on pumping. A volumetric fee based on *incomplete* and *inaccurate* pumper and pumping data cannot satisfy the Constitutional requirement that a pumping fee or tax must be allocated to a payor in a manner that bears a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

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The Staff Report and Data Package reveals extensive information *gaps* regarding existing pumpers and pumping in the basin. This is particularly reflected in Staff Report Item 6 entitled “[IWVGA] Methods to Quantify/Report Groundwater Production,” and Tables “1” and “2” that follow.

Table 1 entitled, “Water Purveyors with Known Production over de Minimis” contains data almost exclusively drawn directly from the “Indian Wells Valley Cooperative Groundwater Management Group” groundwater production estimates. Those estimates, however, contain several gaps and inconsistencies that must be clarified and confirmed. Likewise, the 2014 “Farmer’s letter” referenced in the Staff Report contains figures that are likely outdated and low. Notably, “NO DATA” is listed for the City of Ridgecrest, which is disappointing since the City is a public agency.

Table 2 entitled, “Potential Water Purveyors with Production over de Minimis” also reveals significant data gaps in at least three ways. First, it contains “NO DATA” for any of the fifteen pumpers currently listed. Second, it fails to include or address how it will eventually include pumpers that must be listed. Table 2 states that “other well owners not included in this table are listed in Kern County Environmental Health database” but the Staff Report does not indicate how many such well owners exist or how much they pump.

The Staff Report also mischaracterizes and thereby overlooks an entire group of pumpers that must be considered and included among pumpers that would be subject to the Proposed Fee. The report in Item 6 of the Data Package states that “wells pumping two (2) acre-feet per year of water or less are considered ‘de-minimis’ and will not be subject to this assessment.” This characterization of “de minimis” extractors is not accurate. As indicated in our March 14, 2018 letter, a “de minimis extractor” is defined under SGMA as “a person who extracts, for domestic purposes, two acre-feet or less per year.” In other words, in order to qualify as “de minimis,” an extractor must both extract less than two (2) acre-feet per year, and that use must be for domestic purposes. The Proposed Fee fails to address how the IWVGA will determine whether pumpers satisfy both of the requirements in order to qualify as “de minimis.”

More broadly, by seeking to exempt an entire class of pumpers, the Proposed Fee fails to ensure that this pumping tax is allocated to the actual payors in a manner that bears a fair or reasonable relationship to the payors’ burdens on, or benefits received from, the governmental activity. Instead, the Proposed Fee would have other pumpers

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subsidizing exempted groups. The extensive list of “NO DATA” for many pumpers raises the same issue.

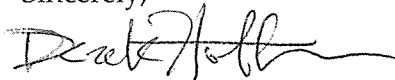
We respectfully reserve and restate our objection to the IWVGA’s preliminary determination to entirely exempt “de minimis” extractors from participating in the payment of fees or other funding mechanisms. Notably, even the State Water Board’s intervention fees structure includes a “de minimis fee” of \$100 per well if the State Water Board determines that those extractions will likely be significant. Collectively, those extractions comprise a significant portion of the current IWVGA estimates of this basin’s natural yield.

4. The Proposed Fee Amount Is Virtually the Same if Not More Expensive than the State Water Board Would Charge to Develop its Own Plan for this Basin.

One of the principal tenets of SGMA is its recognition that groundwater management in California is best accomplished locally. The same is generally true of the costs of local groundwater management as opposed to statewide management. However, the Proposed Fee range of *at least \$50 per acre foot* is virtually the same amount—and likely more expensive—than the \$55 per acre foot that the State Water Board would charge to develop its own Interim Plan for this basin.

We recognize that the Staff Report and Proposed Fee may change based upon the Board’s discussion and consideration of public comments, and we therefore reserve the right to comment further on this issue. Thank you in advance for considering our comments in this letter.

Sincerely,



Derek R. Hoffman, Attorney for
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

DRH:MDD

Encl: Attachment 1 – March 14, 2018 Letter to IWVGA Board

cc: S. Johnson, R. Strand, A. Christensen, D. Zdeba, J. Worth, K. Lemieux, P. Hall,
PAC Members, TAC Members, Client

Attachment 1

March 14, 2018

VIA ELECTRONIC MAIL

Indian Wells Valley Groundwater Authority
Board of Directors
c/o Clerk of the Board

Re: IWVGA March 15, 2018 Board Meeting – Agenda Item 10: Pumping Fees

Dear IWVGA Board Members:

On behalf of our Firm's client, Meadowbrook Dairy ("Meadowbrook"), this letter comments upon Agenda Item 10 of the Indian Wells Valley Groundwater Authority's ("IWVGA") March 15, 2018 Board Meeting, regarding Groundwater Authority Staff's Draft Memorandum entitled, "*Groundwater Pumping Fees to Finance Development and Adoption of a Groundwater Sustainability Plan and IWVGA Administrative Costs*" ("Memo"). We appreciate the opportunity to comment on this item, and we request that this letter be made a part of the public record and attached to meeting minutes.

Preliminarily, we appreciate the IWVGA Staff's recommendation in the Memo to provide more than the minimum required public engagement regarding the possible adoption of a *Water Code* Section 10730 fee. Notwithstanding, the Memo raises a number of questions and concerns. For clarity, and for your ease of reference, our comments below correspond to the applicable headings in the Memo.

"Authority to Impose Fees"

IWVGA Staff recommends in the Memo that the IWVGA adopt a groundwater pumping fee pursuant to *Water Code* Section 10730. The Memo does not, however, address the applicability or implementation of California's Constitutional provisions commonly referred to as Propositions 26 and 218, their implementing statutes and interpretive decisional law with respect to groundwater pumping fees. We request that IWVGA Staff address these questions for the benefit of the public and all pumpers in the basin before the fees are presented to the Board for possible action.

“Public Engagement”

We appreciate the IWVGA Staff’s recommendation to provide meaningful participation to pumpers and the public with respect to the fee proposal, beyond the minimum statutory requirements for public notice. We agree that a proposed public workshop prior to, and distinct from, the required *Water Code* Section 10730 public hearing is a good way, at a minimum, to begin engaging the public.

We also respectfully ask that the Board consider the following concerns and requests:

- The Board should establish its previously discussed *standing* Finance Committee, where fee proposals are discussed in detail in a *public* setting and directly with those IWVGA Board members on the committee.
- The proposed public workshop should be held separate from, and not displace, the April 5th PAC meeting. Instead, both the PAC and the TAC should first be given an opportunity to address this critical issue during one of their regularly scheduled meetings. Members of the PAC and TAC—the Board’s only two existing standing committees—should not be relegated to mere 3-minute comment periods at a single, public workshop. Groundwater pumping fees are exactly the type of critical issue that should be brought before the PAC and TAC for discussion, evaluation and recommendation.
- April 5, 2018, is too soon to hold a workshop (or PAC/TAC meeting) on this issue. Instead, we suggest that it first be explained in greater detail at a meeting of the Board’s yet-to-be established *standing* Finance Committee (particularly to explain the months-long deliberations of the *Ad-Hoc* Finance Committee), after which it should be brought to the PAC and TAC. To afford meaningful participation by pumpers and the public, we request that all data on which the proposed fee is based be provided at least fourteen (14) days prior to these committee meetings (rather than the proposed seven (7) days). After those meetings, a public workshop would be appropriate and more effective (and the proposed seven-day distribution of data would also likely suffice).
- With respect to the “public data” referenced in the Memo, there are two primary issues. First, the statutory language states: “...the [GSA] shall make available to the public[,] data upon which the proposed fee is based.” By contrast, the Memo refers to making “public data available.” Though this apparent distinction may not be intended, it suggests that there will be data

upon which the fee is based that will *not* be provided to the public (i.e. something other than “public data”). We kindly request clarification of what is meant by the reference to “public data” in the Memo and correction of the recommendation to conform to the statutory requirement.

“Impacted Pumpers Identification”

We agree that identifying all pumpers in the basin is a priority objective, including for the development of any fee proposal. No fee, especially a volumetric fee, should (can) be imposed before all pumpers are identified.

“Exempted Pumpers”

The Indian Wells Valley Groundwater Basin is a shared resource supporting many beneficial uses and users of groundwater. Correspondingly, the IWVGA should adhere to a policy that *includes* all beneficial uses and users of groundwater, to the maximum extent allowed by law, in the processes and programs by which sustainability is achieved. Though the current demand and sustainable yield for the Basin are still being studied and evaluated, the IWVGA Board has indicated that it will consider imposing groundwater pumping restrictions as part of the Groundwater Sustainability Plan.

Water Code Section 10730(a) states that: “A [GSA] shall not impose a fee pursuant to this subdivision on a de minimis extractor unless the agency has regulated the users pursuant to this part.” By proposing to exempt de minimis extractors from the proposed *Water Code* Section 10730 fee described in the Memo, is the IWVGA also considering ultimately considering exempting de minimis users from potential future pumping restrictions under the GSP or, in other words, from participating in achieving the shared goal of sustainability?

A failure to include “de minimis” pumpers in shouldering the burden of any proposed fee, including a *Water Code* Section 10730 fee, is unfair, and it would not reflect the shared use of the groundwater basin resource. As a collective group, “de minimis” pumpers in this basin are not yet well defined by the IWVGA. Public comments at PAC and TAC meetings indicate that there are as many as 1,000 “domestic well owners.” These figures indicate that this group likely commands a substantial portion of the basin demand and yield. Likewise, public comments have indicated that these pumpers include a variety of “co-ops” that may include in some cases as many as eight or more connections (not all of which, perhaps, are permitted).

It is also not presently clear whether and to what extent such domestic well owners are considered “de minimis” users under SGMA. A “de minimis extractor” is defined as a person who extracts, for domestic purposes, two acre-feet or less per year.” In other words, in order to qualify as “de minimis,” an extractor must both extract less than two acre-feet per year, and that use must be for domestic purposes. Both of these requirements presently constitute significant data gaps that must be addressed, especially before any volumetric fees are considered or imposed.

“Gap Funding Requirement” and “Calculation of Fees”

Water Code Section 10730(a) states in relevant part that: “A [GSA] may impose fees, including, but not limited to, permit fees and fees on groundwater extraction or other regulated activity, to fund the costs of a groundwater sustainability program, including, but not limited to, preparation, adoption, and amendment of a groundwater sustainability plan, and investigations, inspections, compliance assistance, enforcement, and program administration, including a prudent reserve.”

The figures and reference materials on which the “Gap Funding Requirement” and “Calculation of Fees” are derived in the Memo raise many questions and concerns. The Memo does not, for example, address or make clear whether or to what extent the specific “Expenditures” that comprise the “Total Gap Funding Required” would be funded by the proposed fee, or whether those expenditures may legally be recovered from pumpers in the form of a *Water Code* Section 10730 fee. The Memo refers to the “Stetson GSP and SDAC Budget” as an entire “Expenditure” line item in the amount of \$3,748,600, but it does not identify which specific items within that large (and possibly overestimated) expense category would qualify within the specific *Water Code* Section 10730 categories. Likewise, the proposed \$802,020 “Reserve” (which is more than half of the described Total Gap Funding Required) is probably excessive, rather than “prudent.” Also, it is not clear whether the “GSP Validation Action” listed as an Expenditure in the Memo would qualify as a permissible cost that may be recovered by a *Water Code* Section 10730 fee. It should also be clarified and confirmed that *Water Code* Section 10730 fees will not be used to pay for items covered by grant funds or in-kind services.

Further, in the event that the IWVGA adopts a *Water Code* Section 10730 fee, the resolution or ordinance by which the fee is adopted should include a sunset provision by which the fee expires no later than upon adoption of the GSP. At that point, the IWVGA could have to re-evaluate the need for such a fee.

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These are some of the variety of issues should be considered and evaluated, including through the committees as described above.

Finally, pursuant *Water Code* Section 10730(b)(2), Meadowbrook requests to be notified by mail of all meetings regarding new or increased fees. Please mail to my attention as follows:

Gresham Savage Nolan & Tilden, PC
Attention: Derek Hoffman, Esq.
550 E. Hospitality Lane, Suite 300
San Bernardino, CA 92408

We sincerely appreciate IWVGA Staff providing the Memo initially in draft form for discussion and public input on March 15th. We recognize that the Memo will likely be revised or changed based upon the Board's discussion and consideration of public comments, and we therefore reserve the right to comment further on this issue. Thank you in advance for considering our comments in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Derek Hoffman", with a long horizontal flourish extending to the right.

Derek R. Hoffman, Attorney for
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

DRH:mdd

cc: S. Johnson, R. Strand, A. Christensen, D. Zdeba, J. Worth, K. Lemieux, P. Hall,
Client

Name: David Janiec

Member, IWVGA Policy Advisory Committee (Business Interests)

Thank you for the opportunity to address the GA regarding the proposed fee implementation.

As a committee, we were not afforded the opportunity to review the proposed action prior to this first public hearing. Had that opportunity been afforded, we would have offered at least two comments that might have helped with productive public dialogue.

First is the issue of cash flow as it relates to the funding required for operation of the GA. As was discussed during at least two prior GA meetings, the GA was approaching inability to pay Stetson as the GWM and developer of the GSP. Their President stated in this very room, that he would delay bill submissions to help meet the cash flow concerns of the agency. With the extension of the Prop 1 funding grant comment period, this cash flow concern was further heightened.

Fortunately, that urgent funds requirement was temporarily alleviated by an advance of approximately \$500k by the IWV Water District Board by a single vote margin. Had that single vote gone the other way, this agency could already be facing severe issues in remaining solvent, examining borrowing or other potentially expensive options to avoid having the state take over the development of our GSP, and a likely unacceptable outcome for our valley. With the great news that our Prop 1 Grant was finally approved just this week, we still find ourselves at least two or more months away from actual receipt of those funds, based on past state grant distributions.

Nowhere in the supporting documentation provided for this proposed fee are potential cash flow issues discussed. The cash flow situation should be addressed in the documentation as it may become the driving factor in completing a successful GSP.

Secondly, the chronic overdraft situation in our basin (as defined under SGMA) presents an existential threat to our continued vitality and growth. All in our basin should and do have "skin in the game" regarding this issue. That level of community awareness and support for our critical efforts should be encouraged and fostered proactively so we can all work together to address it. This fee option may be the only viable one, but what other options could have been or were considered to help garner support and perhaps more equitable assessment to all water users in the valley?

Finally, please take advantage of the PAC members community knowledge and commitment in these critical communication efforts. Thank you for your consideration.

A handwritten signature in black ink, appearing to read "David Janiec", with a long horizontal flourish extending to the right.

Presentation to the GA Board at the April 5'th Workshop concerning the adoption of a volumetric fee to be applied to the major (non de minimis) pumpers.. Don Decker v7

Good evening to all. I am Don Decker. As a resident and as a scientist and engineer, I have been involved in IWV groundwater issues for 50 years. I have been appointed to the TAC to represent the domestic well owners. **This evening we have heard protests from the public and from major water producers that the proposed GA fee is excessive, unfair or unwarranted. As a TAC member, I have serious concern that the GA Board is rushing this incomplete proposal through without significantly involving the PAC or TAC in review and that public involvement has been minimal. It is also not clear that funds generated by this proposal will be allocated and spent wisely. These comments are not intended to blunt the direction of the serious efforts underway but to offer constructive criticism.**

Having made these observations, the Basin overdraft is very real and not the invention of State or local officials. The IWV basin was found to have a limited groundwater supply over 100 years ago by a State hydrologist, Charles Lee. Since that time, Mr Lee's warning has been largely ignored and forgotten, and everyone who has made the IWV their home has contributed to our dwindling groundwater supply. Many of us who are supporting the GA effort remain concerned about the complex decisions and tasks still ahead and the apparent slow progress being made.

As you talk to IWV citizens you will hear many accusations against large scale agriculture and even against the domestic well owners. **Lots of finger pointing but little recognition that we all share in the responsibility to bring our overdraft into balance.** However, the parties to our overdraft have not pumped equally and so the responsibility to reach a sustainable condition should not to be shared equally. **The proposed volumetric fee obviously puts the greatest burden on those pumpers using the greatest quantities of water. Does anyone think this is unfair?** In addition to generating revenue for GA purposes, this assessment will also encourage further conservation. **The amount of the fee is a legitimate concern but the responsibility that the fee implies is not.**

The domestic de minimis pumpers as defined in SGMA, are not subject to the volumetric fee at the present time. This apparent omission is not understood by many and is seen as unfair. **The domestic de minimis pumpers are actually responsible for a very small fraction of the total water pumped in the basin even though these pumpers own the great majority of Basin wells.** Using annual water production quantities provided by the major IWV producers and estimates of the domestic production from the Todd Report, one can easily discover that the present day domestic well production is only about 4% of the total. I will emphasize what Mr Fisher offered in his PAC presentation, the domestic de minimis well owners may at some point be regulated by the GSA Board and also be subject to a fee.

I feel confident that most of our citizens, if they understood what is at stake would approve of the GA volumetric fee. **However, it is essential that all of the GA funds but especially the additional funds raised be spent in the most efficient and useful manner.** I have repeatedly pointed out areas of the GA project as proposed that are questionable and even obviously unnecessary. These areas must be further verified by the TAC and removed as appropriate from the POAM and Stetson task plans. **I strongly recommend that the GA Board appoint a standing committee to monitor tasks, progress and expenditures in detail in accord with the approved POAM.** This is a major Board responsibility that has been largely ignored.

April 5, 2018

Indian Wells Valley Groundwater Authority
Board of Directors
c/o Clerk of the Board

Re: Personal Clarification for reference to PAC in Footnote #1 on Page 37 of the IWVGA
Groundwater Pumping Assessment Data Package

Dear IWVGA Board Members,

Footnote #1 on page 37 seems to indicate that the PAC provided some information for the Data package – "Purveyor in listing provided by PAC and confirmed in SDWIS database to be active."

I would personally like to clarify that I was contacted as an individual by Don Zdeba and Jeff Hellsley (by e-mail on March 23, 2018) and asked if EKCRCD had any information regarding small water systems. I referenced a list of 41 small systems that was developed in 2004 by EKCRCD from various sources such as SDWIS, Kern County Water Agency, Kern County Department of Environmental Health, and local mailing list for well owners association active at that time (that association was later dissolved). The list of small systems was developed to support a potential awareness/outreach to small systems regarding the arsenic issue in drinking water that was a concern at that time.

This contact was not made through, or on behalf of, the PAC. The PAC first learned of some of the specifics of the fee proposal process at the same time as members of the public who attended the IWVGA Board of Directors meeting on March 15, 2018.

Please make this letter a part of the public record and attach it to the minutes of the April 5, 2018 public workshop meeting. Thank you.

Sincerely,



Donna Thomas, Vice-President, Eastern Kern County Resource Conservation District
And Designated Representative of EKCRCD to the IWVGA PAC

To: GSA
Address
Ridgecrest Ca 93555
From : Doreen Elisabeth Conaway Baker (general Partner & manager)
Sierra Shadows Ranch
4527 Brown Rd.
Inyokern, Ca. 93527

Subject: Provide an alternative proposal to derive near-term and long-term operating resources for the newly formed local government agency; known as Indian Well's Valley Groundwater authority (IWVGA)

My name is Doreen Conaway Baker, my family and I Own Sierra Shadows Ranch.
We have farmed in this valley for over 40 years.

I am requesting that you might consider a different proposal, other then your fee (\$50.00 to \$85.00) per acre-ft., on 31 large pumpers for a quick fix. Putting a band-aid on something that requires stitches will only leave a big scar. That scar will divide this community instead of uniting us and giving us pride in what we accomplished.

This is a concern for the entire valley and should be treated as a community crises or as emergencies, which normally brings all members together where they work to obtain a solution. We all need to work on this together, A good example of full community participation and interaction, is supporting IWV schools via APN property assessments, even if you as a property owner have no children in school.

I propose a IWVGA water tax on every APN parcel that resides in the IWV basin. APN property assessments are comprised of "general local govt", which is approximately 90% of my annual taxes, where "Schools and other minor local county activities represent about 10%. Since the IWVGA became an add-on to Local Government, specifically to address IWV basin water problems, then IWVGA water tax should be a government line item on the property assessment tax distribution statement. For example if you used a water tax rate of 0.001 times property appraised net value of \$25,000; water tax would be \$25; if appraised net value was \$239,000; then water tax is \$239.

There is a minimum 31000. acres. in the Ridgecrest, China Lake, and Inyokern area, excluding NAWS and BLM. IWV basin residents of San Bernardino county and Inyo county, should also be addressed by IWVGA as a resource. If one assumed that on an average across all 31000 APN parcels the increase average water tax to be \$67 dollars, then a total annual IWVGA revenue would be \$2,077,000 The IWVGA water tax annual tax amount should be a permanent tax that would fund the GSP and long term task requirement income to help build water recycling plants. water bank/ import filtration systems, etc.. Another major benefit of a property water tax, allows for the IWVGA to bring IWV basin groundwater into sustainability as soon as possible, thereby increasing property values to a higher market/ investment value. With the near-term requirement to complete the GSP by January 31, 2020, then this can be accomplish with Supplemental property tax bills,

As a small family farmer producing pistachio for the California market, this current proposal on the table would place an unexpected cash output on the order of \$20,000 to \$50,000 dollars or more in just over a year. As most people know, farming is a high risk business entity, due to mother-nature and political change, on the federal and state levels. An example are diesel fuel costs increase of 22% in 2017. I must

also establish a sound and predictable near-term and long -term farm operational plans that must also maintain farm business sustainability (money-in verses money-out). My farm business cash reserves can not support unexpected change, without placing the farm business at high risk.

In conclusion;

This direction by the IWVGA board;

"In January 18, 2018 the Indian Wells Valley Groundwater Authority ("IWVGA") Board of Directors ("Board") directed IWVGA staff to develop a fee proposal to finance the development and adoption of a Groundwater Sustainability Plan ("GSP"). The Board directed that the fee be based on volumetric usage of groundwater and be assessed on pumpers with the exception of de minimis extractors."

Has placed the burden of IWVGA administrative and GSP develop cost on only a few of IWV commercial entities, where water is a primary required resource for business operations. Reviewing the IWVGA data package for the April 5, 2018 public meeting, The below extracted table of IWVGA support and administrative costs appear to be base-line management activities that relate to the IWV community as a whole and not just to a few of the IWV members.

| | |
|--|------------------|
| IWVGA Support Costs ¹⁾ | \$435,250 |
| <i>IWVGA/TAC/PAC Coordination</i> | <i>\$144,250</i> |
| <i>Prop 1 Application/Reporting</i> | <i>\$103,000</i> |
| <i>Schedule/Budget Management</i> | <i>\$52,000</i> |
| <i>Groundwater Pumping Assessment Support</i> | <i>\$121,500</i> |
| <i>Database Management Coordination</i> | <i>\$10,000</i> |
| <i>CASGEM Coordination</i> | <i>\$4,500</i> |
| IWVGA Administrative Costs | \$161,500 |
| <i>GSA Board Meetings</i> | <i>\$42,000</i> |
| <i>Consultant Management and GSP Development</i> | <i>\$24,500</i> |
| <i>Financial Management</i> | <i>\$8,500</i> |
| <i>Community Outreach</i> | <i>\$21,000</i> |
| <i>Budget Development & Admin</i> | <i>\$12,500</i> |
| <i>PAC/TAC Meetings</i> | <i>\$19,000</i> |
| <i>Travel</i> | <i>\$6,000</i> |
| <i>Insurance</i> | <i>\$15,000</i> |
| <i>Conferences/Training</i> | <i>\$3,000</i> |
| <i>Miscellaneous</i> | <i>\$10,000</i> |

Also reviewing the GSP twelve tasks to be accomplished and finalized for the GSP report, again appear to be appropriate task activities, where these task activities support all residing community members for IWV aquifer sustainability for community health /safety.

My alternate proposal for a IWVGA water tax, provides a more realistic gap and sustain funding support to IWVGA and distributes the needs proportional to all community members and not just a selected few.



Eastern Kern County Resource Conservation District

300 S. Richmond Road, Ridgecrest, CA 93555

760.384.5477

FAX 760.384.5499

ekcrd@iwvisp.com

April 4, 2018

Indian Wells Valley Groundwater Authority
Board of Directors
c/o Clerk of the Board

RE: IWVGA April 5, 2018 Public Workshop Groundwater Pumping Assessment Data Package

Dear IWVGA Board Members:

Eastern Kern County Resource Conservation District (EKCRCD) is a conservation district serving Eastern Kern County, and landowners within groundwater basin 6-54. The District has been addressing conservation and natural resource issues since 1953. We offer the following comments regarding this workshop, the IWVGA Groundwater Pumping Assessment Data Package, and the fees proposed:

- All water users and uses of groundwater within the groundwater basin boundaries of Kern, Inyo, and San Bernardino Counties should pay fair and equitable fees to pump water from this overdrafted basin. All revenue paid to IWVGA needs to be equitable among ALL users and ALL agencies in the groundwater basin.
- Notification for property owners, especially rural and absentee (out-of-area) property owners, for this public workshop was inadequate and insufficient. When the date for the public hearing is set, not only the list of interested parties for the SGMA process, but also ALL owners of property within the basin boundaries should be notified by mail in a timely manner.
- ^{qs determined by APN number} The data assessment states on page 4 that "The accuracy and completeness of groundwater pumping information within the Indian Wells Valley groundwater basin is extremely important to the GA's mandate to manage groundwater supplies." Yet the data assessment itself confirms that Table 1 and Table 2 under item 6 are not accurate and are not complete. This assessment on page 33 states that "The GA staff will continue to update Table 1 to make it complete and accurate." The footnote #1 on page 37 states "...Other well owners not included in this table are listed in Kern County Environmental Health database with unknown production." Our question is: How can the IWVGA impose groundwater extraction fees, when it does not base those fees on accurate and complete data?
- The omissions in data need to be addressed before any fees can be set or approved. Identify how many wells there are within the groundwater basin boundaries. Contact each county to provide a complete list of the number of wells that have been granted permits in each and an identification of the types of wells – whether domestic, agricultural, mutuals, co-ops, larger purveyor/public water systems, municipal, industrial, commercial etc.
- A clear explanation and chart of current production numbers should be developed. How was the figure of 21,600 AF developed for "estimated pumping by impacted pumpers" (page 4)? All pumpers in the basin are impacted, not just those on incomplete and inaccurate lists.

- The assessment requires clarity on numbers of metered wells, non-metered wells, and de minimis wells. The assessment package note in footnote #2 on page 4 states "It is not presently known how many of the other impacted pumpers have meters." The number of de minimis pumpers is unknown. The criteria for a de minimis pumper must be clarified.
- Why was the time frame for collecting the fees changed from 17 months in the initial introduction of the fee proposal (Item #10 on the IWVGA Board of Directors March 15, 2018 agenda) to 29 months in the April 5, 2018 Groundwater Pumping Assessment Data Package?
- Many of the mutuals/co-ops listed, and those not yet listed, meet Disadvantaged Community (DAC) standards. Will that affect their pumping fees?
- Accuracy to detail is a critical element. In order to ensure public agreement and support, truth, clarity, transparency, and opportunity for public input must prevail.
- EKCRCD urges the IWVGA to put trust in the PAC and TAC committees and allow them to carry out their responsibilities and to allow for opportunities, through the committees, for public input throughout the GSP process.

EKCRCD reserves the right to make further comments regarding this issue. We request that this letter be made a part of the public record and attached to the minutes of the April 5, 2018 public workshop. Thank you for the opportunity to comment and for your consideration of our comments and questions.

Sincerely,

A handwritten signature in cursive script that reads "Donna Thomas".

Donna Thomas, Vice-President of Eastern Kern County Resource Conservation District
And Designated Representative of EKCRCD to the IWVGA PAC

Frank J. Bellino Jr
7834 Siebenthal Rd
Inyokern, CA 93527

760-793-2627

Chairperson
Ground Water Sustainability Committee
Kern County, CA

To the Committee:

It appears to the casual observer that the "major" water users are going to have to foot the bill for the GSA study. I am one of those "major" users. I find this whole exercise revolting and a waste of time as presently administered.

This is, in my opinion, a distracter from the real problem, The GSA is trying to find a "boogeyman" (AKA the "evil farmers") while the real issue is how to replenish the aquifer if it needs to be.

As usual the definition of a "major" water user and the impact of those who are selected to foot the bill are subject to the whims of "committees" that are essentially unaccountable for their actions. Further, their actions are politically motivated. How can a few farmers fight the herd of emotionally driven lemmings devoid of actual facts.

So let me ask few questions and make a few observations:

1. Have the results of the groundwater assessment of last December been released? What are the results of the evaluation? I follow this pretty closely and haven't seen anything.

In my 30+ years of testing sophisticated military avionics systems, reports are held up only if incorrectly done (not the case in contractor's previous efforts so no reason to expect that now) ... or... the results do not meet the preferred narrative and need explanation (gaming the data so the person who paid for it gets the answer they want!).

Wasn't this measurement going to provide serious, objective data on which to base conclusions?

So why aren't they released?

2. Many of the "sky is falling" adherents tie their wagon to the TODD report that was at best a limited examination of past data gathered in a haphazard way and less than scientific methodology. If a serious analyst was to look at the data, as I did, the holes are enormous and serve an agenda, not necessarily the actual state of water affairs within the IWW aquifers.
3. Everyone in the IWW, every APN, has a vested interest and needs to have a dog in the fight, not just the IWWWD and the farmers. Punitive assessing the farmers is an undue burden and likely to result in litigation and

impoverishment of the smaller farms.

Many of the small farms, such as mine, cannot bear the burden because we are already financially in extremis. Farming is by no means an assured profitable enterprise. There are many variables beyond the farmer's control. In my case, three successive years of less than \$10K in crops and more than \$60k annually in expenses is enough.

4. The loss in commerce is far beyond your imagination. I employ 3 people part time, use the services of local tradesman and buy most of my parts when I can locally. My wife and I over 25 years have invested a substantial amount of our wealth into this farm and are now ready to reap that benefit.

However, with increasing overhead and regulation it doesn't make sense and it easier to clear the land, sell the wood as firewood, and move out than to keep fighting. In the last 3 years we are down over \$200K.

5. The county cleverly managed to snooker the farmers a few years ago and in the guise of the GSA is back for round 2. I am perfectly willing to give up my farm if you pay me cash but it is clear that the intention is to regulate us out of business to avoid 5th Amendment complications.

If you want to avoid a fight, find a better way. Let's have full disclosure of the mapping effort and do away with all the other reports that are biased, contradictory and leading to outcome based decisions.

Let every APN pay a fee and the amount per APN is more manageable and fairly assessed. I would not expect a fee more than \$50 per APN given the number in Ridgecrest and Inyokern.

Then once the report is paid for stop the assessment and make a sustainability plan that includes using the aqueduct to augment the IWW aquifer. I you need a workable example, look to the Lancaster model that is expanding once again.

Frank J Bellino
7834 Seibenthal D
Inyokern, CA

Comments on Groundwater Pumping Fee Data Package (Draft)

Judie Decker, member of the public

April 5, 2018

We have no one to blame for the water dilemma and overdraft condition of this Basin but ourselves. This condition has been known for over half a century and has steadfastly been denied by our leaders. Thirty three years ago I campaigned the first time for a seat on the IWV Water Board with the overdrafted Basin as my main issue. I continued to bring up the importance of solving this problem during my 17 years on the Board. **It would have been a lot cheaper to deal with it then.**

The only equitable way to fund a solution to this problem is with a fee for water pumped. It will in time apply to all pumpers, large and small. The more you pump the more you pay.

However, you have unfortunately presented this fee proposal document prematurely. The more I read it the more errors, vagueness and omissions I observe.

If the Board is going to impose a fee it needs to make very certain that every affected pumper is accounted for **before** the fee is enacted. You need to be certain that items in the budget fit the tasks you originally discussed, not tasks listed in the Prop 1 grant. You need to be certain that all details have proper and justified accounting. A glaring example of this: Why should County residents pay to reimburse Ridgecrest City expenditures? For that matter why should any citizen pay for this? Aren't they a partner in this endeavor with in kind services? Why is almost a million dollars listed in a reserve fund? That is a large amount of non designated funds for a project in the planning stage.. The Board itself is responsible here.

The public has suggested many times that the Board form standing committees and you have not. It is past time to do so. You need a Finance Committee and an Oversight Committee to review documents before they go to the public.

This document, as it stands, is not fit to go any further. It needs too much correction. The Board needs a document that both it and the public can support 100%. After all, you are asking for more of their money.

IWVGA Special Workshop
Domestic Well Owner Representative for the
Policy Advisory Committee (PAC)
Lyle Fisher

5 April 2018

I represent the Domestic Well Owners on the PAC. Our second Domestic Well Owner PAC representative is Mr. West Katzenstein. He had a previous family commitment and is unable to attend tonight. My comments here are a collaborative effort between us.

I have heard some excellent comments tonight from the public. Some have good ideas, and some I do not agree with.

Mr. Worth has explained to us all why this "fee" structure is necessary and required to enable us to get to the final GSP. The Plan has to be submitted to the state by January 2020, as required by the SGMA law.

I believe if the PAC and TAC had been given the opportunity to discuss this "Groundwater Pumping Fee" document at one of our regular meetings, some of the issues that were raised tonight could have already been resolved.

I have been domestic well owner in the IWV for nearly 40 years in that length of time the depth to water in my well has declined by nearly 60 feet. The Kern Water Agency measures depth to water twice per year. It became necessary a few of years ago to deepen my well, at a cost of about \$13k. Luckily, the deepening was successful, a new well would have cost about \$25k+. The replacement of the submersible pump in my well now costs nearly \$2000. They only last 5 or 10 years in most cases. My fifth pump is in the well now.

I keep hearing people saying, "You have to have skin-in-the-game". Believe me, "All domestic well owners have skin-in-the-game!".

We, as domestic well owners are the "tip" of the spear. We are the first ones to be impacted by the declining water levels. Most of us cannot afford to drill 1000-foot wells or afford the maintenance on such a well.

As Domestic Well owners we support volumetric based fees for water pumped. It is the only equitable approach available since all of our water supply issues are based on quantity. The Water District charges its customers by the amount of water (volume) used.

We also fully understand that once the GSP is approved by the state and our GSA has been empowered, domestic well owners may be required to pay for water in some form. This will, no doubt, include all de minimis users. We also realize that all domestic wells may be required to be metered at some point in the future. If the GSA Board decides that the de minimis users should be regulated, there will be no choice in this matter.

Our current situation of critical overdraft in the IWW is not sustainable as defined by SGMA and all of the available hydrology data. We are pumping far more water from our aquifer than is being naturally recharged. Conservation or reallocations of water for health and safety may be able bring the valley into equilibrium, as required by the law. But this cannot be estimated until the water balance is better quantified.

The current efforts to treat brackish water in the IWW does not aid our critical overdraft situation, since the brackish water is not new water and would only accelerate the decline of the water table.

For all of us to continue our current life styles in this valley, as they are today, will require us to import water from a source outside of the valley. **We have No choice.**

How can I say that? I am not a Hydrologist or Geologist. I not even an engineer. But I have studied the AB 303 report, the Todd report and I am familiar with the content of the Bureau of Reclamation Report and I have **my one single personal data point – my well**. Wet year – Dry year doesn't matter, the depth to water continues to go down at each spring and at each fall measurement.

The time has come to stop kicking the can down the road and start taking the necessary and appropriate actions.

Thank you.

PAC Comment

Donna Thomas

From: westa-lusk@mediacombb.net
Sent: Thursday, April 05, 2018 7:01 AM
To: Thomas, Donna
Subject: water fee assessment-please present to IWVGA Board

To: IWVGA Board

From: Renee Westa-Lusk
Member of Policy Advisory Committee of IWVGA
representing residential water users within the City of Ridgecrest

I have read over and studied the proposed fee assessment of \$50 per acre foot.

I can support this fee assessment using my calculations if they are correct as it would have a minimal affect on the water bills of the vast majority (90%) of residential customers within the City of Ridgecrest.

I calculate it will only add at the very most less than \$10 per residential customer's water bill per year.

I think that the benefit of the fee assessment vastly outweighs the increase in water bill charges in the fact that the residential customer within the City of Ridgecrest will gain in the advantages of having a Groundwater Sustainability Plan that will protect their water supply for many years to come.

I only ask the IWVGA Board for talking points to interpret to the average residential customer the actual cost per year added to their water bill for the benefit of receiving a Groundwater Sustainability Plan that will protect their water supply for decades to come.

Thank you for your time and allowing me to give public comment on this fee assessment.

Renee Westa-Lusk

April 5, 2018

Indian Wells Valley Groundwater Authority

Reg: Special Workshop Groundwater Pumping Assessment Data Package

My name is Sophia Anne Merk (Sam) and I live at 2062 S Mikes Trail Road, P. O. Box 1505, Inyokern, California 93527

I live in Kern County and haul my domestic water from Indian Wells Valley Water District (IWWVD). My office is within the city limits and I am a paying customer of IWWVD.

1. All domestic and commercial water users should pay equitably to the IWW water basin (Kern, Inyo and San Bernardino Counties).
2. All County, State and Federal agencies and water users should pay equitably or usage fees to the IWW water basin.
3. Notification of all these meetings need to be better advertised. At Ridgecrest City Meeting last night, it was not listed on the public agenda.
4. We need to get credit for In Kind Services, i.e. IWWVD, City of Ridgecrest, Searles Valley, Eastern Kern County Resource Conservation District, Kern County, San Bernardino County, Inyo County, Bureau of Land Management – Ridgecrest Field Office, China Lake Naval Weapons Center. This helps with Prop 1 funding and other funding.
5. Criteria of de Minimis user needs to be better defined and not be used as a default.
6. We need actual data, date, quantity and quality if we have. (Example -Club Oasis has not been in existence since the 80's.) We have over 1000 wells in the valley with no data. That data should be reflected in the Environmental Health Department documents. In order to get a building permit water sources need to be identified.
7. List of Co-ops and Mutuals is incomplete.
8. Are all water users of IWW using it within the boundaries of the IWW and have they all been identified whether they are pumping or extracting from a natural spring.
9. Are legal fees by City, County and IWWVD also being used as in kind services? They should be better identified by City, County and IWWVD.
10. Has all grants been identified, such as within the Inyo Mono Integrated Regional Water Management of which Ridgecrest is a member and was the Cash for Grass Grant been identified in the Prop 1?
11. Abbreviated minutes will not have legal standing.

Thank you for your time and consideration,

Sophia Anne Merk (Sam)
samnplnews@yahoo.com

