

January 8, 2020

VIA Email and Personal Delivery for the Record

Indian Wells Valley Groundwater Authority
Board of Directors
c/o Clerk of the Board
500 Ridgecrest Blvd
Ridgecrest, CA 93555

Indian Wells Valley Groundwater Authority
Water Resources Manager
c/o Stetson Engineers Inc.
861 Village Oaks Drive
Suite 100
Covina, CA 91724

Re: *Indian Wells Valley Groundwater Authority Groundwater Sustainability Plan
December 2019 Public Review Draft – Meadowbrook Dairy Comments*

Dear IWVGA Board, Water Resources Manager and Staff:

On behalf of our client, Meadowbrook Dairy (“Meadowbrook”), we write this letter to provide comments on the Indian Wells Valley Groundwater Authority (“IWVGA” or “Groundwater Authority”) Groundwater Sustainability Plan December 2019 Public Review Draft (“GSP”) for the Indian Wells Valley Groundwater Basin (“Basin”).

I. INTRODUCTORY COMMENTS

Meadowbrook has produced groundwater for reasonable and beneficial purposes on its properties overlying the Basin for decades. The combination of Meadowbrook's history of continuous production, the magnitude of its production, and its business plans to continue operating into the future, distinguish Meadowbrook from other agricultural and most other water users in the Basin.

Founded in 1918, Meadowbrook has for over a century provided consumers with quality, nutritious and safe food. As a family farm, Meadowbrook has always demonstrated a commitment to the communities in which it has operated, including through implementing conservation and environmental best management practices and its use of cutting edge technology. Meadowbrook is optimistic for the future of the Basin, so long as the IWVGA adheres to the letter and intent of the Sustainable Groundwater Management Act ("SGMA").

Meadowbrook has long evidenced its desire to participate in achieving long-term Basin sustainability. To that end, Meadowbrook has provided technical expertise to the IWVGA Technical Advisory Committee ("TAC") through its hydrogeologist, has participated as a member of the IWVGA Policy Advisory Committee ("PAC"), has attended nearly all IWVGA Board meetings, and has provided data and information for the GSP through the Water Resources Manager ("WRM"). Meadowbrook has also verbally commented at public meetings and submitted many letters into the public record.

Meadowbrook remains willing to consider a reasonable and substantial reduction in its groundwater production to help achieve sustainability as long-term participant in the Basin; provided, that such reduction is premised upon a fair, equitable, and legally- and technically-supportable GSP. Meadowbrook is already testing alternative crops that will require less water than alfalfa.

SGMA requires a groundwater sustainability agency ("GSA") to consider the interests of all beneficial uses and users of groundwater, specifically holders of overlying groundwater rights such as agricultural users including farmers, ranchers and dairy professionals. (Water Code § 10723.2.) SGMA expressly

does not authorize a GSA to determine or alter water rights. (Wat. Code § 10720.5). Nor does SGMA authorize a GSA to “take” water rights or other property interests without due process and just compensation.

The IWVGA’s objective should be to achieve Basin sustainability through projects and management actions that are designed to avoid specific undesirable results based upon best available science and information. Instead, the GSP appears designed to eradicate Meadowbrook or eliminate Meadowbrook’s right to produce from the native groundwater supply.

The primary problems with the GSP in its current condition are:

- It is based almost entirely upon modeling scenarios that do not comply with SGMA, the GSP Regulations or California Department of Water Resources (“DWR”) Best Management Practices (“BMPs”).
- The modeling scenarios include assumptions, projects and management actions that were never vetted by or revealed in detail to the TAC, PAC or the public.
- The GSP fails to demonstrate that the Basin will achieve sustainability as defined by SGMA, the GSP Regulations and the DWR Best Management Practices.
- The GSP and particularly the sustainable management criteria do not rely upon best available science and information. Rather, they appear designed to favor certain uses and users of groundwater and to de-prioritize or eliminate agriculture from the Basin.
- The PAC, TAC and public were deprived meaningful participation in the development of the sustainable management criteria and other technical and policy aspects of the GSP.

In light of these issues, DWR is not likely to—nor should it—approve the GSP in its current condition.

II. DWR REGULATIONS AND CRITERIA BY WHICH THE GSP WILL BE EVALUATED.

The DWR Groundwater Sustainability Plan Emergency Regulations, 23 California Code of Regulations Division 2, Chapter 1.5, Subchapter 2 (“GSP Regulations”) outline the requirements and criteria by which DWR will evaluate the GSP. Those criteria are primarily as follows:

GSP Regulation § 355.4 provides that:

“(a) The basin shall be sustainably managed within 20 years of the applicable statutory deadline consistent with the objectives of the Act. The Department shall evaluate an adopted Plan for compliance with this requirement ... [including determining whether] **“The Plan is complete and includes the information required by the Act and this Subchapter...”**

“(b) The Department shall evaluate a Plan that satisfies the requirements of Subsection (a) to determine whether the Plan, either individually or in coordination with other Plans, **complies with the Act and substantially complies with the requirements of this Subchapter. Substantial compliance means that the supporting information is sufficiently detailed and the analyses sufficiently thorough and reasonable**, in the judgment of the Department, to evaluate the Plan, and the Department determines that any discrepancy would not materially affect the ability of the Agency to achieve the sustainability goal for the basin, or the ability of the Department to evaluate the likelihood of the Plan to attain that goal. When evaluating whether a Plan is likely to achieve the sustainability goal for the basin, the **Department shall consider the following:**

(1) Whether the **assumptions, criteria, findings, and objectives**, including the **sustainability goal, undesirable results, minimum thresholds, measurable objectives, and interim milestones** are **reasonable** and supported by the **best available information and best available science**.

(2) Whether the Plan identifies **reasonable measures and schedules to eliminate data gaps.**

(3) Whether **sustainable management criteria and projects and management actions** are **commensurate with the level of understanding** of the basin setting, **based on the level of uncertainty**, as reflected in the Plan.

(4) Whether the **interests of the beneficial uses and users** of groundwater in the basin, **and the land uses and property interests** potentially affected by the use of groundwater in the basin, **have been considered.**

(5) Whether the **projects and management actions are feasible and likely to prevent undesirable results** and ensure that the basin is **operated within its sustainable yield.**

(6) Whether the Plan includes a **reasonable assessment of overdraft conditions** and includes reasonable means to mitigate overdraft, if present.

(7) Whether the Plan will adversely affect the ability of an adjacent basin to implement its Plan or impede achievement of its sustainability goal.

(8) Whether coordination agreements, if required, have been adopted by all relevant parties, and satisfy the requirements of the Act and this Subchapter.

(9) **Whether the Agency has the legal authority and financial resources** necessary to implement the Plan.

(10) **Whether the Agency has adequately responded to comments that raise credible technical or policy issues with the Plan.**

GSP Regulations § 355.4(b).

As set forth in this letter, the GSP fails to satisfy these requirements and criteria. Meadowbrook previously submitted comments on the November 4, 2019 Draft GSP, but received no written responses, and many of those

comments are not addressed in the GSP. During the SGMA implementation process, Meadowbrook submitted over thirty comment letters to the IWVGA Board, TAC, PAC, and IWVGA Member Agency meetings. An index and those letters are attached to this letter as **Exhibits 1 – 32** and are incorporated by reference.

Meadowbrook's comments on the GSP contained in this letter are organized according to the regulations and criteria by which DWR will review the GSP as described in GSP Regulation § 355.4. While we appreciate the opportunity to review the GSP, we note that it would have been much better for the public to have received drafts of each GSP chapter in advance of the release of the entire GSP. Meadowbrook reserves the right to comment further on the GSP both prior to and following its adoption by the IWVGA.

We urge the IWVGA to carefully consider these comments and the comments submitted by Meadowbrook's consulting engineering firm, Luhdorff & Scalmanini. We recognize that adopting a GSP by January 31, 2020 presents a significant challenge; however, the IWVGA GSP must more importantly comply with SGMA and the GSP Regulations in order to avoid State Water Resources Control Board intervention, and should be amended to incorporate these comments before any significant GSP implementation.

III. THE ASSUMPTIONS, CRITERIA, FINDINGS, AND OBJECTIVES, INCLUDING THE SUSTAINABILITY GOAL, UNDESIRABLE RESULTS, MINIMUM THRESHOLDS, MEASURABLE OBJECTIVES, AND INTERIM MILESTONES ARE NOT REASONABLE AND ARE NOT SUPPORTED BY THE BEST AVAILABLE INFORMATION AND BEST AVAILABLE SCIENCE.

a. GSP SUSTAINABLE MANAGEMENT CRITERIA, OBJECTIVES AND ASSUMPTIONS

i. Applicable Regulatory Requirements and Best Management Practices.

SGMA requires achieving Basin sustainability. Sustainability means avoiding significant and unreasonable undesirable results through the implementation of projects and management actions based upon best available information and science.

SGMA defines undesirable results as one or more of the following effects caused by groundwater conditions occurring throughout the basin:

- “(1) Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon. Overdraft during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and groundwater recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.
- (2) Significant and unreasonable reduction of groundwater storage.
- (3) Significant and unreasonable seawater intrusion.
- (4) Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.

(5) Significant and unreasonable land subsidence that substantially interferes with surface land uses.

(6) Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.” (Wat. Code § 10721(x).)

GSP Regulation § 354.22 and subsequent sections in that article set forth both the substantive and procedural requirements for establishing sustainable management criteria:

“This Subarticle describes criteria by which an Agency defines conditions in its Plan that constitute sustainable groundwater management for the basin, including the process by which the Agency shall characterize undesirable results, and establish minimum thresholds and measurable objectives for each applicable sustainability indicator.”

GSP Regulation § 352.4 provides that DWR:

“[M]ay independently evaluate the appropriateness of model results relied upon by the Agency, and use that evaluation in the Department's assessment of the Plan.”

GSP Regulation § 350.4(d) requires:

“Groundwater conditions must be adequately defined and monitored to demonstrate that a Plan is achieving the sustainability goal for the basin, and the Department will evaluate the level of detail provided considering the basin setting.” (GSP Regulations § 350.4(a).)

“Sustainable management criteria and projects and management actions shall be commensurate with the level of understanding of the basin setting, based on the level of uncertainty and data gaps, as reflected in the Plan.”

The GSP Regulations include the following important defined terms:

“‘Data gap’ refers to a lack of information that significantly affects the understanding of the basin setting or evaluation of the efficacy of Plan implementation, and could limit the ability to assess whether a basin is being sustainably managed.” (GSP Regulation § 351.)

“‘Best available science’ refers to the use of sufficient and credible information and data, specific to the decision being made and the time frame available for making that decision, that is consistent with scientific and engineering professional standards of practice.” (GSP Regulations § 351(h).)

“‘Best management practice’ refers to a practice, or combination of practices, that are designed to achieve sustainable groundwater management and have been determined to be **technologically** and **economically effective, practicable, and based on best available science.**” (GSP Regulations § 351(i).)

DWR has issued Best Management Practices specifically for establishing sustainable management criteria (“BMP SMC”). BMP Section 3 identifies “Preliminary Activities” that must be completed before a GSA begins the process of developing sustainable management criteria. One of those key preliminary activities is:

“Engage Interested Parties within the Basin. When setting sustainable management criteria, GSAs must consider the beneficial uses and users of groundwater in their basin. Consideration of the potential effects on beneficial uses and users underpin the minimum thresholds. GSAs must explain their decision-making processes and how public input was used in the development of their GSPs. There are specific SGMA requirements for GSAs to engage with interested parties within a basin. For more information about requirements of engagement, refer to the Stakeholder Communication and Engagement Guidance Document.”

The BMP SMC further provides that:

“Setting sustainable management criteria can be a complex, time consuming, and iterative process depending on the complexity of the basin and its stakeholders. GSAs should allow sufficient time for criteria development during the GSP development process. The public should be engaged early in the process so their perspectives can be considered during sustainable management criteria development. To ensure timely stakeholder participation, it may be useful for GSAs to set a timeline for development of the sustainable management criteria.” (p. 33.)

ii. Comments

- The GSP development approach has apparently focused on ways to eliminate private groundwater producers from the Basin, rather than evaluating and considering appropriate sustainable management criteria and identifying appropriate projects and management actions to avoid specific undesirable results and to achieve specific interim milestones, measure objectives and a well-defined sustainability goal. By failing to meet SGMA’s mandates, a GSP based upon the Model Scenario 6 described in the GSP risks placing the Basin on a path to State Water Board intervention.
- Meadowbrook submitted several prior comment letters identifying technical and policy issues regarding the draft sustainability goal language, the sustainable management criteria, and Model Scenario 6.2. Those letters are attached as **Exhibits 30, 31, 32**.
- As detailed in prior Meadowbrook’s prior comment letters, the development process and substance of the sustainable management criteria are fundamentally flawed. The sustainable management criteria were not substantively discussed or vetted publicly by the TAC, PAC or the Board. Instead, the proposed minimum thresholds, interim milestones, and measurable objectives for many of the sustainability indicators generally reflect plotted points on a Model Scenario 6.2 model run that: (1) is based upon numerous modeling assumptions that have never been released to the public despite many PAC-, TAC- and public member requests for that

information; (2) includes predetermined, hard-wired, vague and objectionable projects and management actions that have not been publicly discussed or approved by the Groundwater Authority and are based upon unsubstantiated legal theories; (3) is not based upon best available information and science; and (4) does not address whether or how a set of defined projects and management actions will result in avoiding specifically defined undesirable results.

- The development of sustainable management criteria for the GSP requires significantly greater transparency, detail and data. The GSP's heavy reliance on Model Scenario 6.2 *outputs and assumptions* in selecting sustainable management criteria is neither appropriate nor consistent with the statutory and regulatory requirements cited above.
- As indicated in this and prior letters, Meadowbrook objects to a GSP based principally upon Model Scenario 6.2, which proposes adversely affects and potentially eliminates Meadowbrook's water rights.

b. SUSTAINABILITY GOAL

i. Applicable Regulatory Requirements and Best Management Practices

SGMA defines the "sustainability goal" as the existence and implementation of one or more groundwater sustainability plans that achieve sustainable groundwater management by identifying and causing the implementation of measures targeted to ensure that the applicable basin is operated within its sustainable yield. Importantly, "sustainable yield" is defined as the maximum quantity of water, calculated over a base period representative of long-term conditions in the basin and including any temporary surplus, that can be withdrawn annually from a groundwater supply *without causing an undesirable result*. Undesirable results are specifically defined, above. (Wat. Code § 10721.)

In establishing the sustainability goal, SGMA requires the IWVGA to consider the interests of all beneficial uses and users of groundwater, specifically including "holders of overlying groundwater rights including agricultural users, including farmers, ranchers and dairy professionals." (Wat. Code § 10723.2.)

GSP Regulation § 354.24 requires:

“Each Agency shall establish in its Plan a sustainability goal for the basin that culminates in the absence of undesirable results within 20 years of the applicable statutory deadline. The Plan shall include a description of the sustainability goal, including information from the basin setting used to establish the sustainability goal, a discussion of the measures that will be implemented to ensure that the basin will be operated within its sustainable yield, and an explanation of how the sustainability goal is likely to be achieved within 20 years of Plan implementation and is likely to be maintained through the planning and implementation horizon.”

Importantly, the BMP SMC states that “most of the sustainability goal can only be finalized *after minimum thresholds and undesirable results have been defined, projects and management actions have been identified, and projected impact of those projects and management actions on groundwater conditions have been evaluated.* Therefore, completion of the sustainability goal will likely be one of the final components of the GSP development.”

ii. Comments

Sections 1.2. and 4.2 Sustainability Goal

- Section 1.2 defines the sustainability goal: *“The sustainability goal is to manage and preserve the IWVGB groundwater resource as a sustainable water supply. To the greatest extent possible, the goal is to preserve the character of the community, preserve the quality of life of IWV residents, and sustain the mission at Naval Air Weapon Station (NAWS) China Lake.”*
- The development of the GSP sustainability goal is inconsistent with the applicable statutory, regulatory and best management practices provisions.
- The sustainability goal was determined by the IWVGA staff without any meaningful, public vetting of the sustainable management criteria for each of the sustainability indicators.
- The sustainability goal incorrectly conflates an estimated natural long-term average recharge with sustainable yield. This fails to consider and evaluate

the statutory and regulatory principle of defining and identifying *undesirable results*.

- The sustainability goal fails to indicate how it considers the interests of all beneficial uses and users of groundwater, specifically including holders of overlying groundwater rights including agricultural users, including farmers, ranchers and dairy professionals.

Section 4.2.3. Sustainability Measures

- The purpose of this section is not clear, since neither SGMA nor the GSP Regulations refer to sustainability measures. SGMA and the GSP Regulations require the IWVGA to establish sustainable management criteria, including undesirable results, establish minimum thresholds and measurable objectives for each applicable sustainability indicator.
- This section is duplicative and nearly identical to Section 4.2.4.

c. UNDESIRABLE RESULTS

i. Applicable Regulatory Requirements and Best Management Practices

GSP Regulation § 354.26 requires:

“(a) Each Agency shall describe in its Plan the **processes** and **criteria** relied upon to **define** undesirable results applicable to the basin. Undesirable results occur when **significant and unreasonable** effects for any of the sustainability indicators are caused by groundwater conditions occurring throughout the basin.

(b) The **description of undesirable results** shall include the following:

(1) The **cause** of groundwater conditions occurring throughout the basin that **would lead to or has led to undesirable results** based on information described in the basin setting, and other data or models as appropriate.

(2) The criteria used to define **when and where** the effects of the groundwater conditions cause undesirable results **for each applicable sustainability indicator**. The criteria shall be based on a **quantitative description** of the **combination of minimum threshold exceedances that cause significant and unreasonable effects** in the basin.

(3) Potential **effects on the beneficial uses and users of groundwater, on land uses and property interests**, and other potential effects that may occur or are occurring from undesirable results.

(c) The Agency may need to **evaluate multiple minimum thresholds to determine whether an undesirable result is occurring in the basin**. The determination that undesirable results are occurring may depend upon measurements from multiple monitoring sites, rather than a single monitoring site.

(d) An Agency that is able to demonstrate that undesirable results related to one or more sustainability indicators are not present and are not likely to occur in a basin shall not be required to establish criteria for undesirable results related to those sustainability indicators.”

BMP SMC further provides that:

“GSAs must consider and document the conditions at which each of the six sustainability indicators become significant and unreasonable in their basin, including the reasons for justifying each particular threshold selected The evaluation of significant and unreasonable conditions should identify the geographic area over which the conditions need to be evaluated so the GSA can choose appropriate representative monitoring sites.” (p. 6.)

ii. Comments

Section 4.3. Undesirable Results

- The process by which the GSP developed and identified undesirable results for the applicable sustainability indicators fails to comply with the GSP Regulations and BMPs.
- The GSP does not adequately describe the processes and criteria relied upon to define undesirable results applicable to the Basin, or the basis for determining the point at which undesirable results are both significant and unreasonable. Rather, this section makes broad, vague statements including: *“The reduction of groundwater in storage is directly related to the chronic lowering of groundwater levels.” “Hydrographs of wells taken throughout the IWV demonstrate significant and unreasonable prolonged drawdown causing undesirable results (see Appendix 3-D and Section 3.4.2).” “As discussed in Section 3.4.4.1, TDS samples indicate concentrations have increased over time in areas where high rates of pumping have occurred and indicative of groundwater water quality degradation undesirable results.” “As discussed in Section 3.4.5, land subsidence has historically caused undesirable results to facilities at NAWS China Lake, particularly the SNORT alignment.”*
- The GSP identifies “undesirable results” based upon modeling scenario assumptions and outputs, and not upon reliable, best available science and information. This section states: *“The numerical model was also used to simulate future conditions if the GSP proposed projects and management actions described in Section 5 are implemented to use as a tool for establishing sustainable management criteria (Scenario 6.2).”*

d. UR: REDUCTION OF GROUNDWATER IN STORAGE

i. Applicable Regulatory Requirements and Best Management Practices

SGMA defines undesirable results to include: “... effects caused by groundwater conditions occurring throughout the basin: ... Significant and unreasonable reduction of groundwater storage.” (Wat. Code, § 10721(x)(2).)

ii. Comments

Section 4.3.1. Reduction of Groundwater in Storage Undesirable Results

- The GSP does not adequately describe the processes and criteria relied upon to define undesirable results for loss of groundwater in storage. Rather, this section makes the broad, vague statements: *“The current and prolonged state of overdraft in the IWVGB, due to unsustainable groundwater production, is causing and has caused significant and unreasonable reduction of groundwater in storage.” “Modeling results simulating baseline conditions (no action) indicate a drastic reduction of groundwater in storage will continue in the future. (See Appendix 3-H.).”*
- The GSP improperly relies upon “baseline” and “Scenario 6.2” modeling outputs and assumptions as the “criteria” for defining undesirable results. This section states: *“Baseline conditions model results indicate that useable groundwater in storage could be depleted to the point that potential future demands could not be met if the IWVGB is not managed, which would jeopardize all beneficial uses and users in the IWVGB. Scenario 6.2 model results, simulating the proposed projects and management actions, indicate approximately 215,000 acre-feet of groundwater would be removed from storage over the planning horizon, compared to approximately 1.6 million acre-feet estimated to be removed from storage under Baseline conditions.”*
- These assumptions fail to establish or support an amount at which a loss of groundwater in storage is both significant and unreasonable. Likewise, these assumptions fail to establish or support whether and why a loss of no more than 215,000 acre-feet of groundwater in storage would avoid undesirable results.
- Despite the GSP’s express emphasis on loss of storage a primary concern, the GSP acknowledges that the amount of total and usable basin storage remains a significant data gap.
- The GSP fails to state the potential effects on the beneficial uses and users of groundwater, on land uses and property interests, and other potential effects that may occur or are occurring from a specific, quantified loss of groundwater storage as an undesirable result.

- Rather, this section: vaguely refers to a need for “*preservation of groundwater in storage [as] a high priority for the IWVGA*”; declares that “*By preserving the groundwater in storage, the IWVGA can help achieve the sustainability goal by protecting the future of the community, preserving quality of life for the residents of the Basin and sustaining the mission at NAWS China Lake*”; cites liberally to a Navy letter that identified “groundwater resources” as the “number one encroachment concern” to the Navy without independent analysis or evaluation of the content, assumptions and information upon which that letter is based; and fails to evaluate or address impacts on agricultural, industrial and other beneficial users of groundwater.
- The GSP fails to establish with adequate evidence how undesirable results or minimum thresholds for groundwater elevations may serve as a proxy for establishing undesirable results or minimum thresholds for loss of groundwater in storage as required by GSP Regulation § 354.28(d). Rather, this section broadly and vaguely asserts that: “*In areas in the IWV where the groundwater levels have been steadily declining, the water levels have dropped enough to impact shallow wells, requiring wells to be deepened, re-drilled, or abandoned as a water source*”; cites its own shallow well impact analysis, which is replete with recognized data gaps and uncertainty; and vaguely asserts that “*the number of shallow wells impacted due to the chronic lowering of groundwater levels, which is related to the significant and unreasonable reduction of groundwater in storage (Appendix 3-E).*”
- This section broadly asserts that “*the number of wells estimated to be impacted is the criterion to define significant and unreasonable reduction of groundwater in storage.*” It then, again, compares the “baseline” model results against the Model Scenario 6.2. results, and declares, without explanation that: “*number of shallow wells that would be impacted if the proposed projects and management actions are implemented is estimated to be 22, which is a feasible number of wells that can be mitigated.*”
- This section vaguely states that “*The amount of groundwater estimated to be removed from storage with the proposed projects and management actions is the maximum amount of useable groundwater reserves than can be extracted to prevent undesirable results while still providing a margin of safety for future use, uncertainties, and potential changes to the NAWS China Lake mission*”. It fails

to: quantify the undesirable results; define or justify the “margin of safety”; define “future use”; define the “potential changes to the NAWIS China lake mission” or identify the information and assumptions on which those “potential changes” are based.

- This section fails to address the impacts on agricultural users arising from the implementation of the proposed projects and management actions.
- The GSP ignores current information and data which indicates much more groundwater in storage than the assumptions made in the GSP.
- The GSP and Model Scenario 6.2 do not include other potentially significant projects and storage supplies, such as potential storage and use of groundwater in the El Paso area. Rather, this section dismisses, without analysis of sustainable management criteria, the prospect of utilizing El Paso area supplies.

e. UR: CHRONIC LOWERING OF GROUNDWATER LEVELS

i. Applicable Regulatory Requirements and Best Management Practices

SGMA defines undesirable results to include: “...effects caused by groundwater conditions occurring throughout the basin: ... Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon. Overdraft during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and groundwater recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.” (Wat. Code, § 10721(x)(1).)

Water Code § 10727.2(b)(4) provides that a GSP: “may, but is not required to, address undesirable results that occurred before, and have not been corrected by, January 1, 2015.”

ii. Comments

Section 4.3.2. Chronic Lowering of Groundwater Levels

- The GSP relies heavily on its shallow well impact analysis, which is replete with recognized data gaps and uncertainty. A primary flaw with that analysis is its failure to define **when and where** the effects of the groundwater conditions cause undesirable results for each applicable sustainability indicator including lowering groundwater levels. That analysis provides inadequate indication of when, where, how or why the estimated number of shallow wells were or will be “impacted”. This is a critical flaw in the GSP, particularly where the GSP simultaneously seeks to eradicate the entire agricultural community through Management Action No. 1.
- The GSP fails to evaluate the severe recent drought conditions in establishing the undesirable results for groundwater levels.
- In describing undesirable results for chronic lowering of groundwater levels and other sustainability indicators, the GSP fails to specifically identify and quantify pre-2015 undesirable results for each sustainability indicator, and whether the GSP seeks to address pre-2015 undesirable results.

f. UR: DEGRADED WATER QUALITY

i. Applicable Regulatory Requirements and Best Management Practices

SGMA defines undesirable results to include: “...effects caused by groundwater conditions occurring throughout the basin: Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.” (Wat. Code, § 10721(x)(4).)

ii. Comments

Section 4.3.3. Degraded Water Quality Undesirable Results

- This section fails to explain why the GSP considers the contaminated, “de-designated” groundwater area below NAWs China Lake to be a “pre-SGMA undesirable result” or why it “will not be addressed by projects and

management actions and will not have sustainable management criteria established for it."

- As noted by Meadowbrook's TAC representative and other TAC members, the "de-designated" area comprises potentially hundreds of thousands of acre feet or more of groundwater that could be available for some beneficial use, such as military industrial uses. GSP Figure 4-1 depicts the extensive de-designated area.
- The GSP is inconsistent with SGMA, the GSP Regulations and DWR Best Management Practices in that it simultaneously: ignores the de-designated area below NAWS China Lake, suggests that the Navy has a federal reserved water right that swallows the entire Basin and extends to non-federal entities, and forces potentially all agricultural groundwater users into a temporary pool despite major data gaps on total storage and impacts on shallow wells and without properly establishing sustainable management criteria.
- This section fails to address recent United States Department of Defense reports indicating known PFOS/PFOA contamination at NAWS China Lake, including a DoD report indicating that 7 of 11 NAWS China Lake wells tested above EPA limits by orders of magnitude at 8M parts per trillion, representing one of the highest known contaminated DOD sites in the world. **Exhibit 33.**
- This section fails to explain the criteria used to define **when and where** the effects of the groundwater conditions cause undesirable results for this sustainability indicator. Rather, it merely states that *"Degradation of groundwater quality is considered significant and unreasonable if the quality is degraded such that it is unsuitable for the current beneficial uses in the IWVGB."* This section also fails to identify or adequately analyze the referenced *"current beneficial uses in the IWVGB"* and at what point a water quality condition becomes *"unsuitable"* for a particular beneficial use. Certain beneficial uses of groundwater can, for example, sustain higher thresholds of TDS than other beneficial uses.

g. UR: LAND SUBSIDENCE

i. Applicable Regulatory Requirements and Best Management Practices

SGMA defines undesirable results to include “...effects caused by groundwater conditions occurring throughout the basin: ... Significant and unreasonable land subsidence that substantially interferes with surface land uses.” (Wat. Code, § 10721(x)(5).)

ii. Comments

Section 4.3.4. Land Subsidence Undesirable Results

- The GSP analysis regarding land subsidence focuses almost exclusively on Navy property interests, but fails to consider in corresponding detail potential land subsidence issues occurring throughout the Basin.
- The GSP analysis regarding land subsidence is inadequate due to its over-reliance on Model Scenario 6.2 and the current “baseline model” run scenario. See comments below regarding model scenario flaws.

h. UR: DEPLETIONS OF INTERCONNECTED SURFACE WATER

i. Applicable Regulatory Requirements and Best Management Practices

SGMA defines undesirable results to include “... effects caused by groundwater conditions occurring throughout the basin: ...Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.” (Wat. Code, § 10721(x)(6).)

ii. Comments

Section 4.3.5. Depletions of Interconnected Surface Water Undesirable Results

- The GSP recognizes that interconnected surface water may be critical to support groundwater dependent ecosystems, and that surface flows exist that may support the groundwater system. The GSP then inexplicably indicates, however, that it proposes “no additional sustainable management

criteria” due to “limited data on the relationship of interconnected surface water (springs) to GDEs and GDE’s (sp) direct use of groundwater.”

- The lack of reliable data and analysis for interconnected surface water represents a critical GSP data gap.

i. MINIMUM THRESHOLDS

i. Applicable Regulatory Requirements and Best Management Practices

GSP Regulation § 351(t) defines a “minimum threshold” as “a numeric value for each sustainability indicator used to define undesirable results.”

GSP Regulation § 354.28 requires:

“(a) Each Agency in its Plan shall establish minimum thresholds that quantify groundwater conditions for each applicable sustainability indicator at each monitoring site or representative monitoring site established pursuant to Section 354.36. The numeric value used to define minimum thresholds shall represent a point in the basin that, if exceeded, may cause undesirable results as described in Section 354.26.

(b) The description of minimum thresholds shall include the following:

(1) The information and criteria relied upon to establish and justify the minimum thresholds for each sustainability indicator. The justification for the minimum threshold shall be supported by information provided in the basin setting, and other data or models as appropriate, and qualified by uncertainty in the understanding of the basin setting.

(2) The relationship between the minimum thresholds for each sustainability indicator, including an explanation of how the Agency has determined that basin conditions at each minimum threshold will avoid undesirable results for each of the sustainability indicators.

(3) How minimum thresholds have been selected to avoid causing undesirable results in adjacent basins or affecting the ability of adjacent basins to achieve sustainability goals.

(4) How minimum thresholds may affect the interests of beneficial uses and users of groundwater or land uses and property interests.

(5) How state, federal, or local standards relate to the relevant sustainability indicator. If the minimum threshold differs from other regulatory standards, the Agency shall explain the nature of and basis for the difference.

(6) How each minimum threshold will be quantitatively measured, consistent with the monitoring network requirements described in Subarticle 4.

(d) An Agency may establish a representative minimum threshold for groundwater elevation to serve as the value for multiple sustainability indicators, where the Agency can demonstrate that the representative value is a reasonable proxy for multiple individual minimum thresholds as supported by adequate evidence.

(e) An Agency that has demonstrated that undesirable results related to one or more sustainability indicators are not present and are not likely to occur in a basin, as described in Section 354.26, shall not be required to establish minimum thresholds related to those sustainability indicators.”

BMP SMC provides that:

“A minimum threshold is the quantitative value that represents the groundwater conditions at a representative monitoring site that, when exceeded individually or in combination with minimum thresholds at other monitoring sites, may cause an undesirable result(s) in the basin. GSAs will need to set minimum thresholds at representative monitoring sites for each applicable sustainability indicator **after considering the interests of beneficial uses and**

users of groundwater, land uses, and property interests in the basin.” (p. 8)

BMP SMCs also details “Required Components for all Minimum Thresholds”. It cites the six components required by the GSP Regulations, the information that must be documented for each minimum threshold, and how each minimum threshold should be addressed, including:

“The GSP must include an analysis and written interpretation of the information, data, and rationale used to set the minimum threshold. For instance, if a groundwater level minimum threshold is set to protect shallow domestic supply wells, the GSA should investigate information such as the depth ranges of domestic wells near the representative monitoring site, aquifer dimensions, groundwater conditions, and any other pertinent information.

The GSP must describe the relationship between each sustainability indicator’s minimum threshold (e.g., describe why or how a water level minimum threshold set at a particular representative monitoring site is similar to or different to water level thresholds in nearby representative monitoring sites). The GSP also must describe the relationship between the selected minimum threshold and minimum thresholds for other sustainability indicators (e.g., describe how a water level minimum threshold would not trigger an undesirable result for land subsidence).

The GSP must discuss how groundwater conditions at a selected minimum threshold could affect beneficial uses and users. This information should be supported by a description of the beneficial uses groundwater and identification of beneficial uses, which should be developed through communication, outreach, and/or engagement with parties representing those beneficial uses and users, along with any additional information the GSA used when developing the minimum threshold.

The GSP must discuss relevant standards that pertain to the sustainability indicator and justify any differences between the selected minimum threshold and those standards. For instance, the

GSP will need to justify why a different level was used if a water quality minimum threshold is set at a different level than a state or federal maximum contaminant level (MCL)."

ii. Comments

Section 4.4. Minimum Thresholds

- The GSP's failure to comply with these statutory, regulatory and best management practices requirements is especially stark. In most instances, the GSP merely **assigned** minimum thresholds based upon Model Scenario 6.2 **assumptions** and **outputs** projected by the implementation of pre-determined projects and management actions.
- The GSP indicates that impacts to groundwater pumpers, land uses, and other interests within the IWVGB were considered when developing minimum thresholds, but fails to explain **how** those interests were considered, particularly agricultural users like Meadowbrook.
- The GSP fails to consider and evaluate multiple potential minimum thresholds at specific representative monitoring sites and how different minimum thresholds would impact beneficial uses and users of water.
- The GSP fails to consider and evaluate data provided by Meadowbrook and also GSP referenced data indicating stabilizing trends in groundwater levels and water quality conditions in the shallow aquifer from which Meadowbrook produces groundwater.
- The GSP fails to consider that certain projects and management actions may not be necessary to avoid specific, appropriate, quantified minimum thresholds in the northwest area if groundwater production levels continue at current levels or are reduced through conservation efforts.
- Instead, the GSP projects a "doomsday" "baseline" scenario, compares that scenario to pre-determined Model Scenario 6.2 assumptions, and then selects minimum thresholds at levels predicated upon those modeling scenarios.

j. MT: REDUCTION OF GROUNDWATER IN STORAGE

i. Applicable Regulatory Requirements and Best Management Practices

The GSP Regulations contain specific requirements for establishing a minimum threshold for the reduction of groundwater in storage. GSP Regulation § 354.28(d) requires:

“The minimum threshold for reduction of groundwater storage shall be a total volume of groundwater that can be withdrawn from the basin without causing conditions that may lead to undesirable results. Minimum thresholds for reduction of groundwater storage shall be supported by the sustainable yield of the basin, calculated based on historical trends, water year type, and projected water use in the basin.”

“An Agency may establish a representative minimum threshold for groundwater elevation to serve as the value for multiple sustainability indicators, where the Agency can demonstrate that the representative value is a reasonable proxy for multiple individual minimum thresholds as supported by adequate evidence.”

BMP SMC provides that:

“The minimum threshold for reduction of groundwater storage is a volume of groundwater that can be withdrawn from a basin or management area, based on measurements from multiple representative monitoring sites, without leading to undesirable results. Contrary to the general rule for setting minimum thresholds, the reduction of groundwater storage minimum threshold is not set at individual monitoring sites. Rather, the minimum threshold is set for a basin or management area.” (p. 10)

“Considerations when establishing the minimum threshold for groundwater storage may include, but are not limited to: What are the historical trends, water year types, and projected water use in the basin? What groundwater reserves are needed to withstand

future droughts? Have production wells ever gone dry? What is the effective storage of the basin? This may include understanding of the: Average, minimum, and maximum depth of municipal, agricultural, and domestic wells. Impacts on pumping costs (i.e., energy cost to lift water). What are the adjacent basin's minimum thresholds?" (p. 13.)

ii. Comments

Section 4.4.1 Reduction of Groundwater in Storage Minimum Threshold

- The GSP indicates that avoiding loss of storage is a primary concern, but simultaneously lacks critical data and information regarding total and effective Basin storage.
- The GSP simultaneously, and inappropriately, seeks to force agricultural users into a temporary pool allowing them to collectively use no more than 51,000 acre feet of "storage". The GSP fails to explain the basis for the 51,000 acre-foot figure. Rather, that figure appears to derive from pre-determined Modeling Scenario 6.2 assumptions developed by IWVGA staff and Navy representatives.
- The GSP fails to explain why, specifically, the "*simulated* value of the total loss in storage *at year 2070 after the projects and management actions are implemented* (Scenario 6.2) plus an additional *10 percent* buffer" comprises an appropriate minimum threshold.
- Instead, the GSP must analyze based upon best available science and information, including filling critical data gaps, the questions posed by DWR in its BMP SMC for establishing a minimum threshold for loss of groundwater in storage.
- The GSP fails to establish, based upon best available science and information, the historical trends, water year types and projected water use in the Basin according to water budgets established in accordance with the GSP Regulations (see comments below regarding water budget issues).

- The GSP fails to establish, based upon best available science and information, what groundwater reserves are needed to withstand future droughts.
- The GSP fails to establish, based upon best available science and information, **where, when** and **for what reasons** wells have gone dry.
- The GSP fails to establish, based upon best available science and information, what the effective storage is for the Basin.
- The GSP fails to establish, based upon best available science and information the average, minimum, and maximum depth of municipal, agricultural, and domestic wells.
- The GSP fails to establish, based upon best available science and information, what potential impacts on pumping costs might be, and whether mitigating such costs would be more technically, economically and practically feasible than the full combination of the aggressive proposed projects and management actions.
- The GSP fails to consider or establish appropriate management areas to evaluate potential alternative sustainable management criteria to manage loss of groundwater in storage.

k. MT: CHRONIC LOWERING OF GROUNDWATER LEVELS

i. Applicable Regulatory Requirements and Best Management Practices

The GSP Regulations contain specific requirements for establishing a minimum threshold for chronic lowering of groundwater levels. GSP Regulation § 354.28(c)(1) requires”

“The minimum threshold for chronic lowering of groundwater levels shall be the groundwater elevation indicating a depletion of supply **at a given location** that may lead to undesirable results. Minimum thresholds for chronic lowering of groundwater levels shall be supported by the following: (A) The rate of groundwater elevation decline based on **historical trends**, water year type, and

projected water use in the basin. (B) Potential effects on other sustainability indicators.”

BMP SMC provides that:

“The minimum threshold metric for the chronic lowering of groundwater levels sustainability indicator shall be a groundwater elevation measured at the representative monitoring site.” (p. 10)

“Considerations when establishing minimum thresholds for groundwater levels at a given representative monitoring site may include, but are not limited to: What are the historical groundwater conditions in the basin? What are the average, minimum, and maximum depths of municipal, agricultural, and domestic wells? What are the screen intervals of the wells? What impacts do water levels have on pumping costs (e.g., energy cost to lift water)? What are the adjacent basin’s minimum thresholds for groundwater elevations? What are the potential impacts of changing groundwater levels on groundwater dependent ecosystems? Which principal aquifer, or aquifers, is the representative monitoring site evaluating?” (p. 12).

ii. Comments

Section 4.4.2 Chronic Lowering of Groundwater Levels Minimum Threshold

- The GSP fails to satisfy SGMA, the GSP Regulations and DWR Best Management Practices in establishing minimum thresholds for chronic lowering of groundwater levels.
- The GSP data demonstrates that at the referenced USBR-6 monitoring site near Meadowbrook, groundwater levels are **already achieving the measurable objective** set for that monitoring site and have been since approximately 2011, prior to imposing any of the proposed projects and management actions. See GSP Figure 4-5e. In fact, all three interim milestones for USBR-6 are far **above** the measurable objective. This represents one of the most critical GSP flaws. The GSP fails to explain or justify, based on best available science and information, why Meadowbrook should be required to ultimately cease pumping the native groundwater

supply (or pay for imported water) when the GSP monitoring site nearest Meadowbrook indicates that groundwater levels are already achieving the measurable objective. **Exhibit 40.**

- The GSP fails to explain or support with data, how maintaining current production levels near Meadowbrook will cause undesirable results. By definition, an undesirable result does not exist at a particular monitoring site where the sustainability indicator is operating at the measurable objective.
- The GSP fails to explain how the minimum threshold for USBR-6 was established. This section states generally that minimum thresholds were set at the lower of *“5 feet below the minimum of the simulated groundwater level before groundwater level recovery is anticipated due to the implementation of projects and management actions; or 5 feet below recent minimum historical value.”*
- GSP Figure 4-5e and this section suggest that that the minimum threshold for USBR-6 was established at five feet below a “recent minimum historical value.” Figure 4-5e depicts a minimum threshold at 2,166 ft msl. The GSP fails to explain or justify with technical support how groundwater levels at five feet below *“recent minimal historical values”* at USBR-6 causes undesirable results to nearby shallow wells, which the GSP states is the primary basis for the sustainability criteria for chronic lowering of groundwater levels.
- The GSP states that *“the results of the shallow well impact analysis (see Appendix 3-E) is the criteria to define significant and unreasonable chronic lowering of groundwater levels.”* As discussed in this letter, that analysis is replete with critical data gaps and questionable assumptions, and fails to demonstrate when and where those impacts have or are expected to occur.
- The GSP must analyze based upon best available science and information, including filling critical data gaps, the questions posed by DWRs BMP SMC for establishing a minimum threshold for chronic lowering of groundwater levels.

- The GSP fails to establish, based upon best available science and information for each monitoring site, the average, minimum, and maximum depths of municipal, agricultural, and domestic wells.
- The GSP fails to establish, based upon best available science and information for each monitoring site, the screen intervals of those nearby wells.
- The GSP fails to establish, based upon best available science and information for each monitoring site, the average, minimum, and maximum depth of municipal, agricultural, and domestic wells.
- The GSP fails to establish, based upon best available science and information, for each monitoring site, what potential impacts on pumping costs might be, and whether mitigating such costs would be more technically, economically and practically feasible than the full combination of the aggressive proposed projects and management actions.
- The GSP fails to establish, based upon best available science and information for each monitoring site, the potential impacts of changing groundwater levels on groundwater dependent ecosystems.
- The GSP fails to establish, based upon best available science and information for each monitoring site, which principal aquifer, or aquifers, the representative monitoring site evaluating.

1. MT: DEGRADED WATER QUALITY

i. Applicable Regulatory Requirements and Best Management Practices

The GSP Regulations contain specific requirements for establishing a minimum threshold for degraded water quality. GSP Regulation § 354.28(c)(4) requires:

“The minimum threshold for degraded water quality shall be the degradation of water quality, including the migration of contaminant plumes that impair water supplies or other indicator of water quality as determined by the Agency that may lead to undesirable results. The minimum threshold shall be based on the number of supply wells, a volume of water, or a location of an

isocontour that exceeds concentrations of constituents determined by the Agency to be of concern for the basin. In setting minimum thresholds for degraded water quality, the Agency shall consider local, state, and federal water quality standards applicable to the basin.”

BMP SMC provides that:

“The minimum threshold metric for degraded water quality shall be water quality measurements that indicate degradation at the monitoring site. This can be based on migration of contaminant plumes, number of supply wells, volume of groundwater, or the location of a water quality isocontour within the basin. Depending on how the GSA defines the degraded water quality minimum threshold, it can be defined at a site, along the isocontour line, or as a calculated volume.” (p. 10)

“Considerations when establishing minimum thresholds for water quality may include, but are not limited to: What are the historical and spatial water quality trends in the basin? What is the number of impacted supply wells? What aquifers are primarily used for providing water supply? What is the estimated volume of contaminated water in the basin? What are the spatial and vertical extents of major contaminant plumes in the basin, and how could plume migration be affected by regional pumping patterns? What are the applicable local, State, and federal water quality standards? What are the major sources of point and nonpoint source pollution in the basin, and what are their chemical constituents? What regulatory projects and actions are currently established to address water quality degradation in the basin (e.g., an existing groundwater pump and treat system), and how could they be impacted by future groundwater management actions? What are the adjacent basin’s minimum thresholds?” (p. 15)

ii. Comments

Section 4.4.3 Degraded Water Quality Minimum Threshold

- As with other minimum thresholds, the GSP fails to satisfy SGMA, the GSP Regulations and DWR Best Management Practices in establishing minimum thresholds for degraded water quality.
- The GSP fails to establish minimum thresholds at each monitoring site based upon best available science and information. In fact, for USBR-6 near Meadowbrook, GSP Table 4-5 indicates that no sustainable management criteria have been determined at all. For USBR-6, Table 4-5 indicates “ND” for a minimum threshold, interim milestone and measurable objective. ND means “*not determined at this time. As baseline TDS sampling data is gathered, these criteria will be established.*” **Exhibit 41.**
- The GSP recognizes a critical lack of TDS data in the northwest area and other areas of the Basin. It recognizes in this section in fact that “*there are areas where there is not enough reliable data to establish Minimum Thresholds at this time until baseline TDS conditions are established.*”
- The lack of any GSP sustainable management criteria for degraded water quality at the USBR-6 monitoring site is a significant data gap that clearly demonstrates a failure to justify the aggressive projects and management actions that would render nearby agricultural users like Meadowbrook to a temporary pool.

m. MT: LAND SUBSIDENCE

i. Applicable Regulatory Requirements and Best Management Practices

The GSP Regulations contain specific requirements for establishing a minimum threshold for land subsidence. GSP Regulation § 354.28(c)(5) requires:

“The minimum threshold for land subsidence shall be the rate and extent of subsidence that substantially interferes with surface land uses and may lead to undesirable results. Minimum thresholds for land subsidence shall be supported by the following: (A) Identification of land uses and property interests that have been

affected or are likely to be affected by land subsidence in the basin, including an explanation of how the Agency has determined and considered those uses and interests, and the Agency's rationale for establishing minimum thresholds in light of those effects. (B) Maps and graphs showing the extent and rate of land subsidence in the basin that defines the minimum threshold and measurable objectives."

GSP Regulation § 354.28(d) requires:

"An Agency may establish a representative minimum threshold for groundwater elevation to serve as the value for multiple sustainability indicators, where the Agency can demonstrate that the representative value is a reasonable proxy for multiple individual minimum thresholds as supported by adequate evidence."

BMP SMC provides that:

"The minimum threshold metric for land subsidence shall be a rate and the extent of land subsidence." (p. 10.)

"Considerations when establishing minimum thresholds for land subsidence at a given representative monitoring site may include, but are not limited to: Do principle aquifers in the basin contain aquifer material susceptible to subsidence? What are the historical, current, and projected groundwater levels, particularly the historical lows? What is the historical rate and extent of subsidence? What are the land uses and property interests in areas susceptible to subsidence? What is the location of infrastructure and facilities susceptible to subsidence (e.g., canals, levees, pipelines, major transportation corridors)? What are the adjacent basin's minimum thresholds?" (p. 16.)

ii. Comments

Section 4.4.4 Land Subsidence Minimum Threshold

- See comments above regarding land subsidence undesirable results.

n. MEASURABLE OBJECTIVES AND INTERIM MILESTONES

i. Applicable Regulatory Requirements and Best Management Practices

GSP Regulation § 354.30 requires:

“(a) Each Agency shall establish measurable objectives, including interim milestones in increments of five years, to achieve the sustainability goal for the basin within 20 years of Plan implementation and to continue to sustainably manage the groundwater basin over the planning and implementation horizon.

(b) Measurable objectives shall be established for each sustainability indicator, based on quantitative values using the same metrics and monitoring sites as are used to define the minimum thresholds.

(c) Measurable objectives shall provide a reasonable margin of operational flexibility under adverse conditions which shall take into consideration components such as historical water budgets, seasonal and long-term trends, and periods of drought, and be commensurate with levels of uncertainty.

(d) An Agency may establish a representative measurable objective for groundwater elevation to serve as the value for multiple sustainability indicators where the Agency can demonstrate that the representative value is a reasonable proxy for multiple individual measurable objectives as supported by adequate evidence.

(e) Each Plan shall describe a reasonable path to achieve the sustainability goal for the basin within 20 years of Plan implementation, including a description of interim milestones for each relevant sustainability indicator, using the same metric as the measurable objective, in increments of five years. The description shall explain how the Plan is likely to maintain sustainable groundwater management over the planning and implementation horizon.

(f) Each Plan may include measurable objectives and interim milestones for additional Plan elements described in Water Code Section 10727.4 where the Agency determines such measures are appropriate for sustainable groundwater management in the basin.

(g) An Agency may establish measurable objectives that exceed the reasonable margin of operational flexibility for the purpose of improving overall conditions in the basin, but failure to achieve those objectives shall not be grounds for a finding of inadequacy of the Plan.”

BMP SMC provides that:

“Measurable objectives are quantitative goals that reflect the basin’s desired groundwater conditions and allow the GSA to achieve the sustainability goal within 20 years ... Projects and management actions included in GSPs **should be designed to meet the measurable objectives**, with specific descriptions of how those projects and management actions will achieve their desired goals.” (p. 27, emphasis added.)

“SGMA states that a GSP ‘may, but is not required to, address undesirable results that occurred before, and have not been corrected by, January 1, 2015.’ Once minimum thresholds have been developed and an undesirable result numerically defined, the GSA may evaluate whether that undesirable result was present prior to January 1, 2015. This evaluation is not possible until the GSA has defined what constitutes a significant and unreasonable condition (an undesirable result). If the evaluation indicates that an undesirable result occurred prior to January 1, 2015, the GSA must set measurable objectives to either maintain or improve upon the conditions that were occurring in 2015. The GSA must plan a pathway, indicated by appropriate interim milestones, to reach and maintain the 2015 conditions within the 20-year implementation timeline.” (p. 30).

ii. Comments

Section 4.5 Measurable Objectives and Interim Milestones

- As with other sustainability indicators, the GSP fails to satisfy SGMA, the GSP Regulations and DWR Best Management Practices in measurable objectives and interim milestones.
- The primary flaw with the GSP's proposed measurable objectives and interim milestones is that they are based upon assumptions and outputs from Model Scenario 6.2. and are not based upon best available science and information.
- The measurable objectives and interim milestones are based upon the projects and management actions, whereas SGMA requires a GSA to consider projects and management actions to **meet the measurable objectives**, with specific descriptions of how those projects and management actions will achieve their desired goals.
- The GSP fails to explain or justify in many instances whether, and if so why, it seeks to impose measurable objectives designed to address pre-SGMA conditions. Rather, the GSP appears selectively designate and then ignore certain pre-SGMA conditions (e.g. the de-designated area) while aggressively addressing other pre-SGMA conditions (e.g. loss of groundwater in storage).
- The GSP also fails to explain or justify why, in some areas, the GSP apparently seeks to far exceed the stated measurable objectives. One example is groundwater levels, where Figures 4-5a through 4-5j indicate groundwater levels at nearly every monitoring site achieving levels over the planning and implementation horizon at approximately double the difference between the minimum threshold and the measurable objective. This unexplained objective indicates that the projects and management actions may be unnecessarily aggressive and fail to consider their punitive impacts on beneficial uses and users of groundwater.

**IV. THE SUSTAINABLE MANAGEMENT CRITERIA AND PROJECTS
AND MANAGEMENT ACTIONS ARE NOT COMMENSURATE WITH
THE LEVEL OF UNDERSTANDING OF THE BASIN SETTING, BASED
ON THE LEVEL OF UNCERTAINTY, AS REFLECTED IN THE PLAN.**

As detailed above and throughout this letter, the GSP fails to establish sustainable management criteria in accordance with SGMA, the GSP Regulations and DWR BMPs. Many of the sustainable management criteria suffer from critical data gaps. Rather than address those data gaps and establish appropriate criteria based upon best available science and information, the GSP assigns sustainable management criteria based upon flawed Model Scenario 6.2 assumptions, projects and management actions that were never vetted by or revealed to the PAC, TAC or the public.

The sustainable management criteria and projects and management actions are also not supported by the GSP's current understanding of the basin setting and in light of current data gaps and uncertainty.

a. PLAN AREA

i. Applicable Regulatory Requirements and Best Management Practices

GSP Regulation § 354.8 requires:

“Each Plan shall include a description of the geographic areas covered, including the following information:

(a) One or more maps of the basin that depict the following, as applicable:

(1) The area covered by the Plan, delineating areas managed by the Agency as an exclusive Agency and any areas for which the Agency is not an exclusive Agency, and the name and location of any adjacent basins.

(2) Adjudicated areas, other Agencies within the basin, and areas covered by an Alternative.

(3) Jurisdictional boundaries of federal or state land (including the identity of the agency with jurisdiction over that land), tribal land, cities, counties, agencies with water management responsibilities, and areas covered by relevant general plans.

(4) Existing land use designations and the identification of water use sector and water source type.

(5) The density of wells per square mile, by dasymetric or similar mapping techniques, showing the general distribution of agricultural, industrial, and domestic water supply wells in the basin, including *de minimis* extractors, and the location and extent of communities dependent upon groundwater, utilizing data provided by the Department, as specified in Section 353.2, or the best available information.

(b) A written description of the Plan area, including a summary of the jurisdictional areas and other features depicted on the map.

(c) Identification of existing water resource monitoring and management programs, and description of any such programs the Agency plans to incorporate in its monitoring network or in development of its Plan. The Agency may coordinate with existing water resource monitoring and management programs to incorporate and adopt that program as part of the Plan.

(d) A description of how existing water resource monitoring or management programs may limit operational flexibility in the basin, and how the Plan has been developed to adapt to those limits.

(e) A description of conjunctive use programs in the basin.

(f) A plain language description of the land use elements or topic categories of applicable general plans that includes the following:

(1) A summary of general plans and other land use plans governing the basin.

(2) A general description of how implementation of existing land use plans may change water demands within the basin or affect the ability of the Agency to achieve sustainable groundwater management over the planning and implementation horizon, and how the Plan addresses those potential effects.

(3) A general description of how implementation of the Plan may affect the water supply assumptions of relevant land use plans over the planning and implementation horizon.

(4) A summary of the process for permitting new or replacement wells in the basin, including adopted standards in local well ordinances, zoning codes, and policies contained in adopted land use plans.

(5) To the extent known, the Agency may include information regarding the implementation of land use plans outside the basin that could affect the ability of the Agency to achieve sustainable groundwater management.

(g) A description of any of the additional Plan elements included in Water Code Section 10727.4 that the Agency determines to be appropriate.”

ii. Comments

Section 2.2.4. Water Supply Source

- This section states that *“The Navy produces and distributes groundwater for the on-station water uses at the NAWS China Lake. However, the majority of Navy-affiliated staff reside off-station, and the water supply needs of the off-station Navy-affiliated staff and their dependents are supplied by either the Water District, Inyokern CSD, or by privately-owned domestic wells.”* The GSP fails to explain or justify how this information is relevant to the Projects and Management Actions. Instead, this appears to reflect IWVGA staff intentions to pursue the unsubstantiated “extended federal reserved water right” theory asserted by IWVGA representatives. **Exhibits 34, 42, 43.**

- This section indicates that Figure 2-5 indicates an estimated 932 groundwater production wells within the Basin. This section fails to identify the source of information for Figure 2-5 or address how the GSP incorporates data for *“the NAWs China Lake’s groundwater production wells for on-station water uses [which] are not shown on Figure 2-5.”*
- The GSP fails to explain how it distinguishes “Large Agriculture” from “Small Agriculture” in Table 2-5, which identifies 18 wells for “Large Agriculture” and 20 wells for “Small Agriculture”.
- The GSP fails to explain whether any Navy wells are accounted for in Table 2-5, and if so, under what beneficial use category(ies).
- This section asserts that approximately 832 of the 932 groundwater production wells are *“domestic/private wells in the IWVGB produced approximately 800 acre-feet (AF) in 2015, or approximately 3% of total groundwater production in 2015.”* It then describes a process by which the IWVGA has only recently begun requiring registration of those wells in order to gather the necessary data to implement the shallow well mitigation program. This represents a critical data gap.
- This section acknowledges that: *“To confirm the number of domestic/private wells in the IWVGB, the IWVGA has implemented a well registration process to obtain information from all users and owners of groundwater extraction facilities in the IWVGB and properly adopt, implement, and administer this GSP. The well registration process has assisted in verifying well existence and location, but there remains some uncertainty in the existence and locations of all domestic/private wells due to a lack of voluntary well registration. This uncertainty will be reduced through future data gap analysis and groundwater allocation verification, both of which will be conducted as GSP implementation actions.”*
- The lack of domestic well data is very prejudicial and harmful to Meadowbrook. In 2018, Meadowbrook repeatedly urged the IWVGA to require registration of all wells in the basin and that a lack of reliable data on domestic wells would result in significant data gaps that would materially impact the adequacy of the GSP. In adopting IWVGA Ordinance No. 02-18, the IWVGA opted at the last minute to remove well registration requirement for *de minimis* extractors due to political reasons.

Consequently, the GSP suffers from a significant and material data gap necessary to properly establish sustainable management criteria. That data gap will not be addressed until long after GSP adoption but the GSP nonetheless indicates pursuing Management Action No. 1 that will eradicate most if not all agriculture from the Basin. Meadowbrook and other stakeholders have voiced these issues many, many times to the IWVGA Board, PAC and TAC. **Exhibits 25, 26, 27.**

- The IWVGA staff recently reported that even after several months of requiring all wells to be registered pursuant to IWVGA Ordinance No. 01-19, only a handful of domestic/private wells have done so.
- The GSP describes “domestic/private” well production as “3% of total groundwater production in 2015”. Yet, the GSP estimate of 800 AFY for this group represents more than 10% of the GSP’s “Current Sustainable Yield.” The failure of the GSP to sufficiently gather data and determine, based on best available science and information, how many “domestic/private” wells exist and how many of those wells are truly *de minimis* as defined by SGMA, represents a significant data gap in this particular Basin. Reports have been made that there are many properties in the Basin with large irrigated areas and that use water horses and other non-domestic purposes.

Section 2.5.2.1. Kern County Land Use

- The GSP fails to identify the actual projected growth rate for the City of Ridgecrest.
- The GSP fails to mention the highly contested and controversial effort by Kern County to downzone Meadowbrook and other agricultural use areas prior to SGAM implementation in approximately 2014.

Section 2.5.2.5. Federal Lands

- The GSP fails to describe the content and implications of Navy’s Comprehensive Land Use Management Plan for land use management and environmental resources management for NAWS China Lake, and how it might impact water resources management in the Basin.

Section 2.6.4. NAWS China Lake Monitoring Program

- The GSP refers to the Navy’s Basewide Groundwater Monitoring Program to provide groundwater quality and water level data to support the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process at Installation Restoration Sites and Operable Units located throughout Naval Air Weapons Station China Lake. The GSP attaches a portion of that plan as GSP Appendix 2-A. The GSP fails to analyze the impact of that plan on the GSP, or vice versa.

Section 2.7.2. Salt and Nutrient Management Plan

- The GSP summarizes the current Basin Salt Nutrient Management Plan (“SNMP”) but does not provide any detail as to the contents, findings or recommendations of the SNMP, or how the GSP considers and implements the SNMP into the development of the sustainable management criteria or the projects and management actions.

Section 2.7.5.3. Evaporation/Percolation Ponds

- This section states that: *“The United States Fish and Wildlife Service (U.S. Fish and Wildlife) and the U.S. Navy have taken initial steps to further evaluate the Tui Chubb habitat, including an updated quantification of the habitat’s water demands and an effort to improve the habitat’s water supply conditions. Per discussions with U.S. Fish and Wildlife staff, a potential long-term goal for the Tui Chub includes relocation to a more stable location/environment, which may occur within 5-10 years after IWVGA adoption of this GSP.”*
- It is unfathomable that the IWVGA, through the GSP, would seek to eradicate an entire industry of agricultural groundwater users at an impact of tens if not hundreds of millions of dollars while simultaneously failing to outline plans and actions to address the Tui Chub. A management plan for the Tui Chub should be established, including freeing up as much water as possible for other purposes, before any aggressive actions are taken that might reduce groundwater production by agricultural users.
- The GSP fails to indicate whether the Tui Chub is considered a Groundwater Dependent Ecosystem. The GSP needs to be clear on whether the Tui Chubb meets the definition of a Groundwater Dependent

Ecosystem, which is defined under GSP Regulations § 351(m) as ecological communities or species that depend on groundwater emerging from aquifers or on groundwater occurring near the ground surface.

Section 2.7.6 Groundwater Contamination Clean Up

- This section indicates that: *“Per the Navy’s 2014 INRMP, NAWS China Lake is assessing and remediating areas of past contamination on its ranges through the IRP, including sites of possible and confirmed groundwater contamination. A list of these sites along with their cause of contamination and remediation status is provided in Appendix 2-A.”* It does not, however, address how those contamination remediation efforts might impact water resources management in the Basin.
- This section fails to address recent Department of Defense reports regarding known PFOS/PFOA contamination at NAWS China Lake, including a DOD report indicating that 7 of 11 NAWS China Lake wells tested above EPA limits by orders of magnitude at 8M parts per trillion, representing one of the highest known contaminated DoD sites in the world. **Exhibit 33.**

Section 3.2. History of Water Use in the Indian Wells Valley

- This section provides an interesting history of the Indian Wells Valley and cites several information sources, but fails to evaluate or justify whether those sources are deemed the best available science and information.
- The GSP fails to cite the source of data for the text regarding Searles Valley Minerals water use and infrastructure at pages 3-3 and 3-4.
- The GSP fails to cite the source of data for the text regarding Navy water use at page 3-4.
- The GSP fails to cite the data and source for the referenced USGS and USBR records that are asserted to have documented *“water use in the IWV over the past 70 years”*.
- As Meadowbrook has indicated many times in written and verbal comments, the IWV Cooperative Groundwater Management Group data referenced in this section and attached as Appendix 3-A to the GSP is replete with data gaps, estimates and unanswered questions and

assumptions. The use of such estimates for water budgets and other aspects of the GSP must be appropriately qualified and addressed.

b. BASIN SETTING

i. Applicable Regulatory Requirements and Best Management Practices

SGMA requires GSPs to include:

(a) A description of the physical **setting** and characteristics of the aquifer system underlying the basin that includes the following:

(1) Historical data, to the extent available.

(2) Groundwater levels, groundwater quality, subsidence, and groundwater-surface water interaction.

(3) A general discussion of historical and projected water demands and supplies.

(4) A map that details the area of the basin and the boundaries of the groundwater sustainability agencies that overlie the basin that have or are developing groundwater sustainability plans.

(5) A map identifying existing and potential recharge areas for the basin. The map or maps shall identify the existing recharge areas that substantially contribute to the replenishment of the groundwater basin. The map or maps shall be provided to the appropriate local planning agencies after adoption of the groundwater sustainability plan. (Wat. Code § 10727.2(a).)

SGMA also requires GSPs to include:

A description of the consideration given to the applicable county and city general plans and a description of the various adopted water resources-related plans and programs within the basin and an assessment of how the groundwater sustainability plan may affect those plans. (Wat. Code, § 10727.2(g).)

GSP Regulation § 351(g) defines the basin setting as:

“The information about the physical setting, characteristics, and **current** conditions of the basin as described by the Agency in the hydrogeologic conceptual model, the groundwater conditions, and the water budget, pursuant to Subarticle 2 of Article 5.”.

GSP Regulation § 354.12 introduces requirements for the Basin Setting:

“This Subarticle describes the information about the physical setting and characteristics of the basin and current conditions of the basin that shall be part of each Plan, including the identification of data gaps and levels of uncertainty, which comprise the basin setting that serves as the basis for defining and assessing reasonable sustainable management criteria and projects and management actions.”

The GSP Regulations set forth further specific requirements for the Basin Setting in GSP Regulations §§ 354.12 to 354.20, which are addressed individually below.

ii. Comments

- The GSP fails to establish the Basin Setting in accordance with SGMA, the GSP Regulations and DWR BMPs.
- The Basin setting is replete with critical data gaps, and a failure to establish water budgets as required by the GSP Regulations.

c. HYDROGEOLOGICAL CONCEPTUAL MODEL

i. Applicable Regulatory Requirements and Best Management Practices

GSP Regulation § 354.14 requires:

- (a) Each Plan shall include a descriptive hydrogeologic conceptual model of the basin based on technical studies and qualified maps that characterizes the physical components and interaction of the surface water and groundwater systems in the basin.

(b) The hydrogeologic conceptual model shall be summarized in a written description that includes the following:

(1) The regional geologic and structural setting of the basin including the immediate surrounding area, as necessary for geologic consistency.

(2) Lateral basin boundaries, including major geologic features that significantly affect groundwater flow.

(3) The definable bottom of the basin.

(4) Principal aquifers and aquitards, including the following information:

(A) Formation names, if defined.

(B) Physical properties of aquifers and aquitards, including the vertical and lateral extent, hydraulic conductivity, and storativity, which may be based on existing technical studies or other best available information.

(C) Structural properties of the basin that restrict groundwater flow within the principal aquifers, including information regarding stratigraphic changes, truncation of units, or other features.

(D) General water quality of the principal aquifers, which may be based on information derived from existing technical studies or regulatory programs.

(E) Identification of the primary use or uses of each aquifer, such as domestic, irrigation, or municipal water supply.

(5) Identification of data gaps and uncertainty within the hydrogeologic conceptual model.

(c) The hydrogeologic conceptual model shall be represented graphically by at least two scaled cross-sections that display the information required by this section and are sufficient to depict major stratigraphic and structural features in the basin.

(d) Physical characteristics of the basin shall be represented on one or more maps that depict the following:

(1) Topographic information derived from the U.S. Geological Survey or another reliable source.

(2) Surficial geology derived from a qualified map including the locations of cross-sections required by this Section.

(3) Soil characteristics as described by the appropriate Natural Resources Conservation Service soil survey or other applicable studies.

(4) Delineation of existing recharge areas that substantially contribute to the replenishment of the basin, potential recharge areas, and discharge areas, including significant active springs, seeps, and wetlands within or adjacent to the basin.

(5) Surface water bodies that are significant to the management of the basin.

(6) The source and point of delivery for imported water supplies.

ii. Comments

Section 3.3 Hydrogeologic Conceptual Model

- The GSP fails to establish a hydrogeological conceptual model that contains all of the information required by GSP Regulation § 354.14. Notable required but missing information includes the definable bottom of the basin, the principal aquifers and aquitards, the physical properties of aquifers and aquitards, including the vertical and lateral extent, hydraulic conductivity, and storativity, and structural properties of the basin that restrict groundwater flow within the principal aquifers.
- The GSP's reliance and emphasis on Kern County's 2014 Todd Report is misplaced. The Todd Report was generated for purposes of Kern County's land use planning purposes and for not SGMA planning purposes. The author of the Todd Report indicated that the purposes of the Todd Report

were limited in their scope and that further study and analysis would be required for SGMA planning purposes.

Section 3.3.1. Geology and Hydrogeology

- The information on geology and hydrogeology is based primarily on reports dating back to 1960. As the GSP must be based upon the best available science and information, the GSP should be revised utilizing the most sophisticated data, such as the SkyTEM project referenced elsewhere in the GSP.

d. GROUNDWATER CONDITIONS AND WATER BUDGET

i. Applicable Regulatory Requirements and Best Management Practices

GSP Regulation § 354.16 requires:

“Each Plan shall provide a description of current and historical groundwater conditions in the basin, including data from January 1, 2015, to current conditions, based on the best available information that includes the following:

(a) Groundwater elevation data demonstrating flow directions, lateral and vertical gradients, and regional pumping patterns, including:

(1) Groundwater elevation contour maps depicting the groundwater table or potentiometric surface associated with the current seasonal high and seasonal low for each principal aquifer within the basin.

(2) Hydrographs depicting long-term groundwater elevations, historical highs and lows, and hydraulic gradients between principal aquifers.

(b) A graph depicting estimates of the change in groundwater in storage, based on data, demonstrating the annual and cumulative change in the volume of groundwater in storage between seasonal

high groundwater conditions, including the annual groundwater use and water year type.

(c) Seawater intrusion conditions in the basin, including maps and cross-sections of the seawater intrusion front for each principal aquifer.

(d) Groundwater quality issues that may affect the supply and beneficial uses of groundwater, including a description and map of the location of known groundwater contamination sites and plumes.

(e) The extent, cumulative total, and annual rate of land subsidence, including maps depicting total subsidence, utilizing data available from the Department, as specified in Section 353.2, or the best available information.

(f) Identification of interconnected surface water systems within the basin and an estimate of the quantity and timing of depletions of those systems, utilizing data available from the Department, as specified in Section 353.2, or the best available information.

(g) Identification of groundwater dependent ecosystems within the basin, utilizing data available from the Department, as specified in Section 353.2, or the best available information."

The GSP Regulations including the following defined terms:

'Water year' refers to the period from October 1 through the following September 30, inclusive, as defined in the Act. (GSP Regulation § 351(am).)

'Water year type' refers to the classification provided by the Department to assess the amount of annual precipitation in a basin." (GSP Regulation § 351(an).)

'Seasonal high' refers to the highest annual static groundwater elevation that is typically measured in the Spring and associated with stable aquifer conditions following a period of lowest annual groundwater demand. (GSP Regulation § 351(ad).)

‘Seasonal low’ refers to the lowest annual static groundwater elevation that is typically measured in the Summer or Fall, and associated with a period of stable aquifer conditions following a period of highest annual groundwater demand. (GSP Regulation § 351(ae).)

GSP Regulation § 354.18 requires:

“(a) Each Plan shall include a water budget for the basin that provides an accounting and assessment of the total annual volume of groundwater and surface water entering and leaving the basin, including historical, current and projected water budget conditions, and the change in the volume of water stored. Water budget information shall be reported in tabular and graphical form.

(b) The water budget shall quantify the following, either through direct measurements or estimates based on data:

(1) Total surface water entering and leaving a basin by water source type.

(2) Inflow to the groundwater system by water source type, including subsurface groundwater inflow and infiltration of precipitation, applied water, and surface water systems, such as lakes, streams, rivers, canals, springs and conveyance systems.

(3) Outflows from the groundwater system by water use sector, including evapotranspiration, groundwater extraction, groundwater discharge to surface water sources, and subsurface groundwater outflow.

(4) The change in the annual volume of groundwater in storage between seasonal high conditions.

(5) If overdraft conditions occur, as defined in Bulletin 118, the water budget shall include a quantification of overdraft over a period of years during which water year and water supply conditions approximate average conditions.

(6) The water year type associated with the annual supply, demand, and change in groundwater stored.

(7) An estimate of sustainable yield for the basin.”

GSP Regulations Section § 354.18 includes further specific requirements with respect to current, historical and projected water budgets, including the assumptions and information to be used in developing those water budgets:

“(c) Each Plan shall quantify the current, historical, and projected water budget for the basin as follows:

(1) Current water budget information shall quantify current inflows and outflows for the basin using the most recent hydrology, water supply, water demand, and land use information.

(2) Historical water budget information shall be used to evaluate availability or reliability of past surface water supply deliveries and aquifer response to water supply and demand trends relative to water year type. The historical water budget shall include the following:

(A) A quantitative evaluation of the availability or reliability of historical surface water supply deliveries as a function of the historical planned versus actual annual surface water deliveries, by surface water source and water year type, and based on the most recent ten years of surface water supply information.

(B) A quantitative assessment of the historical water budget, starting with the most recently available information and extending back a minimum of 10 years, or as is sufficient to calibrate and reduce the uncertainty of the tools and methods used to estimate and project future water budget information and future aquifer response to proposed sustainable groundwater management practices over the planning and implementation horizon.

(C) A description of how historical conditions concerning hydrology, water demand, and surface water supply availability or reliability have impacted the ability of the Agency to operate the

basin within sustainable yield. Basin hydrology may be characterized and evaluated using water year type.

(3) Projected water budgets shall be used to estimate future baseline conditions of supply, demand, and aquifer response to Plan implementation, and to identify the uncertainties of these projected water budget components. The projected water budget shall utilize the following methodologies and assumptions to estimate future baseline conditions concerning hydrology, water demand and surface water supply availability or reliability over the planning and implementation horizon:

(A) Projected hydrology shall utilize 50 years of historical precipitation, evapotranspiration, and streamflow information as the baseline condition for estimating future hydrology. The projected hydrology information shall also be applied as the baseline condition used to evaluate future scenarios of hydrologic uncertainty associated with projections of climate change and sea level rise.

(B) Projected water demand shall utilize the most recent land use, evapotranspiration, and crop coefficient information as the baseline condition for estimating future water demand. The projected water demand information shall also be applied as the baseline condition used to evaluate future scenarios of water demand uncertainty associated with projected changes in local land use planning, population growth, and climate.

(C) Projected surface water supply shall utilize the most recent water supply information as the baseline condition for estimating future surface water supply. The projected surface water supply shall also be applied as the baseline condition used to evaluate future scenarios of surface water supply availability and reliability as a function of the historical surface water supply identified in Section 354.18(c)(2)(A), and the projected changes in local land use planning, population growth, and climate.

(d) The Agency shall utilize the following information provided, as available, by the Department pursuant to Section 353.2, or other data of comparable quality, to develop the water budget:

(1) Historical water budget information for mean annual temperature, mean annual precipitation, water year type, and land use.

(2) Current water budget information for temperature, water year type, evapotranspiration, and land use.

(3) Projected water budget information for population, population growth, climate change, and sea level rise.”

GSP Regulations § 354.18 further requires:

(e) Each Plan shall rely on the best available information and best available science to quantify the water budget for the basin in order to provide an understanding of historical and projected hydrology, water demand, water supply, land use, population, climate change, sea level rise, groundwater and surface water interaction, and subsurface groundwater flow. If a numerical groundwater and surface water model is not used to quantify and evaluate the projected water budget conditions and the potential impacts to beneficial uses and users of groundwater, the Plan shall identify and describe an equally effective method, tool, or analytical model to evaluate projected water budget conditions.

(f) The Department shall provide the California Central Valley Groundwater-Surface Water Simulation Model (C2VSIM) and the Integrated Water Flow Model (IWFM) for use by Agencies in developing the water budget. Each Agency may choose to use a different groundwater and surface water model, pursuant to Section 352.4.”

GSP Regulations § 352.4 provides in relevant part that:

“(f) Groundwater and surface water models used for a Plan shall meet the following standards:

(1) The model shall include publicly available supporting documentation.

(2) The model shall be based on field or laboratory measurements, or equivalent methods that justify the selected values, and calibrated against site-specific field data.

(3) Groundwater and surface water models developed in support of a Plan after the effective date of these regulations shall consist of public domain open-source software.

(g) The Department may request data input and output files used by the Agency, as necessary. The Department may independently evaluate the appropriateness of model results relied upon by the Agency, and use that evaluation in the Department's assessment of the Plan.”

ii. Comments

Section 3.3.4.1. Water Budget Elements

- The GSP summarizes only selected prior recharge studies but fails to explain the basis for that selection. All relevant prior recharge studies should be listed and explained, including the USGS study referenced in the GSP.
- The GSP indicates that “*The location of all groundwater production wells in the IWV is shown in Figure 2-5.*” The location of NAWS China Lake wells is not depicted, which represents a significant data gap.
- As addressed earlier, the GSP acknowledges that data for domestic groundwater well production is limited, and IWVGA staff have recently reported that only a handful of domestic well owners have registered their wells. The GSP must address and fill this data gap particularly given the

GSP's stated emphasis on seeking to minimize impacts on shallow wells as a primary basis for sustainable management criteria.

- The GSP does not recognize Meadowbrook's water conservation efforts and reduced groundwater production in recent years as compared to its historical production. Rather, the GSP paints "Agricultural" groundwater use collectively as having recently expanded and that it is expected to expand further "unless restricted". The GSP must instead comply with the GSP Regulations with respect to current and future water budgets.
- The GSP fails to explain the relevance of the content regarding groundwater production by the IWVWD and domestic wells "to Navy-affiliated staff ... and their dependents that reside off-Station." That information is no more relevant than IWVWD production data for any of its other customers. The only apparent purpose for including this language seems to be an attempt to support the IWVGA's theory of an "extended" off-reservation federal reserved water right for the Navy. Meadowbrook and others have submitted multiple letters outlining the legal flaws in that theory. **Exhibits 30, 31, 32.**
- The GSP indicates that "water uses on NAWS China Lake include potable water for office buildings, laboratories, residences, and schools." The GSP does not evaluate or detail the Navy's current water use in the context of the Navy's primary purpose as defined by United States Supreme Court case law regarding federal reserved water rights.

Section 3.3.4.2. Historical Water Budgets

- The GSP Regulations require the GSP to include historical water budgets. As set forth above, GSP Regulation § 354.18(a), (b) and (c)(2) contain specific requirements for establishing the historical water budget.
- The GSP historical water budget fails to comply with GSP Regulation § 354.18.

Section 3.3.4.3 Current Water Budget

- The GSP Regulations require the GSP to include a current water budget. As set forth above, GSP Regulation § 354.18(a), (b) and (c)(1) contain specific requirements for establishing the current water budget.
- The GSP current water budget fails to comply with GSP Regulation 354.18.
- The “current water budget” information in the GSP baldly states that: *“In more recent years, agricultural water demands have increased resulting in higher groundwater extractions compared to the long-term average. Reductions in the ET occurring at China Lake Playa and subsurface flow to the Salt Wells Valley also require water balance adjustments.”* It then states without explanation that *“The current average estimated water budget for IWV is defined as the years 2011 to 2015 and is shown in Table 3-7.”*
- The GSP “current water budget” fails to quantify outflows from the groundwater system by water use sectors. Instead, it inappropriately singles out asserted trends in *“agricultural water demands”* and then, without explanation, describes a *“current water budget”* based on years 2011 to 2015.
- The GSP fails to quantify the change in annual volume of groundwater in storage between seasonal high conditions.
- The GSP fails to quantify the water year type associated with the annual supply, demand, and change in groundwater stored. This is particularly important considering that 2011-2015 included record drought years.
- The GSP fails to quantify current inflows and outflows for the basin using the most recent hydrology, water supply, water demand and land use information. Instead, it inexplicably identifies *“2011 – 2015”* as the *“current water budget”* years and does not show how this designation complies with GSP regulatory requirements.
- The GSP fails to use water years rather than calendar years.
- The GSP fails to explain or provide a quantification of overdraft over a period of years during which water year and water supply conditions approximate average conditions.

- The GSP fails to use current water budget information for temperature, water year type, evapotranspiration, and land use, in developing the water budget.
- The GSP fails to present the current water budget in both tabular and graphical form.

Projected Water Budgets – Not Addressed in the GSP

- GSP Regulations § 354.18 also require the GSP to quantify projected water budgets. GSP Regulations § 354.18(c)(3) details the type of information and assumptions to be used for projected water budgets, as set forth above.
- The GSP does not include projected water budgets as required by the GSP Regulations.
- The GSP instead “projects” water use broadly based on the unrevealed assumptions, projects and management actions of Model Scenario 6.2.
- The GSP’s “future baseline” condition modeling scenario does not comply with the required assumptions to be used in establishing projected water budgets under GSP Regulations § 354.18(c)(2)(A).

Section 3.3.5 Sustainable Yield

- Importantly, BMP SMC explains the “Role of Sustainable Yield Estimates in SGMA” as follows: “SGMA does not incorporate sustainable yield estimates directly into sustainable management criteria. **Basin-wide pumping within the sustainable yield estimate is neither a measure of, nor proof of, sustainability. Sustainability under SGMA is only demonstrated by avoiding undesirable results for the six sustainability indicators.**” (p. 32, emphasis added.)
- The GSP’s use of the terms: “sustainable yield,” “Current Sustainable Yield,” and “Future Sustainable Yield” is both confusing and inconsistent with SGMA, the GSP Regulations and the BMP SMC. Neither SGMA nor the GSP Regulations define or distinguish between a “current” and “future” sustainable yield. Rather, a basin’s sustainable yield is intrinsically linked to avoiding specific, undesirable results. The GSP concept of “current” and “future” sustainable yield appears to be based primarily on total Basin

inflows and outflows, rather than an evaluation based upon sustainable management criteria or appropriately defined current and projected water budgets.

- The GSP conflates an “estimated long-term average natural recharge to the IWVGB” with “sustainable yield” and frequently refers to an objective of making “pumping equal to sustainable yield”. The primary problem is that using a basin-wide average recharge estimate fails to meet the definitional requirement of “operating within the sustainable yield” which inherently requires avoiding specifically and locally defined, quantified, technically- and legally-supportable *undesirable results*. Meadowbrook has submitted multiple letters to the IWVGA citing GSP regulatory requirements and DWR BMPs highlighting these and related issues, which have not been addressed.
- The GSP fails to explain the basis for the “*Artificial Recharge*” figure of 3,500AF and why that figure is considered an appropriate amount for the Basin.
- The GSP Recognizes a continuing loss of storage even after full implementation of Model Scenario 6.2, but fails to analyze that continuing loss in terms of avoiding undesirable results throughout the Basin.

Section 3.4. Current and Historical Groundwater Conditions and Hydrology

- GSP Regulations § 354.16 requires:

“Each Plan shall provide a description of current and historical groundwater conditions in the basin, including data from January 1, 2015, to current conditions, based on the best available information that includes the following:

- (b) A graph depicting estimates of the change in groundwater in storage, based on data, demonstrating the annual and cumulative change in the volume of groundwater in storage between seasonal high groundwater conditions, including the annual groundwater use and water year type.

(d) Groundwater quality issues that may affect the supply and beneficial uses of groundwater, including a description and map of the location of known groundwater contamination sites and plumes.

(e) The extent, cumulative total, and annual rate of land subsidence, including maps depicting total subsidence, utilizing data available from the Department, as specified in Section 353.2, or the best available information.

(g) Identification of groundwater dependent ecosystems within the basin, utilizing data available from the Department, as specified in Section 353.2, or the best available information.”

- The GSP fails to satisfy the requirements of GSP Regulations § 354.16.

Section 3.5.4 Baseline Conditions

- GSP Regulation §351(e) defines “baseline” or “baseline conditions” as: “**historic** information used to project future conditions for hydrology, water demand, and availability of surface water and to evaluate potential sustainable management practices of a basin.” GSP Regulation § 354.18 and related sections contain detailed requirements and assumptions to establish historic, current and future water budgets, as set forth above.
- The GSP does not comply with the GSP Regulations with respect to the “baseline” conditions used in Model Scenario 6.2 or the water budget.
- For example, the GSP established “baseline conditions” using the numerical model “*with the purpose of understanding future projected conditions if the GSP were not implemented ... under ‘no action’ conditions.*” This section describes using selective input data for precipitation, streamflow and recharge data, but does not explain how that information complies with the assumptions required for baseline and projected water budget information detailed in GSP Regulation § 354.18.
- As another example, this section indicates that “*historical groundwater extractions were evaluated for establishing future baseline pumping conditions. The **most recent** pumping data were used for **the majority** of groundwater producers.*

*Through stakeholder outreach efforts during the development of the baseline conditions, **some** agriculture representatives provided **estimates** to use **for future conditions** that reflected their projected water demands. Pumping was **distributed monthly throughout each year** with the peak months in the summer when irrigation needs are the greatest. The upper graph in Figure 3-22 shows the **annual and cumulative pumping assumptions used for the baseline pumping.**"* These assumptions are not consistent with the requirements of the GSP Regulations, including but not limited to GSP Regulations §§ 351 and 354.18 which require, for example, that: **projected water budgets shall be used to estimate future baseline conditions** of supply, demand, and aquifer response to Plan implementation; the projected water budget must use specific **methodologies and assumptions to estimate future baseline conditions**; those specifics include using **50 years of historical precipitation, evapotranspiration, and streamflow information** as the baseline condition for estimating future hydrology, and the **most recent land use, evapotranspiration, and crop coefficient information** as the **baseline condition for estimating future water demand.**

- As described above, the GSP contains no section or analysis for projected water budgets.

Section 3.5.5. Numerical Model Scenario 6.2.

- GSP Regulation § 352.4 requires:

"(f) Groundwater and surface water models used for a Plan shall meet the following standards: (1) The model shall include **publicly available supporting documentation**. (2) The model shall be based on **field or laboratory measurements**, or equivalent methods that justify the selected values, and calibrated against site-specific field data. (3) Groundwater and surface water models developed in support of a Plan after the effective date of these regulations **shall consist of public domain open-source software.**"

- Section 3.5 memorializes that: *"The recalibrated **model provides the historical water budgets and are the platform used for the SGMA simulations of baseline conditions and management scenarios.** Model assumptions, construction, and performance are detailed in Appendix 3-H."*

- The GSP fails to discuss, address or evaluate the merits of Model Scenarios 1, 2, 3, 4, 5, or 6.1.
- The GSP fails to mention that Model Scenarios 3, 4, 5, 6.1 and 6.2. received no prior input from the TAC, the TAC model ad hoc committee or the PAC prior to being presented to those committees and the public.
- As reflected in the Draft GSP Appendix, Model Scenario 6.2 was developed by the IWVGA Attorneys, the WRM and the Navy's modeling contractor in multiple iterations, all without any meaningful prior input from the PAC, TAC or the public. Model Scenario 6 results comprise the **foundation** for the GSP, including the sustainability goal, sustainable management criteria and projects and management actions.
- The GSP does not explain the close involvement of the Navy in developing the modeling scenarios. As reflected in the Navy's letter of November 7, 2018, the Navy agreed to transfer the model's "maintenance, further development, and configuration management to the IWV GA," but "with a condition of this transfer that the Navy shall be a participant of the model's configuration management process that oversees, recommends, and dispositions any changes to the model's capability and functionality." It reiterates that "The Navy shall be a participant of the model's configuration management process that oversees, recommends, and dispositions any changes to the model's capability and functionality." **Exhibit 38.**
- Detailed Model Scenario 6.2 assumptions have never been revealed to the PAC, TAC or the public. Meadowbrook has submitted multiple comments letters detailing the legal, technical, procedural and practical flaws in Model Scenario 6.2, which remain unresolved.
- The GSP provides "*a summary of the assumptions for Scenario 6.2.*" but fails to provide the detailed information necessary to comply with SGMA, the GSP Regulations and DWR Best Management Practices.
- The GSP summarizes the Model Scenario 6.2 assumptions for Management Action No. 1: Pumping Allocations as follows:
- "*Pumping: Allocations were assumed to begin February 2020 and were based on pumping history and the highest beneficial uses of groundwater.*" This fails to

explain: what the specific allocations were assumed for each pumper, including Meadowbrook; what information was used for “*pumping history*” and the criteria assumptions used for allocating according to “*highest beneficial uses*” of groundwater. Clearly, specific assumptions were made in assigning specific allocations to specific pumpers Model Scenario 6.2; however, neither the model documentation nor the GSP details what those assumptions are.

- “*Groundwater producers who did not continuously pump groundwater from 2010 to 2014 were assumed to cease pumping.*” This fails to explain: which specific groundwater producers were assumed to cease pumping; what data was used to determine whether and how much pumping occurred from 2010 to 2014.
- “*Domestic and municipal pumpers were assigned an allocation equivalent to their highest continuous annual pumping from 2010 to 2014.*” This fails to explain which producers were considered “*domestic and municipal pumpers*”; the pumping allocations assigned to those pumpers; the reason for using the “*highest continuous annual pumping*” amount rather than the lowest continual annual pumping; and what data was used to determine how much pumping occurred from 2010 to 2014.
- “*Pool Allocations: A pool of water was allocated for agricultural and industrial use.*” This fails to explain: why agricultural and industrial use is targeted for inclusion in the pool; the meaning of “*industrial use*”; which agricultural and industrial users specifically were included in the pool.
- “*Portions of the pool were allocated to agriculture and industrial groundwater producers based on historical irrigated acres and historical water use.*” This fails to explain: what the specific allocations were; what data was used to determine “*historical irrigated acres and historical water use*”; and the specific criteria used for those allocations; why the GSP inexplicably removes Searles Valley Minerals from the pool, and how the removal of Searles Valley Minerals from the pool impacts the Model Scenario 6.2 assumptions and results.
- “*Although these allocations could be used at the discretion of the groundwater producer, for modeling purposes, it was assumed that current pumping rates*

continued until the individual pool allocations were exhausted.” This fails to identify the assumptions used for “current pumping rates”. It also fails to consider or address the impact on modeling results if entities in the pool significantly reduce annual groundwater production rates.

- *“Lease Market: A lease market for unused groundwater allocations was assumed to be created driven by the relative economic value of the water to the users for modeling purposes, it was assumed possible sellers include some large agriculture, the IWVWD, and the City of Ridgecrest; possible buyers include some large agriculture and industrial users.” This does not explain why this version of the GSP no longer includes a “lease market” and now instead expressly prohibits those in the pool from transferring their allocations to any entity other than to the IWVGA through the following program. The GSP fails to explain why Section 5 has removed the lease market concept, nor does it explain who made the decision to remove the transferability concept that was included in the model scenario.*
- *“Project No. 1: Imported Water. Imported water used for groundwater replenishment is assumed to begin in 2035. Imported water is used to offset pumping over the sustainable yield of the IWVGB.” This fails to explain which pumpers, in which quantities, and in what locations, production is offset by imported water.*
- *Project No. 2: Recycled Water. Recycled water for direct non potable use and for injection is assumed to begin in 2025. Recycled water is assumed to be used by the City of Ridgecrest and Searles. This fails to explain the specific quantities of recycled water assumed to be used by the City of Ridgecrest, Searles Valley Minerals, and other potential users, and over what period of time.*
- *“Project No. 6: Pumping Optimization. Pumping was optimized to prevent additional lowering of groundwater levels near pumping depressions by redistributing pumping from the Southwest and Southeast regions of the IWVGB to the Northwest region where less pumping is anticipated over time. For the purposes of modeling, it was assumed that some of the IWVWD and Searles Valley Minerals pumping would be relocated.” This fails to explain: the “pumping depressions” are referenced here; where, exactly Model Scenario 6.2. assumes IWVWD and Searles Valley Minerals pumping would be relocated; the quantity of that relocated production; the justification for removing*

Meadowbrook from the very area that IWVWD and Searles Valley Minerals would be relocated, in terms of sustainable management criteria; how relocation of IWVWD pumping to the “Northwest region” complies with the terms of the publicly-referenced agreement between IWVWD and Mojave Pistachios that has been described to prohibit IWVWD from producing groundwater in that northwest area.

- “Growth: IWVWD groundwater pumping was assumed to increase by 1% annually.” This fails to explain the growth assumptions outside of the IWVWD service territory.
- The GSP fails to explain why 2070 basin total production of 14,000 AFY assumed in Model Scenario 6.2. has been reduced to 12,000 AFY in GSP Section 5.
- The GSP states at page 3-46 states that “Additional Scenario 6.2 water budgets at specific years are provided in Table 3-8.” Table 3-8 on page 3-27 does not provide that information.

Section 3.6. Existing Monitoring Network and Evaluation

- “The wells in the existing monitoring program have varying supporting data, with limited well log and construction data. Table 3-10 summarizes existing wells monitored for groundwater levels by different management areas within the IWVGB.” The GSP does not describe the “varying supporting data, with limited well log and construction data”. This represents a critical data gap.
- The reference to “management areas within the IWVGB” is confusing because the IWVGA has not considered or established management areas as defined by SGMA and the GSP Regulations.

e. MANAGEMENT AREAS

i. Applicable Regulatory Requirements and Best Management Practices

GSP Regulation § 351(r) defines a management area as:

“[A]n area within a basin for which the Plan may identify different minimum thresholds, measurable objectives, monitoring, or

projects and management actions based on differences in water use sector, water source type, geology, aquifer characteristics, or other factors.”

GSP Regulation § 354.20 further provides that:

“(a) Each Agency may define one or more management areas within a basin if the Agency has determined that creation of management areas will facilitate implementation of the Plan. Management areas may define different minimum thresholds and be operated to different measurable objectives than the basin at large, provided that undesirable results are defined consistently throughout the basin.

(b) A basin that includes one or more management areas shall describe the following in the Plan:

(1) The reason for the creation of each management area.

(2) The minimum thresholds and measurable objectives established for each management area, and an explanation of the rationale for selecting those values, if different from the basin at large.

(3) The level of monitoring and analysis appropriate for each management area.

(4) An explanation of how the management area can operate under different minimum thresholds and measurable objectives without causing undesirable results outside the management area, if applicable.

(c) If a Plan includes one or more management areas, the Plan shall include descriptions, maps, and other information required by this Subarticle sufficient to describe conditions in those areas.

ii. Comments

- The GSP fails to consider or establish management areas, despite requests by Meadowbrook and other stakeholders.

- The GSP simultaneously seeks to improperly treat agriculture as a water use sector management area by forcing agricultural users into a temporary pool and through fallowing as described in Management Action No. 1.
- As noted in this letter, the USBR-6 monitoring site indicates that groundwater levels near Meadowbrook are already operating at the designated measurable objective. The GSP should but fails to consider establishing appropriate management areas to reflect important varying conditions throughout the Basin.

V. THE PLAN DOES NOT INCLUDE A REASONABLE ASSESSMENT OF OVERDRAFT CONDITIONS OR REASONABLE MEANS TO MITIGATE OVERDRAFT, IF PRESENT.

SGMA provides that:

For purposes of establishing undesirable results, “**overdraft** during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and groundwater recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.” (Wat. Code § 10721(x)(1).)

SGMA Chapter 11 further provides, regarding State Intervention that:

“Condition of long-term overdraft” means the condition of a groundwater basin where the average annual amount of water extracted for a long-term period, generally 10 years or more, exceeds the long-term average annual supply of water to the basin, plus any temporary surplus. Overdraft during a period of drought is not sufficient to establish a condition of long-term overdraft if extractions and recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.” (Wat. Code 10735(a).)

Section 2.2.1. Setting

- This section states that: *“The IWVGB is designated Basin Number 6-054 by DWR and is included in DWR Bulletin No. 118 entitled “California’s Ground Water”, dated September 1975. Bulletin 118 noted that recharge in the IWVGB averaged about 10,000 acre-feet per year (AFY) while extractions (as of 1968) were about 12,500 AFY, implying that overdraft conditions have existed since at least the 1960s. DWR Bulletin 118 was updated in January 1980 and designated Bulletin 118-80. Table 8 of Bulletin 118-80 noted that there is evidence of*

groundwater overdraft in the IWVGB. Table 1 of Bulletin 118-16 (dated January 2016) indicates the IWVGB is subject to critical conditions of overdraft."

- These references reflect the fact that there is a wide range of estimates regarding the Basin's average annual native recharge, and that the actual rate of recharge varies and requires further evaluation, particularly for this GSP that places major emphasis on managing groundwater according to an estimated annual recharge figure without duly considering and establishing sustainable management criteria at each selected monitoring site.

Section 3.3.4.4. Overdraft Conditions

- The GSP frequently refers broadly to "pumping centers", "areas of depression", and areas of "declining water levels" but fails to consider and incorporate information and comments supplied by Meadowbrook indicating water levels and water quality at its production wells have shown stabilizing trends over recent years.
- The GSP mischaracterizes water level trends for USBR-6. The GSP indicates that USBR-6 *"demonstrate[s] significant prolonged groundwater level declines near pumping centers."* In fact, that data indicates recent stabilizing trends, particularly in the shallow aquifer.
- The GSP cites three studies dated 1969, 1973 and 1993 regarding estimated groundwater in storage. Those estimates range from 1,020,000 AF to 3,020,000, and are based upon very different hydrogeologic assumptions. The GSP selects one of those studies without stated technical justification and estimates based upon rough pumping estimates, a total of 1,750,000 AF in storage.
- The GSP groundwater storage estimate represents a significant data gap. The GSP expressly recognizes *"a number of limitations and sources of uncertainty with these estimates"* but nonetheless places extreme emphasis on avoiding *"loss of storage"* as a primary management objective and even seeks to limit total agricultural production to a mere and one-time fraction of the total storage. The GSP offers no current analysis of the amount of water in storage. The GSP must use best available science and information. GSP Regulation § 354.14 require the hydrogeological conceptual model to

include extensive information pertaining to groundwater in storage, including information regarding the definable bottom of the basin, principal aquifers and aquitards, lateral basin boundaries, including major geologic features that significantly affect groundwater flow, and related technical information yielding reliable estimated groundwater in storage.

- Notwithstanding the GSP's recognition that the total available groundwater in storage represents a significant data gap, this section offers no additional information or plan to investigate the amount of water in storage.
- SkyTEM information and related, more current data indicates total Basin groundwater in storage could range as high as 6 to 8 million acre feet, or possibly more.

**VI. THE PLAN DOES NOT CONSIDER THE INTERESTS OF THE
BENEFICIAL USES AND USERS OF GROUNDWATER IN THE BASIN,
OR THE LAND USES AND PROPERTY INTERESTS POTENTIALLY
AFFECTED BY THE USE OF GROUNDWATER IN THE BASIN.**

a. CONSIDERATION OF ALL BENEFICIAL USES AND USERS

i. Applicable Regulatory Requirements and Best Management Practices

SGMA requires Groundwater Sustainability Agencies to consider the interests of all beneficial uses and users of groundwater, specifically including “holders of overlying groundwater rights including agricultural users, including farmers, ranchers and dairy professionals.” (Wat. Code § 10723.2.)

ii. Comments

- The GSP fails to explain how it considered the interests of holders of overlying groundwater rights including agricultural users, including farmers, ranchers and dairy professionals, including Meadowbrook.
- The GSP Regulations governing sustainable management criteria include requirements to consider beneficial uses and users of water, as referenced above. The GSP fails to explain how it considered beneficial uses and users in the process of developing the sustainable management criteria.
- Records obtained through the Freedom of Information Act indicate that two of the “Big Three” voting member representatives of the IWVGA Board have **pre-determined** that the Navy will have “the main right on which all other allocations are based” and that determination will be based largely, if not primarily, on economic considerations rather than federal and state water rights laws and principles. An email among Navy representatives dated March 7, 2019 with the subject line “FRWR Request” reads as follows:

“After the TAC meeting, I was approached by [REDACTED], the IWVGA chair, and he is also requesting that the Navy provide the FRWR. He is also claiming that it needs to be the main right on which all other allocations are based. With two board members now calling for the FRWR, I further expect that the

request for that number **will be made public** at the next IWVGA Board meeting.

[REDACTED] and I will make sure to prepare a reply in advance of the meeting.

Additionally, after today's TAC meeting I was informed that a new proposal will be presented **during the IWV attorney meeting scheduled for tomorrow. In addition to examining the water rights subject, someone will also** be proposing examining the **economic impacts** that each major stakeholder has on the community **to determine allocation rights**. This is **very much predicated on the China Lake EIA brochures** that show we are the largest **economic driver** in the basin. I have [REDACTED].

V/r

[REDACTED]

Naval Air Weapons Station"

Exhibit 39.

- The reference "FRWR" refers to the federal reserved water right. This pre-determination is not consistent with the process outlined in Section 5 of the GSP, it suggests that the groundwater allocation ordinance process set forth in Section 5 of the GSP has already been determined without due process, and it may be in violation of the Brown Act and the Joint Powers Agreement. IWVGA counsel has already recognized Brown Act issues arising from the "Big Three" provisions of the Joint Powers Agreement when two of the "Big Three" representatives coordinate on matters outside of publicly noticed meetings. **Exhibit 36.**
- At the very least, this certainly evidences a failure to appropriately consider the interests of all beneficial uses and users, including agricultural users in the Indian Wells Valley.
- See additional comments below regarding apparent motivations and presumptions surrounding implementation of Management Action 1, and

the summary of comments made by IWVGA Board Members attached.
Exhibit 43.

Section 1.3. Beneficial Uses and Users

- This section states: *“The following beneficial users and uses have been identified in the IWVGB: Municipal, Domestic (De Minimis private wells owners and mutuals/co-ops), City/County, NAWS China Lake, Industrial, Large Agriculture, Small Agriculture, Environmental (including wildlife habitat and Groundwater Dependent Ecosystems)”*.
- This section does not address the existence or identify of other potential beneficial uses and users in the Basin.
- This section describes users but not uses of water.
- This section fails to describe the assumed beneficial uses of water by NAWS China Lake.
- This section fails to describe the assumed beneficial uses of water by *“Industrial”*.
- This section fails to explain the difference between Large and Small Agriculture.

b. CONSIDERATION OF LAND USES AND PROPERTY INTERESTS

i. Comments

- Prior to SGMA, Kern County attempted unsuccessfully to significantly alter zoning for Meadowbrook’s properties and other agricultural properties in the Basin. The SGMA process appears to be a continuation of Kern County’s efforts to eradicate agriculture from the Basin.
- The issues raised in this comment letter regarding Model Scenario 6.2., the intention to force agricultural users into a temporary pool, the aggressive timeline to implement the temporary pool and fallowing, the fee structures presently imposed and to be imposed on agricultural users, all while elevating Navy interests and in spite of significant data gaps and lack of

IWVGA Board, Water Resources Manager and Staff

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transparency, evidence failure of the GSP and the IWVGA to consider the land uses and property interests of Meadowbrook.

VII. THE PROJECTS AND MANAGEMENT ACTIONS ARE NOT DEMONSTRABLY FEASIBLE, NOT LIKELY TO PREVENT UNDESIRABLE RESULTS NOR ENSURE THAT THE BASIN IS OPERATED WITHIN ITS SUSTAINABLE YIELD; AND THE PLAN FAILS TO SHOW THAT THE AGENCY HAS THE LEGAL AUTHORITY AND FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE PLAN.

a. PROJECTS AND MANAGEMENT ACTIONS

i. Applicable Regulatory Requirements and Best Management Practices

GSP Regulation § 354.44 requires:

“(a) Each Plan shall include a description of the projects and management actions the Agency has determined will achieve the sustainability goal for the basin, including projects and management actions to respond to changing conditions in the basin.

(b) Each Plan shall include a description of the projects and management actions that include the following:

(1) A list of projects and management actions proposed in the Plan with a description of the measurable objective that is expected to benefit from the project or management action. The list shall include projects and management actions that may be utilized to meet interim milestones, the exceedance of minimum thresholds, or where undesirable results have occurred or are imminent. The Plan shall include the following:

(A) A description of the circumstances under which projects or management actions shall be implemented, the criteria that would trigger implementation and termination of projects or management actions, and the process by which the Agency shall determine that conditions requiring the implementation of particular projects or management actions have occurred.

(B) The process by which the Agency shall provide notice to the public and other agencies that the implementation of projects or management actions is being considered or has been implemented, including a description of the actions to be taken.

(2) If overdraft conditions are identified through the analysis required by Section 354.18, the Plan shall describe projects or management actions, including a quantification of demand reduction or other methods, for the mitigation of overdraft.

(3) A summary of the permitting and regulatory process required for each project and management action.

(4) The status of each project and management action, including a time-table for expected initiation and completion, and the accrual of expected benefits.

(5) An explanation of the benefits that are expected to be realized from the project or management action, and how those benefits will be evaluated.

(6) An explanation of how the project or management action will be accomplished. If the projects or management actions rely on water from outside the jurisdiction of the Agency, an explanation of the source and reliability of that water shall be included.

(7) A description of the legal authority required for each project and management action, and the basis for that authority within the Agency.

(8) A description of the estimated cost for each project and management action and a description of how the Agency plans to meet those costs.

(9) A description of the management of groundwater extractions and recharge to ensure that chronic lowering of groundwater levels or depletion of supply during periods of drought is offset by increases in groundwater levels or storage during other periods.

(c) Projects and management actions shall be supported by best available information and best available science.

(d) An Agency shall take into account the level of uncertainty associated with the basin setting when developing projects or management actions.”

GSP Regulation § 351 (al) further provides that:

“‘Water use sector’ refers to categories of water demand based on the general land uses to which the water is applied, including urban, industrial, agricultural, managed wetlands, managed recharge, and native vegetation.”

ii. Comments

Section 5.2.1 Management Action No. 1: Implement Annual Pumping Allocation Plan, Transient Pool and Fallowing Program

- As described earlier in this letter, it appears that two of the “Big Three” voting member representatives of the IWVGA Board have **pre-determined** that the Navy will have “the main right on which all other allocations are based” and that determination will be based largely, if not primarily, on economic considerations rather than federal and state water rights laws and principles.
- On February 22, 2019, the IWVGA Chair was reported to have stated publicly: “When the Navy came out formally and said they are considering groundwater an encroachment issue that is something we’ve got to solve, otherwise they are going to say it’s encroachment on the mission of the base. And them being the major economic driver of the area, that means a lot...they are the major economic driver and they are in the driver’s seat.” **Exhibit 43.**
- On March 4, 2019, the Kern County representative of the IWVGA was reported to have stated publicly: “...I want the Navy and this community to understand that Kern County, all five supervisors, stand behind you. We will support the Navy and we will support this community in any vote that I make.” **Exhibit 43.**

- The content of the March 7, 2019 email [**Exhibit 39**] accurately predicted the positions taken by counsel for certain parties during the March 2019 attorney allocation meetings, as reflected in IWVGA special counsel's summary reports given to the IWVGA. The report for the meeting of March 8th indicates describes "a list of concepts and issues raised which could be presented to the Authority Board for consideration... 1. 1. There were proposed bases which have been presented which would **deprioritize agricultural production**, including the purported priority of "Health and Safety" water, which presumably would include some amount of gallons per person per day which the District could serve with a first priority, the statutory priority of municipal and industrial water over agricultural water and the assertion that agricultural use of water in the Basin under present circumstances should not be considered a reasonable use of water. 2. The City of Ridgecrest has become established to perform the core role of facilitating the Navy Mission at the China Lake base, so that **preserving a water priority for the District and others serving Navy employees for base operations should constitute the priority goal for the allocation plan.**" **Exhibit 34.**
- On March 8, 2019, the Kern County representative of the IWVGA was reported to have stated publicly: "All I know is from my perspective, it's [Navy encroachment letter] a game-changer. Because the strategic imperative is now changed. We need to preserve the Navy's mission in the Indian Wells Valley. And that has implications that dwarf other decisions...now that the letter has been released in my mind, it changes the over-arching strategy of what we are trying to do. **Now the strategy is emphatically and clearly and empirically that our job is to preserve the Navy base and to preserve the Navy mission because it is being encroached upon. The way I read it [the letter], their federal reserve right will not just include the water that they are using on the base today but will include all the water required by all their employees and their families.**" **Exhibit 43.**
- Likewise, the attorney allocations meeting report of March 29, 2019 reflects continued entrenched efforts to deprioritize agriculture and elevate Navy interests in the allocation plan: "It was stated that the **Authority Board desires options presented for its consideration of an allocation plan ...**

Those **concepts might be applied to protect water production by the district and others in proportion to the connections of ratepayers which include a person who works at the Naval Base.** It was noted that **agricultural uses would be very likely to be terminated by application of those principles relatively quickly,** be bought out or be ramped down over an agreed period of time.” **Exhibit 34.**

- The Navy’s letter to the IWVGA dated June 17, 2019, attached to the GSP as Appendix 5-A, raises many questions that have not been addressed by the IWVGA, including questions contained in Meadowbrook’s prior comment letters and through many verbal comments at public IWVGA Board, PAC and TAC meetings that comprise the public record of the IWVGA.
- On October 1, 2019, the Kern County representative of the IWVGA was reported to have stated publicly: “I think we are on the very edge of getting that [IWVGA Groundwater Sustainability Plan] done. We need to get it done and get it moving. The satisfaction I will get from that will be significant because we give it to the Navy and say ‘you have no worries, we don’t have a threat to our base because we have a sustainment plan.” **Exhibit 43.**
- By directive of the United States Office of the Under Secretary of Defense in memorandum entitled, “Water Rights and Water Resources Management on Department of Defense Installation and Ranges in the United States and Territories,” NAWS China Lake was ordered in May 2014 to gather and organize within six months of that memorandum, a “permanent record containing all existing documentation establishing its water rights ... [and] determine the amount of water used at each installation and range.” It was further directed to identify within one year all water sources, including those supplied on site and by third parties. **Exhibit 35.** Assuming NAWS China Lake complied with this directive, it would have gathered all such information and data by May 2015. The GSP fails to indicate whether and to what extent such information was requested, obtained, evaluated by the IWVGA and utilized in preparing the GSP.
- IWVGA staff has further evidenced a pre-determined intention to allocate Meadowbrook (and other agricultural groundwater users) ZERO acre-feet of the IWVGA’s estimated annual basin native supply. At the October 3,

2019 PAC and TAC meetings, the Water Resources Manager distributed to the PAC and TAC a document entitled, “Introduction to Sustainable Yield Allocation Chart” which rendered Meadowbrook a “0” allocation to produce groundwater from the native yield, would force Meadowbrook into a temporary pool—without due process or just compensation. **Exhibit 42.**

- That allocation chart, without citation to any supporting legal authority, would allocate nearly the entire IWVGA estimated annual basin recharge to the Navy, and relegate all agricultural water users including Meadowbrook to an unidentified and unquantified “Pool” that would require them to cease pumping once depleted (i.e. consistent with Management Action No. 1)—without due process or just compensation. The allocation chart is based upon other unrevealed though highly questionable and untenable legal theories and factual assumptions. See Meadowbrook’s addressing similar issues in Model Scenario 6, and related concerns. **Exhibits 30, 31, 32.**
- Management Action No. 1 is clearly built upon assumptions contained in Model Scenario 6.2. For example, this section indicates that the “*total allocations from Transient Pool are anticipated to be limited to no more than 51,000 acre feet.*” The GSP Appendix 3-H summarizes the Model Scenario 6 assumptions in the PowerPoint presentation slides contained in that section. Under “Scenario 6 Summary”, it states: “*Draft summary of concepts for Scenario 6 was developed in coordination with the Attorneys*”¹. “*Final model inputs provided to DRI after finalizing the summary of concepts with the Attorneys*”. “*Discussion of Scenario 6 results and goals with DRI.*” “*Second iteration of Scenario 6 (6.2) developed to further evaluate imported water requirement*”.
- Meadowbrook and many other parties have requested many times that the Model Scenario 6.2 assumptions and criteria be made publicly available, but the IWVGA has not released those details. **Exhibits, 30, 31, 32.**
- The GSP fails to identify The GSP fails to identify based upon best available science and information how much groundwater is in storage in the Basin.

¹ This refers only to attorneys for the IWVGA—neither counsel for Meadowbrook nor, to our knowledge, counsel for any other large producer, was consulted in the development of Model Scenario 6.2 (or Scenarios 3, 4, 5, or 6.1).

Preliminary estimates stated by the Water Resources Manager have ranged from approximately 1 million to nearly 2.5 million acre feet. Establishing a clear statement of total available groundwater in storage based upon best available science and information is essential to establishing a numerical minimum threshold for loss of storage as a sustainability indicator under SGMA and the DWR Regulations and BMPs.

- The GSP fails to identify based upon best available science and information how much usable groundwater is in storage in the Basin. Nor does the GSP state whether it deems all usable water usable for all purposes, or whether some water will be usable for some purposes (e.g. industrial) and not others (e.g. domestic).
- The GSP fails to explain or provide technical justification for the 51,000 AF figure proposed for the “Transient Pool”.
- The GSP fails to explain or provide technical justification for how a 51,000 AF Transient Pool management action satisfies SGMA’s requirements to avoid undesirable results in at specific monitoring sites.
- The GSP fails to explain or provide technical justification for why the Transient Pool was reduced from the amount proposed in prior IWVGA staff materials, or to explain the technical and legal basis for Kern County Counsel’s recent public comment that, if adjusted from Model Scenario 6.2., the Transient Pool figure would “only go lower”.
- The GSP is replete with references indicating that agricultural users will be relegated to the temporary pool, suggesting that no agricultural user will be allocated a permanent allocation to the native supply.
- The GSP allocation management action attempts to regulate groundwater users according water use sectors without defining water use sectors.
- The November 2019 Draft GSP contained provisions that transient pool allocations would be transferable. The GSP has inexplicably removed those transferability provisions. Please state the reasons for removing the transferability provisions.

- Water Code Section 10726.2 authorizes an Agency to acquire real and personal property rights by grant, purchase, lease, contract, etc., or to provide for a program of **voluntary** fallowing of agricultural lands, it does **not** authorize an Agency to force agricultural fallowing or to take property rights without due process and just compensation.
- Any taking of Meadowbrook’s property rights—including water rights—requires due process and just compensation. If the IWVGA or the Navy considers “taking” property or water rights to be necessary in order for the Navy’s mission to be sustained, that will require due process and just compensation. Management Action No. 1 and the projected \$9 million fallowing program do not satisfy the constitutional and statutory requirements.
- The allocation ordinance process described in Management Action No. 1 indicates that the IWVGA will assign allocations based upon its evaluation of water rights, priorities and other factors. IWVGA attorneys have already indicated in the October 2019 “Sustainable Yield Allocation Chart” their position that the Navy has a federal reserved water right that could exceed the entire average basin recharge, citing the June 2019 letter from the Navy as a basis for that assertion. The “extended” federal reserved water right concept is not based on established case law. How then, can any producer, especially Meadowbrook, expect to receive a fair, factual and legally-supported process and determination of an allocation for Meadowbrook when that determination will be based on recommendations made presumably by the same IWVGA staff that produced the October 2019 allocation chart and two of the “Big Three” voting representatives of the IWVGA Board who have pre-determined that the Navy will have “the main right on which all other allocations are based” and that determination will be based largely, if not primarily, on economic considerations rather than federal and state water rights laws and principles?
- The GSP does not explain how imposition of an allocation framework will satisfy SGMA and the Regulations’ requirements to avoid **specific undesirable results**.

- The discussion in this section regarding a Navy federal reserved water right and other water right priorities and interests is a legal argument, and highlights the due process concern identified above.
- The GSP fails to explain how IWVGA member agencies that produce groundwater will participate in the allocation ordinance process, and how conflict of interest does not arise for those agencies to make determinations of their own allocations.
- The GSP fails to explain whether the IWVGA intends to recognize an allocation for the Navy in the amount of 2,041 AF in accordance with the Navy's prior request, and if so, to provide any justification for doing so when the Navy's June 2019 letter indicates a much lower current Navy demand on the base at approximately 1,450 AFY. Section 2.7.3.3. indicates that *"In October 2018, the Navy estimated its short-term future water needs on the installation to be approximately 2,041 AFY, which includes a 25% increase in current water use."* A 25% increase over 1,450 AFY is closer to 1,800 AFY.
- The GSP fails to explain whether, when or how the IWVGA has ever questioned or objectively evaluated the merit of using a 2,041 AF figure for a Navy allocation, and if so, to provide the justification for doing so.
- GSP Section 1.4. Agency Information states: *"A large portion of the lands overlying the northern and northeastern portion of the IWVGB is Federal property owned and managed by the U.S. Navy for NAWS China Lake (see Section 2.2.2). NAWS China Lake consists of two major land areas: the North Range, encompassing 606,926 acres, and the South Range, encompassing 503,510 acres. The North Range lies in portions of Inyo, Kern, and San Bernardino counties and the South Range is located entirely within San Bernardino County. Mainsite and Headquarters areas, which are in the southern boundary of the North Range, adjoin the City of Ridgecrest on the south. The NAWS China Lake laboratories and ranges support the Navy's Research, Development, Acquisition, Test, and Evaluation (RDAT&E) of cutting-edge weapons systems critical to national defense and create over 9,900 direct, indirect, and induced jobs within the region."* The GSP fails to identify the source of this information, including whether it was derived from the Navy economic materials referenced in the March 7, 2019 email referenced above. The GSP fails to indicate whether it has evaluated the extent to which NAWS China Lake operations in the North and South

Ranges, respectively, rely upon the IWVGB as a source of water supply, whether NAWS China Lake operations in the North Range draw water from sources other than the IWVGB, whether NAWS China Lake operations in the South Range draw water from sources other than the IWVGB, whether NAWS China Lake operations in either the North or South Ranges have access to water supplies other than the IWVGB, such as from other groundwater basins, whether the GSP assumptions regarding Navy water demands include NAWS China Lake operations for the entirety of North and South Ranges, or whether the GSP evaluated potential sources of water supply for the Navy beyond the IWV Basin.

- The GSP indication that imposing Management Action No. 1 will result in *“rising groundwater levels”* in certain areas, particularly North Brown Road, is evidence that the management action overreaches, especially where the cost of that action is the unlawful taking of extensive agricultural property and water rights in the Indian Wells Valley.
- The Draft GSP fails to address how applications for new groundwater production in the Basin will be addressed.
- The Draft GSP fails to address CEQA and NEPA requirements for Management Action No. 1 and for all other Projects and Management Actions. Section 1.1 states: *“The proposed projects and management actions will need to be fully developed and/or designed after adoption of the GSP. These projects and management actions may be required to comply with environmental compliance regulations, including the preparation of CEQA and/or National Environmental Policy Act (NEPA) reviews before they are implemented.”* This could dramatically impact implementation and should have been at least preliminarily evaluated in the GSP document.
- The Draft GSP fails to explain the basis for the \$9 million figure for the *“Fallowing Program”*. It also fails to answer Meadowbrook’s question if that figure is in any way based upon the IWVGA’s prior appraisal of Meadowbrook property which was performed without prior notice to Meadowbrook.
- The GSP fails to explain whether the \$9 million figure is based upon stripping Agriculture of groundwater production rights before *“taking”* the

properties, or the basis for determining whether that \$9 million figure is adequate.

- The GSP cites often (and often exclusively) to Water Code § 10725.2(a), which states “A groundwater sustainability agency may perform any act necessary or proper to carry out the purposes of this part.” This section does not, however, authorize the IWVGA to perform acts that contravene SGMA, including implementing projects and management actions that are not supported by sustainable management criteria based upon best available science and information or that fail to comply with other substantive and procedural requirements imposed by SGMA and the GSP Regulations. Nor does it authorize an Agency to violate the constitutional prohibition of taking without due process and just compensation.
- The GSP fails to explain how Management Action No. 1 would be affected or modified when further study reveals a significantly greater volume of groundwater in storage, a higher annual average natural recharge, or other potentially significant changes to the Model Scenario 6.2. assumptions and criteria.
- In any allocation process, Meadowbrook is entitled to and must receive a permanent allocation. Meadowbrook has already indicated many times a willingness to “ramp down”—even significantly—in order to achieve sustainability. Sustainability must be in accordance with SGMA, however, and not based upon politically-driven decision making devoid of best available science and information.

Section 5.3.1 Project No. 1: Develop Imported Water Supply

- Development of an imported water supply is critically important to achieving Basin sustainability.
- Further details regarding the nature, scope, costs, funding and impacts of an imported water supply must be developed and considered, including publicly.
- The imported water project should be vetted thoroughly before implementing other significant groundwater management actions that

would significantly impact existing beneficial uses and users of groundwater.

- After properly establishing minimum thresholds and other sustainable management criteria, the IWVGA can evaluate potential necessary mitigation programs while developing, evaluating and vetting the imported water project.

Section 5.3.2 Project No. 2: Optimize Use of Recycled Water

- Maximizing available recycled water is critically important to achieving Basin sustainability.
- Further details regarding the nature, scope, costs, funding and impacts of potential recycled water projects must be developed and considered, including publicly.
- The recycled water projects should be vetted thoroughly before implementing other significant groundwater management actions that would significantly impact existing beneficial uses and users of groundwater.
- After properly establishing minimum thresholds and other sustainable management criteria, the IWVGA can evaluate potential necessary mitigation programs while developing, evaluating and vetting recycled water projects.
- The GSP indicates the IWVGA would pay for feasibility studies and infrastructure to fund Searles Valley Minerals—a private entity—retrofitting to use recycled or brackish water. The GSP fails to specify the source of those funds or the authority for or justification of that concept. The GSP fails to explain whether the IWVGA would use fees generated by private pumpers it seeks to eradicate from the Basin to fund studies and projects specifically to benefit other private pumpers that it determines should not be eradicated, and how doing so would not comprise an improper gift of public funds.
- The GSP fails to indicate a similar willingness on the part of the IWVGA to reach out to other private pumpers, like Meadowbrook, to discuss potential

conservation measures, feasibility studies, and the use of potential alternative supplies, as it suggests doing for Searles Valley Minerals.

Section 5.3.3 Project No. 3: Basin-wide Conservation Efforts

- Maximizing water conservation is critically important to achieving Basin sustainability.
- Further details regarding the nature, scope, costs, funding and impacts of water conservation programs must be developed and considered, including publicly.
- The water conservation programs should be vetted thoroughly before implementing other significant groundwater management actions that would significantly impact existing beneficial uses and users of groundwater.
- After properly establishing minimum thresholds and other sustainable management criteria, the IWVGA can evaluate potential necessary mitigation programs while developing, evaluating and vetting conservation programs water projects.
- The IWVGA should consider all feasible conservation measures, both voluntary and mandatory, for all uses and users of groundwater. The GSP currently and improperly targets agricultural users by forcing them into a one-time use temporary pool while simultaneously imposing no mandatory or voluntary conservation measures on other uses and users of groundwater. This represents a failure to consider all beneficial uses and users of groundwater.
- The GSP indicates the IWVGA would pay for feasibility studies and infrastructure to fund Searles Valley Minerals—a private entity—retrofitting to use recycled or brackish water. The GSP fails to specify the source of those funds. The GSP fails to explain whether the IWVGA would use fees generated by private pumpers it seeks to eradicate from the Basin to fund studies and projects specifically to benefit other private pumpers that it determines should not be eradicated, and how doing so would not comprise an improper gift of public funds.

- The GSP fails to indicate a similar willingness on the part of the IWVGA to reach out to other private pumpers, like Meadowbrook, to discuss potential conservation measures, feasibility studies, and the use of potential alternative supplies, as it suggests doing for Searles Valley Minerals.

Section 5.3.4 Project No. 4: Shallow Well Mitigation Program

- As Meadowbrook has previously indicated, the IWVGA should develop a shallow well mitigation plan based upon best available science and information, *before* considering imposing any significant pumping limitations. By contrast, the GSP seeks to impose the harsh Management Action No. 1 allocation and fallowing process before implementing the shallow well mitigation program.
- The GSP reference to “*financial hardships*” fails to acknowledge the economic impacts to agricultural users who stand to face tens if not hundreds of millions of dollars in impact that would result from the Projects and Management Actions.
- The GSP fails to explain or demonstrate specifically whether, when or how Meadowbrook’s groundwater production impairs any specific shallow wells. The IWVGA has not and cannot answer this question. Yet, the IWVGA still proposes forcing Meadowbrook into a temporary pool and ultimately forcing it out of business, while requiring no conservation from the Indian Wells Valley Water District and other well owners it intends to “protect”, only to then move the Indian Wells Valley Water District and potentially other large producers to the very place that Meadowbrook has operated for decades!

Section 5.3.5 Project No. 5: Dust Control Mitigation Program

- The GSP fails to explain the basis for the \$19 million figure for “*Dust Mitigation*”, and why the GSP deems dust mitigation more important and to be funded more than double that of fallowing.
- It is worth noting that “dust control” has been a primary focus of the written comments submitted to the IWVGA by the TAC member appointed by the Kern County representative of the IWVGA Board. **Exhibit 37.**

Section 5.3.6 Project No. 6: Pumping Optimization Project

- The GSP fails to identify which existing groundwater wells the Indian Wells Valley Water District or any other entity would utilize in the North Brown Road area in Modeling Scenario 6.2, or alternatively, where new wells would be drilled.
- The GSP fails to identify which wells cease operating, and when, under Modeling Scenario 6.2.
- The GSP fails to identify which wells continue operating, and at what levels of groundwater production, under Modeling Scenario 6.2.
- The GSP fails to explain the basis for the \$23 million figure for “*Pumping Optimization*”.

Section 5.4 Conceptual Projects Still Under Consideration

- As a participating member of the Brackish Water Group, Meadowbrook supports the further evaluation of brackish water supplies.
- The potential use of brackish water supplies by the entities noted in the GSP in lieu of groundwater should be vetted and considered *before* considering imposing any significant pumping limitations.

Section 6.2 Schedule for Implementation

- The aggressive, prescriptive nature of the Draft GSP leaves little room for adaptive management as required by SGMA.
- The GSP fails, for example, to consider how the sustainable management criteria and projects and management actions should be adjusted when the IWVGA recognizes new and more accurate data for groundwater in storage, potential future additional conservation by Meadowbrook and other producers, the introduction of brackish water supplies, and other projects and management actions not yet sufficiently evaluated.

**b. LEGAL AUTHORITY AND FINANCIAL RESOURCES
NECESSARY TO IMPLEMENT THE PLAN**

**i. Applicable Regulatory Requirements and Best Management
Practices**

SGMA Chapters 5 and 8 outline the powers and authorities of Groundwater Sustainability Agencies.

GSP Regulation § 354.6(d),(e) requires that a GSP must include: the legal authority of the Agency, with specific reference to citations setting forth the duties, powers, and responsibilities of the Agency, demonstrating that the Agency has the legal authority to implement the Plan, and an estimate of the cost of implementing the Plan and a general description of how the Agency plans to meet those costs.

ii. Comments

Section 6.3.1 Implementation Costs

- See detailed comments on Section 5 above, regarding issues pertaining to GSP implementation costs for specific projects and management actions.

Section 6.3.2 Potential Funding Sources

- The IWVGA has severe current and projected funding gaps, as noted at recent IWVGA Board meetings.
- The Draft GSP identifies potential project capital costs in excess of \$350 million, and potential annual costs in nearly of \$10 million. The GSP provides insufficient detail on how those costs will be funded, including how they might impact the various beneficial users of groundwater.
- The GSP fails to provide an estimated range of the contemplated “Administration Fees”, “Mitigation Fees” or “Augmentation Fees”. An estimate of the potential GSP implementation fees is critical to inform stakeholders regarding GSP impacts.
- The GSP fails to note that the current \$30/acre fee is among the highest, if not the highest, GSP-development fee in California, notwithstanding

IWVGA's receipt of over \$1.5 million in grant funding. It also fails to note that the fee was imposed over the strenuous objection of many parties who submitted extensive comment letters into the record. See Meadowbrook comment letters attached as **Exhibits 25, 26, 27**.

- Meadowbrook is supportive of the IWVGA seeking and exhausting all potential sources of federal, state and local grant funding and related financing, in order to minimize acute local cost impacts.
- The IWVGA must comply with California Constitutional and statutory requirements in implementing any fees under Water Code 10730.2.

**VIII. THE IWVGA HAS NOT RESPONDED TO COMMENTS THAT
RAISE CREDIBLE TECHNICAL OR POLICY ISSUES WITH THE PLAN.**

**i. Applicable Regulatory Requirements and Best Management
Practices.**

GSP Regulation § 354.10. requires:

“Each Plan shall include a summary of information relating to notification and communication by the Agency with other agencies and interested parties including the following:

(a) A description of the beneficial uses and users of groundwater in the basin, including the land uses and property interests potentially affected by the use of groundwater in the basin, the types of parties representing those interests, and the nature of consultation with those parties.

(b) A list of public meetings at which the Plan was discussed or considered by the Agency.

(c) Comments regarding the Plan received by the Agency and a summary of any responses by the Agency.

(d) A communication section of the Plan that includes the following: (1) An explanation of the Agency's decision-making process. (2) Identification of opportunities for public engagement and a discussion of how public input and response will be used. (3) A description of how the Agency encourages the active involvement of diverse social, cultural, and economic elements of the population within the basin. (4) The method the Agency shall follow to inform the public about progress implementing the Plan, including the status of projects and actions.”

ii. Comments

Section 1.4.1. Organization and Management Structure of the IWVGA

- The GSP does not mention that the 17-month-long formation process of the IWVGA was highly controversial. During the early stages of the formation

of the IWVGA Joint Powers Authority, The Meadowbrook Mutual Water Company engaged in good faith to participate as a board member in collaboration with the other IWVGA member agencies. Those efforts were met with stiff resistance from most of the member agencies, particularly Kern County and the City of Ridgecrest. Meadowbrook submitted multiple comment letters to each of the IWVGA member agencies on this matter.

Exhibits 1 – 9.

- This section states in part that: *“In addition, the Board members representing the County of Kern, the City of Ridgecrest, and the Indian Wells Valley Water District are considered principal voters. That is, no Board action may be approved by the Board unless it receives the affirmative vote from no less than two (2) of the Board members representing the County of Kern, the City of Ridgecrest, and/or the Indian Wells Valley Water District. The U.S. Navy and the BLM hold two Associate Member positions that have a representative non-voting seat on the Board. Although they do not have the power to vote on any Board action or proposal, the Associate Members’ position entitles them to full participation in public Board meetings and discussions.”*
- The GSP fails to indicate whether the Navy or BLM representatives attended or participated in any closed session meetings of the IWVGA Board.
- The GSP indicates that *“All IWVGA Board meetings are held in accordance with the Ralph M. Brown Act, set forth in the California Government Code sections 54950, et seq.”* but does not mention the IWVGA board member “pre-meeting” practices that were deemed by counsel to be in violation of the Brown Act when pumping fees were being considered. **Exhibit 36.**

Section 1.4.2.1. Policy Advisory Committee (PAC)

- This section indicates that *“The Board established an eleven-person, voting-member Policy Advisory Committee (PAC) to advise the Board on all policy-related matters of the Board and to develop non-binding proposals on policy matters pertaining to the GSP.”*
- As memorialized in many comment letters and verbal comments on the record by Meadowbrook representatives and others, despite

Meadowbrook's significant efforts to persuade the IWVGA to establish the PAC and obtain representation on the PAC, the PAC was only rarely engaged in the manner required by the IWVGA Bylaws. **Exhibits 11- 21, 24-29.**

Section 1.4.2.2. Technical Advisory Committee (TAC)

- This section indicates that *"The Board also established a Technical Advisory Committee (TAC) for the express purpose of giving interested parties a reasonable opportunity to review and conduct a thorough evaluation of each technical element of the GSP prior to its finalization by the WRM ... The WRM sets the agenda of each TAC meeting so that each technical element of the GSP is presented to the TAC, in draft, to afford the TAC a reasonable opportunity to review and conduct a thorough evaluation of each element."*
- The IWVGA Bylaws require that the TAC "will assist the Water Resources Manager in the preparation of the GSP and will work collaboratively with other committees of the Board." (Bylaws, Section 5.11.) The Bylaws also require that "The Water Resources Manager shall attend and set the agenda of each TAC meeting so that each technical element of the GSP is presented to the TAC, in draft, to afford the TAC a reasonable opportunity to review and conduct a thorough evaluation prior to finalization of that technical element."
- In actuality, the TAC was largely deprived of the opportunity to review each technical element of the GSP in draft and was most frequently deprived of a reasonable opportunity to review and conduct a thorough evaluation prior to finalization of each technical element. The IWVGA Board, PAC and TAC meeting minutes, videos, reports and summaries are replete with comments memorializing this significant substantive and procedural failure. Those failures ranged from, for example, almost always distributing substantive materials to the TAC and PAC only minutes before their actual meetings, to completely bypassing the TAC and PAC in the development of Model Scenarios 3, 4, 5, 6.1 and 6.2.
- Meadowbrook made a concerted effort to assist in the productive development of the GSP, including proposing schedules, timeframes and administrative processes to assist the PAC and TAC in developing the

technical and policy aspects of the GSP. Nonetheless, for well over a year, the TAC and PAC were given no meaningful direction from the IWVGA, and became bogged down, at no fault of their own, in administrative and procedural challenges. **Exhibits 24, 28, 29.**

- The GSP acknowledges that *“As stated in Article 5.12 of the IWVGA By-Laws, TAC members must have a formal education and experience in a groundwater-related field while also maintaining an understanding of the technical aspects of the IWVGB or similar basins in California.”* The GSP fails to note, however, that the IWVGA Board did not adhere to this requirement in all cases. As one example, the Kern County representative to the IWVGA Board nominated a TAC member that did not meet the requisite criteria of Bylaws Article 5.12. The Kern County representative disclosed having a financial, employer/employee relationship with that TAC representative and then abstained from voting to approve of the resolution appointing that individual to the TAC due to a conflict of interest. The IWVGA June 2019 meeting minutes memorialize this process. **Exhibit 34.**

GSP Appendix

- The Appendix includes two comment letters previously submitted by the Navy. The Appendix does not list, attach or reference even one of the many detailed comment letters submitted by Meadowbrook and other parties. **Exhibits 1-32.**

IX. CONCLUSION

Meadowbrook recognizes and appreciates the challenge presented by SGMA. In achieving Basin sustainability, SGMA and the GSP Regulations require GSAs to comply with substantive, technical and procedural requirements. In haste to meet the January 31, 2020 GSP submission deadline, the IWVGA has, unfortunately, failed to meet the statutory and regulatory requirements for the GSP. These deficiencies render the GSP subject DWR rejection, and ultimately State Water Board intervention.

The GSP deficiencies outlined in this letter, in prior Meadowbrook letters and in the many comments submitted by other parties, can and must be corrected.

GSP Regulation § 353.10 provides:

“An Agency may withdraw a Plan at any time by providing written notice to the Department, and may amend a Plan at any time pursuant to the requirements of Section 355.10.”

GSP Regulation § 355.10. further provides:

“(b) An Agency may amend a Plan at any time, and submit the amended Plan to the Department for evaluation pursuant to the requirements of this Subchapter.

(c) The Department shall evaluate the amended portions of the Plan and any new information that is relevant to the amendments or other Plan elements. Portions of the Plan that have not been amended will not be evaluated unless the Department determines the proposed amendment may result in changed conditions to other areas or to other aspects of the Plan.

(d)(1) An amended Plan that has been submitted, but not yet approved by the Department, shall be evaluated during the initial evaluation period, in accordance with Sections 355.2 and 355.4.”

The IWVGA’s ultimate objectives must be SGMA compliance and avoiding State Water Board intervention. In light of the many GSP deficiencies outlined in this letter and in comments submitted by other parties, Meadowbrook urges the IWVGA to continue to engage the PAC, TAC and other stakeholders in

correcting those deficiencies before implementing any significant projects and management actions or imposing new fees. This process must include developing and evaluating appropriate sustainable management criteria, alternative projects and management actions and modeling scenarios to achieve Basin sustainability in accordance with SGMA, the GSP Regulations and DWR Best Management Practices.

Finally, any allocation of native Basin groundwater supplies must include a permanent allocation for Meadowbrook.

Very truly yours,



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

DRH:mdd

Enclosures

cc: E. Teasdale
Client

MEADOWBROOK DAIRY

EXHIBIT LIST

TAB	DESCRIPTION	DATE
1.	Letter re Indian Wells Valley Groundwater Sustainability Agency	January 12, 2016
2.	Letter re Indian Wells Valley Groundwater Sustainability Agency	January 25, 2016
3.	Letter re Indian Wells Valley Groundwater Sustainability Agency	April 15, 2016
4.	Letter re Request to Join Indian Wells Valley Groundwater Cooperative Groundwater Management Group	June 17, 2016
5.	Letter re Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority [IWVWD Board of Directors]	July 11, 2016
6.	Letter re Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority [San Bernardino County Board and Chief Executive Officers]	July 11, 2016
7.	Letter re Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority [Inyo County Board of Supervisors and Water Department Directors]	July 11, 2016
8.	Letter re July 19, 2016 Board of Supervisors Meeting, Agenda Item 19 – Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority [Kern County Board of Supervisors and County of Kern]	July 18, 2016
9.	Letter re August 3, 2016 City of Ridgecrest City Council Meeting, Agenda Items 5 and 6 – Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority [City Council and City of Ridgecrest]	August 2, 2016
10.	Letter re October 20, 2016 Indian Wells Valley Groundwater Authority Board Meeting Agenda Item 6 – Policy and Technical Advisory Committees	October 19, 2016
11.	Letter re October 20, 2016 Indian Wells Valley Groundwater Authority Board Meeting Agenda Item 5 – Minutes of September Board Meeting	October 19, 2016
12.	Letter re Meadowbrook Representative on Technical Advisory Committee	November 11, 2016
13.	Letter re November 17, 2016 Board Meeting	November 16, 2016
14.	Letter re February 16, 2017 IWVGA Board Meeting Agenda Item 7 – IWVGA Bylaws with Revised Policy Advisory Committee Composition	February 15, 2017
15.	Letter re Indian Wells Valley Groundwater Authority Proposed Bylaws [Inyo County Board of Supervisors]	March 8, 2017
16.	Letter re Indian Wells Valley Groundwater Authority Proposed Bylaws [San Bernardino County Board of Supervisors]	March 8, 2017

MEADOWBROOK DAIRY

EXHIBIT LIST

TAB	DESCRIPTION	DATE
17.	Letter re Indian Wells Valley Groundwater Authority Proposed Bylaws [Indian Wells Valley Water District]	March 8, 2017
18.	Letter re Indian Wells Valley Groundwater Authority Proposed Bylaws [City of Ridgecrest City Council]	March 8, 2017
19.	Letter re March 15, 2017 Ridgecrest City Council Meeting, Agenda Item 11 – Indian Wells Valley Groundwater Authority Proposed Bylaws	March 15, 2017
20.	Letter re March 16, 2017 IWVGA Board Meeting Agenda Items 6 and 7 – IWVGA Bylaws and PAC Charter	March 16, 2017
21.	Letter re Policy Advisory Committee Meeting	June 29, 2017
22.	Letter re Urgent Agenda Item for July 20, 2017, Board meeting to Timely Secure Millions of Dollars in Grant Funding for SGMA Implementation in the Indian Wells Valley	July 11, 2017
23.	Letter re IWVGA October 19, 2017 Board Meeting Agenda Item 9.a. Comments Regarding Draft Proposition 1 Grant Funding Application	October 17, 2017
24.	Letter re Indian Wells Valley Technical Advisory Committee Potential Action Schedule January 18, 2018 IWVGA Board Meeting – Agenda Item 8	January 16, 2018
25.	Letter re IWVGA March 15, 2018 Board Meeting – Agenda Item 10: Pumping Fees	March 14, 2018
26.	Letter re IWVGA April 5, 2018 Workshop – Meadowbrook Dairy Comment Letter on Proposed Water Code Section 10730 Fee	April 4, 2018
27.	Letter re IWVGA May 17, 2018 Board Meeting – Meadowbrook Dairy Comment Letter on Agenda Item 7 Regarding Proposed Groundwater Fee Ordinance and Resolution	May 16, 2018
28.	Letter re IWVGA PAC and TAC May 31, 2018 Meetings – Proposed PAC/TAC Procedures	May 30, 2018
29.	Letter re IWVGA June 21, 2018 Board Meeting – Meadowbrook Dairy Comment Letter on Agenda Items 10 and 11 Regarding PAC/TAC Procedures and TAC Report	June 20, 2018
30.	Letter re Meadowbrook Dairy Comments on PAC Task Questions for August 7, 2019 Special PAC Meeting	August 6, 2019
31.	Letter re Meadowbrook Comments – GSP Draft Sustainability Goal Language	October 15, 2019
32.	Letter re Meadowbrook PAC Member Comments on November 4, 2019 Draft GSP	November 15, 2019
33.	Navy - PFAS Report August 2017	August 31, 2017
34.	Report from March 8 and March 29, 2019 Meetings on IWVGWA Allocations Plan	April 1, 2019

MEADOWBROOK DAIRY

EXHIBIT LIST

TAB	DESCRIPTION	DATE
35.	DOD Memo re Water Rights and Water Resource Management on DoD Installations	May 23,2014
36.	The News Review - Attorney: GA 'crossed the line' Groundwater committee addresses Brown Act Violation	July 30, 2018
37.	IWVGA Meeting Minutes June 20, 2019	June 20, 2019
38.	Navy letter re IWVGWA Groundwater Model	November 7, 2018
39.	Navy correspondence re allocations	March 7, 2019
40.	GSP Figure 4-5e	December 2019 GSP Public Review Draft
41.	GSP Table 4-5	December 2019 GSP Public Review Draft
42.	IWVGA Staff Introduction to Sustainable Yield Allocation Chart	October 2019
43.	Public Comments Made by IWVGA Board Members summary and articles	Various dates

EXHIBIT 1

January 12, 2016

VIA OVERNIGHT MAIL and EMAIL board@co.kern.ca.us
(Courtesy Hand Delivery)

Kern County Board of Supervisors
1115 Truxtun Avenue, Fifth Floor
Bakersfield, CA 93301

Re: *Indian Wells Valley Groundwater Sustainability Agency*

To the Members of the Board of Supervisors for the County of Kern:

This firm represents Meadowbrook Dairy and Meadowbrook Mutual Water Company ("Meadowbrook"), one of the largest agricultural groundwater producers in the Indian Wells Valley ("Valley"). Meadowbrook owns approximately 1600 acres of land within the Indian Wells Valley, most of which has been used to grow alfalfa since the 1970s. Recently, in the development of the Indian Wells Valley Land Use Management Plan, Meadowbrook graciously agreed that approximately 300 acres of its Valley land could be down-zoned out of agriculture, at the County's request.

Meadowbrook has deep roots and a vested interest in the Valley, and particularly in the Indian Wells Valley Groundwater Basin ("Basin"). As a steward of the Basin's water supply for nearly half a century, Meadowbrook is keenly aware of the Basin's importance to the local economy and to the well-being of the County and its residents.

Meadowbrook recognizes the importance of the County's leadership in organizing a Groundwater Sustainability Agency ("GSA") for the Basin as required by the Sustainable Groundwater Management Act of 2014 ("SGMA"). Both Meadowbrook's principals and members of this law firm have attended several meetings of what has been casually referred to as "GSA-eligible entities" regarding plans for the formation of an Indian Wells Valley GSA.

Since 1960

SAN BERNARDINO 550 East Hospitality Lane, Suite 300 • San Bernardino, California 92408

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While we are optimistic that the SGMA process will ultimately yield an effective long-term Groundwater Sustainability Plan ("GSP") for the Basin, we also recognize that only a broadly representative GSA will be successful and accomplish that statutorily mandated objective.

The California legislature agrees.

In September 2015, California *Water Code* Section 10723.6 (part of SGMA) was amended by California Senate Bill 13 ("SB 13"), specifically to provide that both water corporations regulated by the California Public Utilities Commission ("PUC") and mutual water companies are entitled to fully participate in the SGMA process as members of a GSA. Also in September 2015, Senator Pavley, who authored SB 13, as well as one of the three companion bills that collectively comprise SGMA, wrote a letter to the Senate explaining the purpose and intent of SB 13. Her letter states, in part, that:

"Section 10723.6 (b) is intended to prevent local agencies from excluding PUC-regulated water corporations from an executive management role in a GSA, to give these regulated public water suppliers the authority necessary to fully participate in a GSA and to clarify that public agency approval is not necessary."

She continues:

"Indeed, for many years, the Sacramento Groundwater Authority has successfully managed groundwater resources in the region through a joint powers authority whose members have long included PUC-regulated water corporations."

The principles outlined by Senator Pavley apply equally to PUC-regulated water corporations and mutual water companies alike, as reflected by the statutory text of Senate Bill 13, which treats both types of entities in the exact same way. Senator Pavley also clarifies that these entities are eligible to hold board member positions on a GSA formed through a joint powers authority ("JPA") and do not require the permission of public agencies to do so.

By way of example, Senator Pavley mentions the Sacramento Groundwater Authority, which is a JPA that includes both PUC-regulated water corporations

and multiple mutual water companies as members of its Board of Directors.

Notably, the Sacramento Groundwater Authority recently filed a Notice of Intent to Form a GSA which, once established, will provide a helpful precedent for GSAs which have been formed as JPAs, and which include both PUC-regulated water corporations and multiple mutual water companies as its members.

As an eligible board member of any prospective Indian Wells Valley GSA, Meadowbrook Mutual Water Company wishes to go on record as asserting its right to fully participate in the GSA formation and implementation processes.

We are aware that several GSA-formation meetings and conference calls have been held among ostensibly "GSA-eligible entities," from which Meadowbrook has been excluded. It is our understanding that the next such conference call is scheduled to take place this Thursday, January 14th at 9:30am. Meadowbrook respectfully requests that the County provide us with the call-in information for this Thursday's call so that Meadowbrook and its counsel may participate. Meadowbrook also respectfully requests the locations, dates and times for all subsequent meetings and conference calls among truly GSA-eligible entities.

On behalf of Meadowbrook, we look forward to partnering with the County and with other truly GSA-eligible entities in carrying out SGMA's objectives for the Indian Wells Valley Groundwater Basin, beginning with the formation of a broadly representative GSA.

Very truly yours,



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

cc: Kern County Counsel

EXHIBIT 2

January 25, 2016

VIA EMAIL

Supervisor Mick Gleason, County of Kern
Ala Christensen, County of Kern
Supervisor Matt Kingsley, County of Inyo
Bob Harrington, Ph. D, Inyo County Water department
Supervisor Robert Lovingood, County of San Bernardino
Ron Frame, County of San Bernardino
Bob Page, County of San Bernardino
Mayor Peggy Breeden, City of Ridgecrest
Director Peter E. Brown, Indian Wells Water District
Director Charles D. Griffin, Indian Wells Water District
Don Zdeba, Indian Wells Water District
Michael Stoner, U.S. Navy

Re: *Indian Wells Valley Groundwater Sustainability Agency*

To the Members of the Board of Supervisors for the County of Kern:

This letter is written on behalf of our clients, Meadowbrook Dairy and Meadowbrook Mutual Water Company ("Meadowbrook"). As one of the largest agricultural groundwater producers with overlying groundwater rights in the Indian Wells Valley ("Valley"), Meadowbrook has a vested interest in the long-term management of the Indian Wells Valley Groundwater Basin ("Basin").

Over the past several weeks, Meadowbrook has attended the hearings of several public agencies and working groups in the Valley regarding the implementation of the Sustainable Groundwater Management Act of 2014 ("SGMA"), and particularly the formation of a Groundwater Sustainability Agency ("GSA") for the Basin. Frequently heard comments suggest that there is uncertainty and confusion regarding the rights of private stakeholders like mutual water companies to fully participate in a GSA, including a GSA that is formed as a Joint Powers Authority ("JPA").

We remain optimistic that the SGMA process will ultimately yield an effective long-term Groundwater Sustainability Plan for the Basin, because the California legislature has recognized that only a broadly representative GSA will be successful and accomplish the statutorily mandated objectives.

In September 2015, California Senate Bill 13 ("SB 13") amended California *Water Code* Section 10723.6 (part of SGMA) specifically to provide that both water corporations regulated by the California Public Utilities Commission ("PUC") and mutual water companies are entitled to fully participate in the SGMA process as members of a GSA. At that time, Senator Pavley, who authored SB 13 as well as one of the three companion bills that comprise SGMA, wrote a letter to the Senate explaining the purpose and intent of SB 13. Her letter states, in part, that:

"[Water Code] Section 10723.6 (b) is intended to prevent local agencies from excluding PUC-regulated water corporations from an executive management role in a GSA, to give these regulated public water suppliers the authority necessary to fully participate in a GSA and to clarify that public agency approval is not necessary."

She continues:

"Indeed, for many years, the Sacramento Groundwater Authority has successfully managed groundwater resources in the region through a joint powers authority whose members have long included PUC-regulated water corporations."

The principles outlined by Senator Pavley apply equally to mutual water companies and PUC-regulated water corporations alike, as shown in the statutory text of SB 13, which treats both types of entities in the exact same way and removes language from *Water Code* Section 10723.6(b) that had previously required local agencies' approval. In fact, the Sacramento Groundwater Authority that Senator Pavley refers to is a JPA that includes both mutual water companies and private water users, as well as PUC-regulated water corporations, as voting members of its Board of Directors.

Notably, the Sacramento Groundwater Authority has already filed its Notice of Intent to Form a GSA and will be deemed the exclusive GSA for its area upon the close of business today. Other JPAs also exist that include mutual water companies with voting powers as board members.

In short, Senator Pavley clarifies that mutual water companies are eligible to hold

board member positions on a GSA formed through a JPA and that they do not require the permission of public agencies to do so. Both her letter and the structure of the Sacramento Groundwater Authority reflect “best practices” principles for managing groundwater. They are also consistent with the JPA law, including California *Government Code* Section 6525, which provides in relevant part that:

“(a) Notwithstanding any other provision of this chapter, a mutual water company may enter into a joint powers agreement with any public agency for the purpose of jointly exercising any power common to the contracting parties.

(c) For purposes of this section, “mutual water company” has the same meaning as the term does in Section 14300 of the Corporations Code.”

On behalf of Meadowbrook, we are concerned by the rapid pace at which Kern County is expressly determining whether to exclude all mutual water companies from holding board member positions on the GSA, as reflected in Agenda Item 23 and the accompanying resolution proposed for adoption at the Kern County Board of Supervisors’ Regular Meeting this Tuesday, January 26, 2016.

Kern County Counsel recently rejected our written request to participate in the GSA-formation meetings and conference calls being held exclusively among representatives of ostensibly “GSA-eligible” public entities. At the very least, counsel for each public agency, the large mutual water companies and other large private groundwater stakeholders in the Valley, must have a meaningful dialogue about the formation and structure of the GSA before any official action is taken in that regard.

We therefore urge the Kern County Board of Supervisors to refrain from adopting any resolution pertaining to the structure of the proposed Indian Wells Valley GSA until after those discussions have taken place. We likewise urge all public agencies seeking to participate in the GSA to engage in the same dialogue before adopting such resolutions or further directing staff regarding GSA matters.

As an eligible board member of any prospective Indian Wells Valley GSA, Meadowbrook Mutual Water Company is eager to join with the County and with

other truly GSA-eligible entities implementing SGMA for the Basin, beginning with the formation of a broadly representative GSA.

Very truly yours,



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

cc: Kern County Board of Supervisors clerkofboard@co.kern.ca.us
Theresa Goldner tgoldner@co.kern.ca.us
Rod Stiefvater RodS@RTSAgribus.com
Paul Nugent nugentag@gmail.com
Antonio Rossman ar@landwatwer.com
Anthony Brown anthony.brown@aquilogic.com
Tim Parker tim@pg-tim.com
Tom Bunn, Esq. TomBunn@lagerlof.com

EXHIBIT 3

April 15, 2016

VIA EMAIL

Supervisor Mick Gleason, County of Kern
Supervisor Matt Kingsley, County of Inyo
Supervisor Robert Lovingood, County of San Bernardino
Mayor Peggy Breeden, City of Ridgecrest
Director Peter E. Brown, Indian Wells Valley Water District
Director Charles D. Griffin, Indian Wells Valley Water District
Alan Christensen, County of Kern
Ron Frame, County of San Bernardino
Bob Harrington, Ph. D, Inyo County Water Department
Bob Page, County of San Bernardino
Michael Stoner, U.S. Navy
Don Zdeba, Indian Wells Water District

Re: *Indian Wells Valley Groundwater Sustainability Agency*

To the above representatives of public agencies situated within the Indian Wells Valley ("Valley"):

On behalf of our clients, Meadowbrook Dairy and Meadowbrook Mutual Water Company ("Meadowbrook"), we wish to address a number of concerns regarding the process by which the Groundwater Sustainability Agency ("GSA") is being developed for the Indian Wells Valley.

Our office has appeared for several months before the governing boards and other representatives of various public agencies in the Valley, including those of Kern County, Inyo County, San Bernardino County, the City of Ridgecrest, and the Indian Wells Valley Water District, in an effort to secure meaningful participation for Meadowbrook in the GSA formation and Groundwater Sustainability Plan ("GSP") development processes. We have also attended many meetings of the Indian Wells Valley Cooperative Groundwater Management Group and the "open" meetings of the self-described "GSA Eligible Agencies" (like that of today's date), and we have reached out to counsel and other public agency representatives to host conference calls and request meetings.

Kern County Counsel has repeatedly declined our requests to participate in the monthly GSA formation meetings and conference calls. Written letters and appearances at public meetings have been Meadowbrook's primary means of expressing its views and protecting its interests.

At the early stages of this process, much of the discussion focused on the potential membership of the GSA Board of Directors. Kern County representatives were presented with a proposed draft Joint Powers Agreement that was prepared by Mojave Mutual Water Company ("Mojave"), which Meadowbrook supported in concept, and which would have included broad representation of stakeholder interests on the GSA Board. Kern County rejected that proposal.

In an effort to identify a potentially viable alternative for Meadowbrook, Mojave, Searles Valley Minerals ("Searles") and other private well owners to meaningfully participate in the GSA, we collectively explored the concept of a "Groundwater Sustainability Plan Development Committee" ("GSP Development Committee"). The primary function of which is to develop GSP proposals for the GSA Board's approval, and to participate in the implementation of the GSP.

During the course of negotiating the GSP Development Committee concept, Meadowbrook came to believe that the GSP Development Committee could in fact provide a legitimate and sufficient means for its meaningful participation in the GSA. Kern County representatives assured us repeatedly that the GSA would provide for meaningful participation for Meadowbrook, Mojave and Searles.

Working collectively with Mojave and Searles, we made what appeared to be significant progress with representatives of the various "GSA Eligible Agencies" on a GSP Development Committee concept outline. Kern County Counsel presented a February 9, 2016 version of the concept outline to the Kern County Board of Supervisors, and the Indian Wells Valley Water District subsequently approved a motion in March supporting essentially the same version, in which Meadowbrook, Mojave and Searles were specifically identified as members of the GSP Development Committee.

Since early March, however, we have come to learn that Kern County representatives appear to be driving the proposed GSP Development Committee concept in reverse, pushing for changes that would effectively negate the many months of negotiations and discussions. Recent information even suggests that large private interests like Meadowbrook, Mojave and Searles would not only be potentially excluded from the

GSP Development Committee, but that the Committee would be nothing more than a mere advisory committee with no role in *developing* the GSP—the very purpose for which the Committee has been proposed from the beginning.

The March 3, 2016 and March 18, 2016 meeting notes of the closed “GSA Eligible Agencies” monthly meetings, which are posted (usually a month late) on the Kern County website, suggest a fundamental disconnect regarding the GSP Development Committee concept, with an intent to potentially exclude Meadowbrook from any GSA participation, let alone meaningful participation as we have been promised for months.

According to the March 3, 2016 “GSA Eligible Agency” meeting notes published on the Kern County website, Kern County representatives stated:

“It is optimistic to hope that MWCs will agree to be on a Development Committee that is not actually developing the GSP”

“Vision is that GSA staff will prepare a draft GSP”

“Formulation will lie with the staff and not Development committee”

“GSP Development Committee is really Citizen’s Advisory Committee”

“GSA selects members”

As reflected in those same meeting notes, Indian Wells Valley Water District representatives rightly observed:

“Note that we are backing away from GSP Development Committee in terms of what MWCs thought it was”

“MWCs see themselves as active participant in development of the GSP”

Even representatives of the City of Ridgecrest acknowledged Kern County representatives’ extreme change in direction:

“Looks like we are backing away from listening and honoring what MWCs are requesting - in terms of membership”

It further appears that while seeking to fundamentally change the GSP Development

Committee concept, without benefit of any public knowledge or participation, Kern County representatives have no intention of negotiating further with Meadowbrook, Mojave and Searles. Meeting notes from the March 18, 2016 “GSA Eligible Agencies” meeting state that *“Kern County suggested that this group should not discuss further the GSP Development Committee concept until after JPA is formed – the City agreed”*.

We are also informed that a draft Joint Powers Authority agreement is nearing completion, but our repeated requests for a copy of the most current version have gone unanswered. Based on the March 3, 2016 version—now six weeks out of date—the language in Section 7.04 regarding “Committees of the Board” provides no reasonable assurances of the viability, role, longevity, or composition of the GSP Development Committee.

Instead, the March 3, 2016 JPA draft reflects an intent to relegate any GSP Development Committee details to the GSA Bylaws, which itself raises other concerns that we have repeatedly expressed. In fact, Kern County Counsel recently stated that the bylaws could simply be amended when the “Development Committee’s role ‘morphs,’” suggesting that the GSA might ultimately eradicate the GSP Development Committee—or what is left of it.

As memorialized in a March 5, 2016 article in The Daily Independent, Ridgecrest City Attorney Mr. Keith Lemieux reviewed a then recent Kern County Grand Jury Report entitled, “Hidden Governments, Joint Powers Authorities in California.” The report specifically highlights the lack of transparency in Joint Powers Authorities within Kern County. Mr. Lemieux is quoted saying that “the City has taken to heart their comments about transparency and we will assure that that is adhered to, as is required by law.” He is further quoted stating that “I would propose that we agree with their commitment to transparency and that we will take these comments to heart when we are crafting the new joint powers agreement that we are considering.”

From Meadowbrook’s perspective, the process of the GSA formation for the Indian Wells Valley over the last six months has been anything but transparent. Meadowbrook—one of the largest and oldest pumpers in the Valley—has approached this process in good faith, endeavoring to explore the GSP Development Committee as a potentially viable avenue for securing meaningful participation in the management of the Valley’s groundwater resources. In return, Meadowbrook is being systematically relegated to a back seat in the GSA development process.

From a legal standpoint, the Sustainable Groundwater Management Act ("SGMA"), as amended by California Senate Bill 13 (2015), provides that mutual water companies are entitled to fully participate in the SGMA process. Senator Pavley, who authored Senate Bill 13, explained that it is intended to prevent local agencies from excluding mutual water companies and regulated water corporations from participating in GSAs at an executive management level.

We appreciate that Kern County and other "GSA Eligible Agencies" have committed to involve Meadowbrook, Mojave and Searles, as well as other stakeholders, in the GSP Development Committee; however, we cannot ignore the troubling comments that have recently been made by certain agency representatives. We trust that each of the "GSA Eligible Agencies" will remain fully committed to completing the GSP Development Committee framework consistent with the spirit of our negotiations over the past months, and to providing for truly meaningful participation for Meadowbrook, Mojave and Searles on the GSP Development Committee and in implementing the GSP that it will develop.

We remain eager to work with stakeholders in developing meaningful solutions to the groundwater management issues confronting the Indian Wells Valley.

Very truly yours,



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

cc: Kern County Board of Supervisors
Theresa Goldner tgoldner@co.kern.ca.us
Rod Stiefvater RodS@RTSAgribus.com
Paul Nugent nugentag@gmail.com
Antonio Rossman ar@landwatwer.com
Anthony Brown anthony.brown@aquilogic.com
Tim Parker tim@pg-tim.com
Tom Bunn, Esq. TomBunn@lagerlof.com
Client

EXHIBIT 4

June 17, 2016

VIA EMAIL AND U.S. MAIL

Indian Wells Valley Cooperative Groundwater Management Group
500 West Ridgecrest Blvd.
P.O. Box 1329
Ridgecrest, CA 93555

Re: Request to Join Indian Wells Valley Cooperative
Groundwater Management Group

Dear Ms. Thomas:

On behalf of our clients, Meadowbrook ("Meadowbrook"), please accept this letter as a request to join and become a signatory of the Indian Wells Valley Cooperative Groundwater Management Group. Meadowbrook is one of the largest and oldest pumpers in the Indian Wells Valley ("Valley").

Please contact me at your convenience to discuss the foregoing.

Sincerely,



Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MDD:JES

cc: U.S. Bureau of Land Management
City of Ridgecrest
County of Kern – Board of Supervisors 1st District
Eastern Kern County Resources Conservation District
Indian Wells Valley Water District
Inyokern Community Services District
Kern County Water Agency
Naval Air Weapons Station Environmental Project Office
Searles Valley Minerals

EXHIBIT 5

July 11, 2016

VIA EMAIL

The Board of Directors of the Indian Wells Valley Water District
Don Zdeba, General Manager

Re: *Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley
Groundwater Authority*

To the members of the Board of Directors ("Board") of the Indian Wells Valley
Water District ("District"):

On behalf of our clients, Meadowbrook Dairy and Meadowbrook Mutual
Water Company ("Meadowbrook"), we urge this Board not to adopt the proposed
"*Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater
Authority*" ("Joint Powers Agreement") in its current form as presented on the agenda
of the District's July 11, 2016 Board meeting.

Instead, we request that the District demonstrate leadership among the
prospective JPA public agency members by requiring that the Joint Powers Agreement
clearly and specifically establish the specific provisions that will provide "meaningful
participation" for Meadowbrook and other private pumpers in the Joint Powers
Agreement itself. We recognize and appreciate the District's recent efforts to define
"meaningful participation" for Meadowbrook and other private pumpers, and we
believe this can be accomplished with minimal revisions to the Joint Powers
Agreement that would reflect the "Groundwater Sustainability Plan Development
Committee Conceptual Outline" that the Board approved in March as part of
Resolution No. 16-03.

Under the Sustainable Groundwater Management Act ("SGMA"), a
Groundwater Sustainability Agency ("GSAs") for the Indian Wells Valley ("Valley")
does not need to be formed until June 30, 2017. There is plenty of time to adopt a
minimally revised Joint Powers Agreement that sets forth the basic membership,
functions and duties of private pumpers on a clearly defined "GSP Development
Committee," and then establish the GSA. On behalf of Meadowbrook, we ask that the
Board resolve to incorporate into the Joint Powers Agreement the revisions reflected in
the partial redline enclosed with this letter as "Attachment "A".

Since 1910

Concerns with the Proposed Joint Powers Agreement

Based on our experience over the past several months, and on the current language of Section 7.04 of the Joint Powers Agreement (entitled "Committees of the Board"), neither Meadowbrook nor any other private pumper has any reasonable assurance that they will have participation on a committee of the Joint Powers Authority; or that it will, in fact, afford meaningful participation in the development and implementation of the Groundwater Sustainability Plan ("GSP"). Instead, we are informed by the unanimously-approved minutes of the closed "GSA-Eligible Agencies" meetings that, according to Kern County representatives, the *"Vision is that GSA staff will prepare a draft GSP,"* that *"Formulation will lie with staff and not [a] Development committee,"* and that a *"GSP Development Committee is really Citizen's Advisory Committee."* ("GSA Eligible Agency" meeting notes of March 3, 2016 posted on Kern County Website.)

Those alarming statements lead to only one inescapable conclusion, that Kern County, and possibly other prospective GSA members, has no intention of legitimately including Meadowbrook or other private pumpers in the GSP development and implementation processes. Regrettably, it is becoming increasingly likely that the only way for private pumpers to meaningfully participate in the process of achieving sustainability for the Indian Wells Valley Groundwater Basin ("Basin") under SGMA might be through litigation.

Meadowbrook is one of the largest and oldest pumpers in the Valley with well-established overlying rights to groundwater. As such, it is in the best interests of all groundwater users in the Basin to include Meadowbrook in the process of achieving the shared objective of long-term Basin sustainability. Indeed, regarding the development of GSPs, Kern County Counsel stated during the June 7, 2016 Board of Supervisors Meeting, that:

"If we want to avoid costly litigation over the assumptions and the outcomes of the GSPs, it truly behooves the County to ensure that GSPs are impartially developed to ensure meeting the needs of all water users in the basin, which is what SGMA demands. Any less of a result, even in perception only, will result in years of litigation that would stagnate economic development in the County." (Emphasis added).

At that same meeting, Supervisor Mick Gleason stated: "My main theme is fair representation of people in the white space," and that he is ""interested in developing

trusting relationships in all elements of the GSP.”

In light of these statements regarding SGMA implementation on the West side of Kern County, we cannot fathom why Kern County would take a contrary approach here in this Valley. The Joint Powers Agreement must establish the basic membership, functions and duties of a GSP Development Committee in order to more clearly define “meaningful participation” for private pumpers, including Meadowbrook, domestic well owners and others. Instead, the current proposed Joint Powers Agreement has entirely removed the language in an earlier draft that referred to the establishment of a “groundwater sustainability plan development committee.”

Under the Joint Powers Agreement as written, a nebulous, Joint Powers Authority Board-appointed committee (which, according to Section 7.04 could apparently be dissolved “at any time” through “a vote” of the JPA Board) does not “ensure that [the] GSP [will be] impartially developed to ensure meeting the needs of all water users in the basin,” nor does it engender “trusting relationships in all elements of the GSP.”

Accountability for Stakeholder Inclusion Under SGMA

As we have stated for months, SGMA was amended by California Senate Bill 13 to clarify that mutual water companies are entitled to fully participate in the SGMA process. The author of Senate Bill 13 further explained that it is intended to prevent local agencies from excluding mutual water companies and regulated water corporations from participating in GSAs at an executive management level. The term “GSA Eligible Agencies” was a misnomer from the beginning and been perpetually misconstrued as a way to justify excluding Meadowbrook and other similar entities from participating in the GSA formation process in the Valley.

SGMA requires GSAs to consider the interests of beneficial uses and users of groundwater. Those “interests” specifically include holders of overlying groundwater rights such as agricultural users, domestic well owners, public water systems, local land use planning agencies, and others. (Water Code § 10723.2.) When submitting its notice of intent to become a GSA to the California Department of Water Resources (“DWR”), the prospective Indian Wells Valley Groundwater Authority will be required to explain how those very “interests will be considered in the development and operation of the groundwater sustainability agency and the development and implementation of the agency’s sustainability plan.” (Water Code § 10723.8(a)(4).) The prospective Indian Wells Valley Groundwater Authority will also be required to

submit with that notice a copy of the Joint Powers Agreement, any bylaws or ordinances of the Authority, service area maps, and other materials.

By clearly establishing a GSP Development Committee in the Joint Powers Agreement consistent with our proposed revisions, the Indian Wells Valley Groundwater Authority can satisfy those legal requirements, which will be triggered and then due just thirty (30) days after deciding to become a GSA. (Water Code § 10723.8(a).)

SGMA also requires GSAs to maintain a list of “persons interested in receiving notices regarding plan preparation, meeting announcements, and availability of draft plans, maps, and other relevant documents.” (Water Code. § 10723.4.) If Kern County, and by extension the GSA, sees the “committee or committees” described in the second paragraph of Section 7.04 of the proposed Joint Powers Agreement (regarding “meaningful participation”) as a mere “citizen’s advisory committee(s)” comprised of “interested persons,” then such committees will have no legitimate voice in the development or implementation of the GSP.

The SGMA language quoted above suggests that “interested persons” are merely informed of decisions that have already been made by the GSA, such as the “availability of draft plans.” Meadowbrook is obviously much more than a mere “interested person”—it is one of the largest private pumpers in the Basin and has been for decades!

Accountability for Stakeholder Inclusion Under the GSP Regulations

On June 8-9, 2016, Associate Director and Managing Senior Mediator with the Center for Collaborative Policy (“CPC”), Dave Ceppos, delivered a presentation at a conference of the Groundwater Resources Association of California. As you know, DWR contracted with the CPC to provide facilitators, including Dale Schaefer, to assist with SGMA implementation throughout California. The subject of the June conference was “Developing Groundwater Sustainability Plans for Success.” Mr. Ceppos’ presentation was entitled, “Stakeholder Engagement, Administrative Approaches and Lessons Learned,” during which he made the following statements:

- “Being collaborative will get you across the finish line; not being collaborative will not get you there.”
- “To you water agencies: the ‘junk-yard dog’ is not the right way to go

here. Junk yard dogs may be useful elsewhere, but not for SGMA implementation."

- Emphasizing the importance of establishing "authentic" roles for stakeholders, he stated that "while the Brown Act does not require everything to be done in public until the GSA is formed, you must strike a balance with that and you will be held accountable for that under the GSP Regulations."
- He described the level of accountability for public involvement in the GSP development and implementation process as being "much higher than CEQA involvement. You must show *how* you engaged them, and it must be *meaningful*. It's a higher standard than you are used to."
- Regarding the use of committees, he stated, "being too exclusive will make you pay later. It is better to involve people *now*, even if it's large, than exclude them and pay the negative consequences."

Mr. Ceppos is correct that GSAs will be held accountable for the manner in which they involve stakeholders in the development and implementation of GSPs. The Department of Water Resources' recently adopted "GSP Regulations" (Cal. Code Regs. Tit. 23, Div. 2, Ch. 1.5, Sub Ch. 2, approved by the California Water Commission on May 18, 2016) establish the requirements for GSPs and the standards by which GSPs will be evaluated for approval by DWR. Section 354.10 of the GSP Regulations, entitled "Notice and Communication," within the Article entitled "Plan Contents" provides as follows:

"Each Plan shall include a summary of information relating to notification and communication by the Agency with other agencies and interested parties including the following:

(a) A description of the **beneficial uses and users of groundwater** in the basin, including the land uses and property interests potentially affected by the use of groundwater in the basin, the types of parties representing those interests, **and the nature of consultation with those parties**.

(b) A list of public meetings at which the Plan was discussed or considered by the Agency.

(c) Comments regarding the Plan received by the Agency and a summary of any responses by the Agency.

(d) A **communication section of the Plan** that includes the following:

- (1) An explanation of the Agency's **decision-making process**.
- (2) Identification of **opportunities for public engagement and a discussion of how public input and response will be used**.
- (3) A description of **how the Agency encourages the active involvement of diverse social, cultural, and economic elements of the population within the basin**.
- (4) The method the Agency shall follow to inform the public about progress implementing the Plan, including the status of projects and actions." (Emphasis added.)

Both the GSP Regulations and Mr. Ceppos' experience and sound practical guidance demand a well-defined GSP Development Committee in the proposed Joint Powers Agreement.

Other Joint Powers Authorities, GSAs and Management Structures Provide Meaningful Representation of Private Pumpers.

In response to both SGMA's mandates and good policy of broad stakeholder involvement, representatives of the various prospective GSA public agency members in this Valley were presented back in January 2016 with a proposed draft Joint Powers Agreement prepared by Mojave Mutual Water Company ("Mojave"), that included broad representation of stakeholder interests on the GSA Board. Kern County, however, rejected that proposal.

Nevertheless, there are many examples of joint powers authorities managing groundwater basins throughout California that have agricultural representatives, small domestic well owner representatives and mutual water company representatives on their boards of directors. We have identified examples many times in public hearings and prior comment letters over the past six months, such as the Sacramento Groundwater Authority and the Sacramento Central Groundwater Authority, to name a couple.

In addition to those examples, there are similar broadly-representative groundwater management authorities and GSAs in California that are responsible for managing other basins deemed by DWR to be in a **condition of critical overdraft**. The Fox Canyon Groundwater Management Agency ("Fox Canyon"), for example, is a GSA managing Bulletin 118 Basin Numbers 4-4.02 (Oxnard) and 4-5 (Pleasant Valley) with a five-member board comprising representatives of: (1) the County of Ventura; (2) the United Water Conservation District; (3) a group of seven small water districts

and **mutual water companies**; (4) the five incorporated cities within Fox Canyon's jurisdictional area; and (5) **farmers**. Fox Canyon is a special act district and one of the SGMA-mandated exclusive GSAs listed in Water Code Section 10723. In other words, the California Legislature expressly named Fox Canyon, with its five-member Board including both **mutual water company** and **farmer representatives**, as the **exclusive** GSA for its management area.

Notably, Kern County's Berkeley-based outside legal counsel is specifically acknowledged and thanked for his input in a March 2016 publication of UC Berkeley Law's Wheeler Water Institute, entitled "Designing Effective Groundwater Sustainability Agencies: Criteria for Evaluation of Local Governance Options."¹ The report states that "designing institutions for sustainable groundwater management is one of the most pressing challenges for SGMA implementation." (Report, p. 7.) The report identifies several criteria by which GSA structures should be evaluated, including but not limited to participation, representation, accountability and transparency. The report defines "participation" as:

"**direct, meaningful** stakeholder engagement in the **decision making** process. Local governments should develop effective mechanisms for **substantive** participation by a **broad** stakeholder base during GSA formation, as well as during subsequent **planning** and **implementation** phases." (Report, p. 9.)

For months now, Meadowbrook has sought a voice in the GSA formation process to no avail. We have approached this process in good faith with one objective: to obtain a commitment for well-defined and meaningful participation in the GSA from the inception of the process. A well-defined GSP Development Committee in the proposed Joint Powers Agreement would provide a clear, straightforward framework consistent with legal and regulatory mandates, good policy and common sense.

The Joint Powers Agreement Should Be Revised to Clearly Establish The GSP Development Committee.

As the first local public agency in the Indian Wells Valley to consider the proposed Joint Powers Agreement, the District is presented with a unique opportunity to show leadership and do the right thing. Kern County Counsel has refused to

¹ The report can be found at: https://www.law.berkeley.edu/wp-content/uploads/2016/02/CLÉE_GroundwaterGovernance_2016-03-08.pdf

incorporate our requested minor revisions to prior drafts of the Joint Powers Agreement in the past, saying that “policy” provisions like Section 7.04 regarding committee membership should be decided “in public” and “not behind closed doors.” That characterization is misleading. Several versions of the GSP Development Committee Conceptual were discussed in public hearings, including before the Kern County Board of Supervisors on February 9, 2016. More to the point, this comment letter and the attached proposed revisions are presented to this Board at a publicly noticed regular meeting for consideration, just like our prior comment letters and appearances.

It is also worth noting that, unless there have been violations of the Brown Act, no complete board of any of the various prospective GSA member public agencies in the Valley has made any policy decisions that are now reflected in the Joint Powers Agreement, because the entire Joint Powers Agreement itself was negotiated and drafted “behind closed doors.” In a January 13, 2016 letter, Kern County Counsel expressly rejected Meadowbrook’s request to participate in the “GSA Eligible Agency” meetings and teleconferences, stating that:

“the staff meetings have been among representatives of public agencies that are eligible to form a [GSA] in the Indian Wells Valley. These staff members have no authority to approve any formation but are instead seeking to outline the possible approaches that their agencies, holding the common requisite police powers to become members of a GSA through a joint exercise of powers, will propose to their own governing boards and the general public.”

Kern County released incomplete and outdated drafts of the Joint Powers Agreement from time to time; however, with the exception of the early resolutions adopted by some of the public agencies regarding board membership on the GSA, Meadowbrook is unaware of any public meeting during which policy decisions now already drafted into the proposed Joint Powers Agreement, including voting, funding and committee membership, were ever discussed before any public agency board.

Supervisor Gleason repeatedly voices extreme urgency to complete the GSA formation process for the Valley as quickly as possible, threatening that a failure to do so will result in regulation of the Basin by the State Water Board. In reality, the Valley does not have time to form an inadequate GSA that does not sufficiently include broad stakeholder interests. Note also that if the State Water Board finds that a GSA is not

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timely formed because of delays caused by litigation, the State Water Board "shall" not designate a basin as probationary for the period of time equal to the delay caused by the litigation. (Water Code § 10735.2(d).)

Likewise, obtaining a court-ordered physical solution would by definition involve significant participation of all pumpers and stakeholders in the Basin and would be a viable alternative to, or mandate upon, a GSP. (Water Code §§ 10733.6(b)(2), 10737.4, 10737.6, 10737.8.)

Again, we urge the Board not to adopt the proposed Joint Powers Agreement unless and until it is revised to clearly establish the basic membership, functions and duties of a defined GSP Development Committee. We recognize that the GSA Bylaws may be an appropriate place to establish the details of the GSP Development Committee. But if the District and the other prospective GSA public agency members are unwilling to make even the minor revisions that we are requesting, we must assume that the GSA has no intention of affording direct, meaningful private pumper participation in the development and implementation of the GSP.

We have great confidence that the District will continue to assert a leadership role to ensure the meaningful participation of Meadowbrook and other private pumpers, large and small, in the SGMA process. At this time, we are seeking memorialization of that commitment in the proposed Joint Powers Agreement.

Very truly yours,



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

cc: Client (w/encl.)

Enclosure

Attachment "A"

Article VII: Board Meetings and Actions

Section 7.04 – Committees of the Board.

The Board may from time to time establish advisory committees for the purpose of making recommendations to the Board on the various activities of the Authority. The establishment of any committee and its duties shall require the vote of the Board of Directors and the activities of the committee shall be subject to the provisions of the Ralph M. Brown Act (Government Code sections 54950, *et seq.*). Committees shall exist for the term specified in the action creating the committee and the Board may dissolve a committee at any time through a vote of the Board of Directors.

The Board shall ensure that the development of the GSP includes the meaningful participation of all water users in the Basin including but not limited to the General Members, Associate Members, regulated public water utilities, mutual water companies and other private well pumpers.

[New] Section 7.05 – Groundwater Sustainability Plan Development Committee

Irrespective of any committees that are established by the Board pursuant to Section 7.04, The Board shall ensure this meaningful participation through the establishment of one or more committees a Groundwater Sustainability Plan Development Committee ("GSP Development Committee") is hereby established and shall be maintained.- The GSP Development Committee is composed of one representative each of three or more of the voting GSA Members, one representative of the U.S. Navy, one representative of the Bureau of Land Management, one representative of Mojave Mutual Water Company, one representative of Meadowbrook Mutual Water Company, one representative of Searles Valley Minerals, and one or more at-large private pumper representative(s), which will contain members from the above groups so long as their participation does not violate the State ethics and conflict of interest laws, including Government Code sections 1090 *et seq.*, or any other law.

The Board shall assign the responsibility for developing a non-binding GSP proposal, including any individual portions or elements of the GSP, to the GSP Development Committee, which GSP proposal shall be submitted to the Board for final consideration and approval. Upon adoption, the GSP Development Committee shall continue to meet regularly and advise the Board concerning the administration and any later modifications of the GSP. The Board may appoint a technical subcommittee for the purpose of assisting the GSP Development Committee. The Bylaws adopted by the Board pursuant to Section 8.05 shall contain provisions for the operation of the GSP Development Committee, which provisions shall be prepared and proposed by the GSP Development Committee to the Board for final consideration and approval.

EXHIBIT 6

July 11, 2016

VIA EMAIL

San Bernardino County Supervisor Josie Gonzales
[SupervisorGonzales@sbcounty.gov]
San Bernardino County Supervisor Curt Hagman
[SupervisorHagman@sbcounty.gov]
San Bernardino County Supervisor Robert Lovingood
[SupervisorLovingood@sbcounty.gov]
San Bernardino County Supervisor James Ramos
[SupervisorRamos@sbcounty.gov]
San Bernardino County Supervisor Janice Rutherford
[SupervisorRutherford@sbcounty.gov]
San Bernardino County Chief Executive Officer Gregory Devereaux
[Greg.Devereaux@cao.sbcounty.gov]

Re: *Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley
Groundwater Authority*

To the members of the Board of Supervisors ("Board") of the County of San Bernardino ("San Bernardino County"), and the San Bernardino County Chief Executive Officer:

On behalf of our clients, Meadowbrook Dairy and Meadowbrook Mutual Water Company ("Meadowbrook"), we urge this Board not to adopt the proposed "*Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority*" ("Joint Powers Agreement") in its current form as presented on the agenda of the Board's July 12, 2016 Board meeting.

Instead, we request that San Bernardino County demonstrate leadership among the prospective JPA public agency members by requiring that the Joint Powers Agreement clearly and specifically establish the specific provisions that will provide "meaningful participation" for Meadowbrook and other private pumpers in the Joint Powers Agreement itself. We believe this can be accomplished with minimal revisions to the Joint Powers Agreement that would clearly establish a "Groundwater Sustainability Plan Development Committee" ("GSP Development Committee"), as we have urged San Bernardino County and the other prospective JPA public agency members to do for months now.

Under the Sustainable Groundwater Management Act ("SGMA"), a Groundwater Sustainability Agency ("GSAs") for the Indian Wells Valley ("Valley") does not need to be formed until June 30, 2017. There is plenty of time to adopt a minimally revised Joint Powers Agreement that sets forth the basic membership, functions and duties of private pumpers on a clearly defined GSP Development Committee, and then establish the GSA. On behalf of Meadowbrook, we ask that the Board resolve to incorporate into the Joint Powers Agreement the revisions reflected in the partial redline enclosed with this letter as "Attachment A".

Concerns with the Proposed Joint Powers Agreement

Based on our experience over the past several months, and on the current language of Section 7.04 of the Joint Powers Agreement (entitled "Committees of the Board"), neither Meadowbrook nor any other private pumper has any reasonable assurance that they will have participation on a committee of the Joint Powers Authority; or that it will, in fact, afford meaningful participation in the development and implementation of the Groundwater Sustainability Plan ("GSP"). Instead, we are informed by the unanimously-approved minutes of the closed "GSA-Eligible Agencies" meetings that, according to Kern County representatives, the "*Vision is that GSA staff will prepare a draft GSP,*" that "*Formulation will lie with staff and not [a] Development committee,*" and that a "*GSP Development Committee is really Citizen's Advisory Committee.*" ("GSA Eligible Agency" meeting notes of March 3, 2016 posted on Kern County Website.)

Those alarming statements lead to only one inescapable conclusion, that Kern County, and possibly other prospective GSA members, has no intention of legitimately including Meadowbrook or other private pumpers in the GSP development and implementation processes. Regrettably, it is becoming increasingly likely that the only way for private pumpers to meaningfully participate in the process of achieving sustainability for the Indian Wells Valley Groundwater Basin ("Basin") under SGMA might be through litigation.

Meadowbrook is one of the largest and oldest pumpers in the Valley with well-established overlying rights to groundwater. As such, it is in the best interests of all groundwater users in the Basin to include Meadowbrook in the process of achieving the shared objective of long-term Basin sustainability. Indeed, regarding the development of GSPs, Kern County Counsel stated during the June 7, 2016 Board of Supervisors Meeting, that:

“If we want to avoid costly litigation over the assumptions and the outcomes of the GSPs, it truly behooves the County to ensure that GSPs are impartially developed to ensure meeting the needs of all water users in the basin, which is what SGMA demands. Any less of a result, even in perception only, will result in years of litigation that would stagnate economic development in the County.”
(Emphasis added).

At that same meeting, Kern County Supervisor Mick Gleason stated: “My main theme is fair representation of people in the white space,” and that he is ““interested in developing trusting relationships in all elements of the GSP.”

In light of these statements regarding SGMA implementation on the West side of Kern County, we cannot fathom why Kern County would take a contrary approach here in this Valley. The Joint Powers Agreement must establish the basic membership, functions and duties of a GSP Development Committee in order to more clearly define “meaningful participation” for private pumpers, including Meadowbrook, domestic well owners and others. Instead, the current proposed Joint Powers Agreement has entirely removed the language in an earlier draft that referred to the establishment of a “groundwater sustainability plan development committee.”

Under the Joint Powers Agreement as written, a nebulous, Joint Powers Authority Board-appointed committee (which, according to Section 7.04 could apparently be dissolved “at any time” through “a vote” of the JPA Board) does not “ensure that [the] GSP [will be] impartially developed to ensure meeting the needs of all water users in the basin,” nor does it engender “trusting relationships in all elements of the GSP.”

Accountability for Stakeholder Inclusion Under SGMA

As we have stated for months, SGMA was amended by California Senate Bill 13 to clarify that mutual water companies are entitled to fully participate in the SGMA process. The author of Senate Bill 13 further explained that it is intended to prevent local agencies from excluding mutual water companies and regulated water corporations from participating in GSAs at an executive management level. The term “GSA Eligible Agencies” was a misnomer from the beginning and been perpetually misconstrued as a way to justify excluding Meadowbrook and other similar entities from participating in the GSA formation process in the Valley.

SGMA requires GSAs to consider the interests of beneficial uses and users of groundwater. Those “interests” specifically include holders of overlying groundwater rights such as agricultural users, domestic well owners, public water systems, local land use planning agencies, and others. (Water Code § 10723.2.) When submitting its notice of intent to become a GSA to the California Department of Water Resources (“DWR”), the prospective Indian Wells Valley Groundwater Authority will be required to explain how those very “interests will be considered in the development and operation of the groundwater sustainability agency and the development and implementation of the agency’s sustainability plan.” (Water Code § 10723.8(a)(4).) The prospective Indian Wells Valley Groundwater Authority will also be required to submit with that notice a copy of the Joint Powers Agreement, any bylaws or ordinances of the Authority, service area maps, and other materials.

By clearly establishing a GSP Development Committee in the Joint Powers Agreement consistent with our proposed revisions, the Indian Wells Valley Groundwater Authority can satisfy those legal requirements, which will be triggered and then due just thirty (30) days after deciding to become a GSA. (Water Code § 10723.8(a).)

SGMA also requires GSAs to maintain a list of “persons interested in receiving notices regarding plan preparation, meeting announcements, and availability of draft plans, maps, and other relevant documents.” (Water Code § 10723.4.) If Kern County, and by extension the GSA, sees the “committee or committees” described in the second paragraph of Section 7.04 of the proposed Joint Powers Agreement (regarding “meaningful participation”) as a mere “citizen’s advisory committee(s)” comprised of “interested persons,” then such committees will have no legitimate voice in the development or implementation of the GSP.

The SGMA language quoted above suggests that “interested persons” are merely informed of decisions that have already been made by the GSA, such as the “availability of draft plans.” Meadowbrook is obviously much more than a mere “interested person” — it is one of the largest private pumpers in the Basin and has been for decades!

Accountability for Stakeholder Inclusion Under the GSP Regulations

On June 8-9, 2016, Associate Director and Managing Senior Mediator with the Center for Collaborative Policy (“CPC”), Dave Ceppos, delivered a presentation at a conference of the Groundwater Resources Association of California. As you know,

DWR contracted with the CPC to provide facilitators, including Dale Schaefer, to assist with SGMA implementation throughout California. The subject of the June conference was "Developing Groundwater Sustainability Plans for Success." Mr. Ceppos' presentation was entitled, "Stakeholder Engagement, Administrative Approaches and Lessons Learned," during which he made the following statements:

- "Being collaborative will get you across the finish line; not being collaborative will not get you there."
- "To you water agencies: the 'junk-yard dog' is not the right way to go here. Junk yard dogs may be useful elsewhere, but not for SGMA implementation."
- Emphasizing the importance of establishing "authentic" roles for stakeholders, he stated that "while the Brown Act does not require everything to be done in public until the GSA is formed, you must strike a balance with that and you will be held accountable for that under the GSP Regulations."
- He described the level of accountability for public involvement in the GSP development and implementation process as being "much higher than CEQA involvement. You must show *how* you engaged them, and it must be *meaningful*. It's a higher standard than you are used to."
- Regarding the use of committees, he stated, "being too exclusive will make you pay later. It is better to involve people *now*, even if it's large, than exclude them and pay the negative consequences."

Mr. Ceppos is correct that GSAs will be held accountable for the manner in which they involve stakeholders in the development and implementation of GSPs. The Department of Water Resources' recently adopted "GSP Regulations" (Cal. Code Regs. Tit. 23, Div. 2, Ch. 1.5, Sub Ch. 2, approved by the California Water Commission on May 18, 2016) establish the requirements for GSPs and the standards by which GSPs will be evaluated for approval by DWR. Section 354.10 of the GSP Regulations, entitled "Notice and Communication," within the Article entitled "Plan Contents" provides as follows:

“Each Plan shall include a summary of information relating to notification and communication by the Agency with other agencies and interested parties including the following:

(a) A description of the **beneficial uses and users of groundwater** in the basin, including the land uses and property interests potentially affected by the use of groundwater in the basin, the types of parties representing those interests, **and the nature of consultation with those parties.**

(b) A list of public meetings at which the Plan was discussed or considered by the Agency.

(c) Comments regarding the Plan received by the Agency and a summary of any responses by the Agency.

(d) A **communication section of the Plan** that includes the following:

(1) An explanation of the Agency’s **decision-making process.**

(2) Identification of **opportunities for public engagement and a discussion of how public input and response will be used.**

(3) A description of **how the Agency encourages the active involvement of diverse social, cultural, and economic elements of the population within the basin.**

(4) The method the Agency shall follow to inform the public about progress implementing the Plan, including the status of projects and actions.” (Emphasis added.)

Both the GSP Regulations and Mr. Ceppos’ experience and sound practical guidance demand a well-defined GSP Development Committee in the proposed Joint Powers Agreement.

Other Joint Powers Authorities, GSAs and Management Structures Provide Meaningful Representation of Private Pumpers.

In response to both SGMA’s mandates and good policy of broad stakeholder involvement, representatives of the various prospective GSA public agency members in this Valley were presented back in January 2016 with a proposed draft Joint Powers

Agreement prepared by Mojave Mutual Water Company ("Mojave"), that included broad representation of stakeholder interests on the GSA Board. Kern County, however, rejected that proposal.

Nevertheless, there are many examples of joint powers authorities managing groundwater basins throughout California that have agricultural representatives, small domestic well owner representatives and mutual water company representatives on their boards of directors. We have identified examples many times in public hearings and prior comment letters over the past six months, such as the Sacramento Groundwater Authority and the Sacramento Central Groundwater Authority, to name a couple.

In addition to those examples, there are similar broadly-representative groundwater management authorities and GSAs in California that are responsible for managing other basins deemed by DWR to be in a **condition of critical overdraft**. The Fox Canyon Groundwater Management Agency ("Fox Canyon"), for example, is a GSA managing Bulletin 118 Basin Numbers 4-4.02 (Oxnard) and 4-5 (Pleasant Valley) with a five-member board comprising representatives of: (1) the County of Ventura; (2) the United Water Conservation District; (3) a group of seven small water districts and **mutual water companies**; (4) the five incorporated cities within Fox Canyon's jurisdictional area; and (5) **farmers**. Fox Canyon is a special act district and one of the SGMA-mandated exclusive GSAs listed in Water Code Section 10723. In other words, the California Legislature expressly named Fox Canyon, with its five-member Board including both **mutual water company** and **farmer representatives**, as the **exclusive** GSA for its management area.

Notably, Kern County's Berkeley-based outside legal counsel is specifically acknowledged and thanked for his input in a March 2016 publication of UC Berkeley Law's Wheeler Water Institute, entitled "Designing Effective Groundwater Sustainability Agencies: Criteria for Evaluation of Local Governance Options."¹ The report states that "designing institutions for sustainable groundwater management is one of the most pressing challenges for SGMA implementation." (Report, p. 7.) The report identifies several criteria by which GSA structures should be evaluated, including but not limited to participation, representation, accountability and transparency. The report defines "participation" as:

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“direct, meaningful stakeholder engagement in the decision making process. Local governments should develop effective mechanisms for substantive participation by a broad stakeholder base during GSA formation, as well as during subsequent planning and implementation phases.” (Report, p. 9.)

For months now, Meadowbrook has sought a voice in the GSA formation process to no avail. We have approached this process in good faith with one objective: to obtain a commitment for well-defined and meaningful participation in the GSA from the inception of the process. A well-defined GSP Development Committee in the proposed Joint Powers Agreement would provide a clear, straightforward framework consistent with legal and regulatory mandates, good policy and common sense.

The Joint Powers Agreement Should Be Revised to Clearly Establish The GSP Development Committee.

As a prospective general member of the Authority, San Bernardino County is presented with an opportunity now to show leadership and do the right thing. Kern County Counsel has refused to incorporate our requested minor revisions to prior drafts of the Joint Powers Agreement in the past, saying that “policy” provisions like Section 7.04 regarding committee membership should be decided “in public” and “not behind closed doors.” That characterization is misleading. Several versions of a “GSP Development Committee Conceptual Outline” consistent with the language in Attachment “A” to this letter were discussed in public hearings, including before the Kern County Board of Supervisors on February 9, 2016. More to the point, this comment letter and the attached proposed revisions are presented to this Board at a publicly noticed regular meeting for consideration, just like our prior comment letters and appearances.

It is also worth noting that, unless there have been violations of the Brown Act, no complete board of any of the various prospective GSA member public agencies in the Valley has made any policy decisions that are now reflected in the Joint Powers Agreement, because the entire Joint Powers Agreement itself was negotiated and drafted “behind closed doors.” In a January 13, 2016 letter, Kern County Counsel expressly rejected Meadowbrook’s request to participate in the “GSA Eligible Agency” meetings and teleconferences, stating that:

“the staff meetings have been among representatives of public agencies that are eligible to form a [GSA] in the Indian Wells Valley. These staff members have no authority to approve any formation but are instead seeking to outline the possible approaches that their agencies, holding the common requisite police powers to become members of a GSA through a joint exercise of powers, will propose to their own governing boards and the general public.”

Kern County released incomplete and outdated drafts of the Joint Powers Agreement from time to time; however, with the exception of the early resolutions adopted by some of the public agencies regarding board membership on the GSA, Meadowbrook is unaware of any public meeting during which policy decisions now already drafted into the proposed Joint Powers Agreement, including voting, funding and committee membership, were ever discussed before any public agency board.

Kern County Supervisor Mick Gleason repeatedly voices extreme urgency to complete the GSA formation process for the Valley as quickly as possible, threatening that a failure to do so will result in regulation of the Basin by the State Water Board. In reality, the Valley does not have time to form an inadequate GSA that does not sufficiently include broad stakeholder interests. Note also that if the State Water Board finds that a GSA is not timely formed because of delays caused by litigation, the State Water Board “shall” not designate a basin as probationary for the period of time equal to the delay caused by the litigation. (Water Code § 10735.2(d).)

Likewise, obtaining a court-ordered physical solution would by definition involve significant participation of all pumpers and stakeholders in the Basin and would be a viable alternative to, or mandate upon, a GSP. (Water Code §§ 10733.6(b)(2), 10737.4, 10737.6, 10737.8.)

Again, we urge the Board not to adopt the proposed Joint Powers Agreement unless and until it is revised to clearly establish the basic membership, functions and duties of a defined GSP Development Committee. We recognize that the GSA Bylaws may be an appropriate place to establish the details of the GSP Development Committee. But if San Bernardino County and the other prospective JPA public agency members are unwilling to make even the minor revisions to the proposed Joint Powers Agreement that we are requesting, we must assume that the GSA has no

San Bernardino County Board of Supervisors and Chief Executive Officer
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intention of affording direct, meaningful private pumper participation in the development and implementation of the GSP.

We have great confidence that San Bernardino County will show leadership now, before establishing the Indian Wells Valley Groundwater Authority, to ensure the meaningful participation of Meadowbrook and other private pumpers, large and small, in the SGMA process. At this time, we are seeking memorialization of that commitment in the proposed Joint Powers Agreement.

Very truly yours,



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

cc: B. Page (w/encl.) [bpage@sbcounty.gov]
Client (w/encl.)

Enclosure

Attachment “A”

Article VII: Board Meetings and Actions

Section 7.04 – Committees of the Board.

The Board may from time to time establish advisory committees for the purpose of making recommendations to the Board on the various activities of the Authority. The establishment of any committee and its duties shall require the vote of the Board of Directors and the activities of the committee shall be subject to the provisions of the Ralph M. Brown Act (Government Code sections 54950, *et seq.*). Committees shall exist for the term specified in the action creating the committee and the Board may dissolve a committee at any time through a vote of the Board of Directors.

The Board shall ensure that the development of the GSP includes the meaningful participation of all water users in the Basin including but not limited to the General Members, Associate Members, regulated public water utilities, mutual water companies and other private well pumpers.

[New] Section 7.05 – Groundwater Sustainability Plan Development Committee

Irrespective of any committees that are established by the Board pursuant to Section 7.04, The Board shall ensure this meaningful participation through the establishment of one or more committees a Groundwater Sustainability Plan Development Committee (“GSP Development Committee”) is hereby established and shall be maintained.- The GSP Development Committee is composed of one representative each of three or more of the voting GSA Members, one representative of the U.S. Navy, one representative of the Bureau of Land Management, one representative of Mojave Mutual Water Company, one representative of Meadowbrook Mutual Water Company, one representative of Searles Valley Minerals, and one or more at-large private pumper representative(s), which will contain members from the above groups so long as their participation does not violate the State ethics and conflict of interest laws, including Government Code sections 1090 *et seq.*, or any other law.

The Board shall assign the responsibility for developing a non-binding GSP proposal, including any individual portions or elements of the GSP, to the GSP Development Committee, which GSP proposal shall be submitted to the Board for final consideration and approval. Upon adoption, the GSP Development Committee shall continue to meet regularly and advise the Board concerning the administration and any later modifications of the GSP. The Board may appoint a technical subcommittee for the purpose of assisting the GSP Development Committee. The Bylaws adopted by the Board pursuant to Section 8.05 shall contain provisions for the operation of the GSP Development Committee, which provisions shall be prepared and proposed by the GSP Development Committee to the Board for final consideration and approval.

EXHIBIT 7

July 11, 2016

VIA EMAIL

Inyo County Supervisor Jeff Griffiths [jgriffiths@inyocounty.us]
Inyo County Supervisor Matt Kingsley [mkingsley@inyocounty.us]
Inyo County Supervisor Rick Pucci [supervisor.pucci@gmail.com]
Inyo County Supervisor Mark Tillemans [mtillemans@inyocounty.us]
Inyo County Supervisor Dan Tothoroh [dtoroh@inyocounty.us]
Bob Harrington, Inyo County Water Department [bharrington@inyocounty.us]

Re: *Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority*

To the members of the Board of Supervisors ("Board") of the County of Inyo ("Inyo County"), and Inyo County Water Department Director:

On behalf of our clients, Meadowbrook Dairy and Meadowbrook Mutual Water Company ("Meadowbrook"), we urge this Board not to adopt the proposed "Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority" ("Joint Powers Agreement") in its current form as presented on the agenda of the Board's July 12, 2016 Board meeting.

Instead, we request that Inyo County demonstrate leadership among the prospective JPA public agency members by requiring that the Joint Powers Agreement clearly and specifically establish the specific provisions that will provide "meaningful participation" for Meadowbrook and other private pumpers in the Joint Powers Agreement itself. We believe this can be accomplished with minimal revisions to the Joint Powers Agreement that would clearly establish a "Groundwater Sustainability Plan Development Committee" ("GSP Development Committee"), as we have urged Inyo County and the other prospective JPA public agency members to do for months now.

Under the Sustainable Groundwater Management Act ("SGMA"), a Groundwater Sustainability Agency ("GSAs") for the Indian Wells Valley ("Valley") does not need to be formed until June 30, 2017. There is plenty of time to adopt a minimally revised Joint Powers Agreement that sets forth the basic membership, functions and duties of private pumpers on a clearly defined GSP Development

Since 1970

Committee, and then establish the GSA. On behalf of Meadowbrook, we ask that the Board resolve to incorporate into the Joint Powers Agreement the revisions reflected in the partial redline enclosed with this letter as "Attachment "A".

Concerns with the Proposed Joint Powers Agreement

Based on our experience over the past several months, and on the current language of Section 7.04 of the Joint Powers Agreement (entitled "Committees of the Board"), neither Meadowbrook nor any other private pumper has any reasonable assurance that they will have participation on a committee of the Joint Powers Authority; or that it will, in fact, afford meaningful participation in the development and implementation of the Groundwater Sustainability Plan ("GSP"). Instead, we are informed by the unanimously-approved minutes of the closed "GSA-Eligible Agencies" meetings that, according to Kern County representatives, the "*Vision is that GSA staff will prepare a draft GSP,*" that "*Formulation will lie with staff and not [a] Development committee,*" and that a "*GSP Development Committee is really Citizen's Advisory Committee.*" ("GSA Eligible Agency" meeting notes of March 3, 2016 posted on Kern County Website.)

Those alarming statements lead to only one inescapable conclusion, that Kern County, and possibly other prospective GSA members, has no intention of legitimately including Meadowbrook or other private pumpers in the GSP development and implementation processes. Regrettably, it is becoming increasingly likely that the only way for private pumpers to meaningfully participate in the process of achieving sustainability for the Indian Wells Valley Groundwater Basin ("Basin") under SGMA might be through litigation.

Meadowbrook is one of the largest and oldest pumpers in the Valley with well-established overlying rights to groundwater. As such, it is in the best interests of all groundwater users in the Basin to include Meadowbrook in the process of achieving the shared objective of long-term Basin sustainability. Indeed, regarding the development of GSPs, Kern County Counsel stated during the June 7, 2016 Board of Supervisors Meeting, that:

"If we want to avoid costly litigation over the assumptions and the outcomes of the GSPs, it truly behooves the County to ensure that GSPs are impartially developed to ensure meeting the needs of all water users in the basin, which is what SGMA demands. Any less of a result, even

in perception only, will result in years of litigation that would stagnate economic development in the County.” (Emphasis added).

At that same meeting, Kern County Supervisor Mick Gleason stated: “My main theme is fair representation of people in the white space,” and that he is ““interested in developing trusting relationships in all elements of the GSP.”

In light of these statements regarding SGMA implementation on the West side of Kern County, we cannot fathom why Kern County would take a contrary approach here in this Valley. The Joint Powers Agreement must establish the basic membership, functions and duties of a GSP Development Committee in order to more clearly define “meaningful participation” for private pumpers, including Meadowbrook, domestic well owners and others. Instead, the current proposed Joint Powers Agreement has entirely removed the language in an earlier draft that referred to the establishment of a “groundwater sustainability plan development committee.”

Under the Joint Powers Agreement as written, a nebulous, Joint Powers Authority Board-appointed committee (which, according to Section 7.04 could apparently be dissolved “at any time” through “a vote” of the JPA Board) does not “ensure that [the] GSP [will be] impartially developed to ensure meeting the needs of all water users in the basin,” nor does it engender “trusting relationships in all elements of the GSP.”

Accountability for Stakeholder Inclusion Under SGMA

As we have stated for months, SGMA was amended by California Senate Bill 13 to clarify that mutual water companies are entitled to fully participate in the SGMA process. The author of Senate Bill 13 further explained that it is intended to prevent local agencies from excluding mutual water companies and regulated water corporations from participating in GSAs at an executive management level. The term “GSA Eligible Agencies” was a misnomer from the beginning and been perpetually misconstrued as a way to justify excluding Meadowbrook and other similar entities from participating in the GSA formation process in the Valley.

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notice of intent to become a GSA to the California Department of Water Resources ("DWR"), the prospective Indian Wells Valley Groundwater Authority will be required to explain how those very "interests will be considered in the development and operation of the groundwater sustainability agency and the development and implementation of the agency's sustainability plan." (Water Code § 10723.8(a)(4).) The prospective Indian Wells Valley Groundwater Authority will also be required to submit with that notice a copy of the Joint Powers Agreement, any bylaws or ordinances of the Authority, service area maps, and other materials.

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The SGMA language quoted above suggests that "interested persons" are merely informed of decisions that have already been made by the GSA, such as the "availability of draft plans." Meadowbrook is obviously much more than a mere "interested person"—it is one of the largest private pumpers in the Basin and has been for decades!

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Again, we urge the Board not to adopt the proposed Joint Powers Agreement unless and until it is revised to clearly establish the basic membership, functions and duties of a defined GSP Development Committee. We recognize that the GSA Bylaws may be an appropriate place to establish the details of the GSP Development Committee. But if Inyo County and the other prospective JPA public agency members are unwilling to make even the minor revisions to the proposed Joint Powers Agreement that we are requesting, we must assume that the GSA has no intention of

Inyo County Board of Supervisors and Water Department Director

Re: Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater

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affording direct, meaningful private pumper participation in the development and implementation of the GSP.

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Enclosure

Attachment “A”

Article VII: Board Meetings and Actions

Section 7.04 – Committees of the Board.

The Board may from time to time establish advisory committees for the purpose of making recommendations to the Board on the various activities of the Authority. The establishment of any committee and its duties shall require the vote of the Board of Directors and the activities of the committee shall be subject to the provisions of the Ralph M. Brown Act (Government Code sections 54950, *et seq.*). Committees shall exist for the term specified in the action creating the committee and the Board may dissolve a committee at any time through a vote of the Board of Directors.

The Board shall ensure that the development of the GSP includes the meaningful participation of all water users in the Basin including but not limited to the General Members, Associate Members, regulated public water utilities, mutual water companies and other private well pumpers.

[New] Section 7.05 – Groundwater Sustainability Plan Development Committee

Irrespective of any committees that are established by the Board pursuant to Section 7.04, The Board shall ensure this meaningful participation through the establishment of one or more committees a Groundwater Sustainability Plan Development Committee (“GSP Development Committee”) is hereby established and shall be maintained.- The GSP Development Committee is composed of one representative each of three or more of the voting GSA Members, one representative of the U.S. Navy, one representative of the Bureau of Land Management, one representative of Mojave Mutual Water Company, one representative of Meadowbrook Mutual Water Company, one representative of Searles Valley Minerals, and one or more at-large private pumper representative(s), which will contain members from the above groups so long as their participation does not violate the State ethics and conflict of interest laws, including Government Code sections 1090 *et seq.*, or any other law.

The Board shall assign the responsibility for developing a non-binding GSP proposal, including any individual portions or elements of the GSP, to the GSP Development Committee, which GSP proposal shall be submitted to the Board for final consideration and approval. Upon adoption, the GSP Development Committee shall continue to meet regularly and advise the Board concerning the administration and any later modifications of the GSP. The Board may appoint a technical subcommittee for the purpose of assisting the GSP Development Committee. The Bylaws adopted by the Board pursuant to Section 8.05 shall contain provisions for the operation of the GSP Development Committee, which provisions shall be prepared and proposed by the GSP Development Committee to the Board for final consideration and approval.

EXHIBIT 8

July 18, 2016

VIA EMAIL [board@co.kern.ca.us]

Kern County Supervisor Mick Gleason, First District

[district1@co.kern.ca.us]

Kern County Supervisor Zack Scrivner, Second District

[district2@co.kern.ca.us]

Kern County Supervisor Mike Maggard, Third District

[district3@co.kern.ca.us]

Kern County Supervisor David Couch, Fourth District

[district4@co.kern.ca.us]

Kern County Supervisor Leticia Perez, Fifth District

[district5@co.kern.ca.us]

Re: *July 19, 2016 Board of Supervisors Meeting, Agenda Item 19 – Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority*

To the members of the Board of Supervisors (“Board”) of the County of Kern (“Kern County”):

On behalf of our clients, Meadowbrook Dairy and Meadowbrook Mutual Water Company (“Meadowbrook”), we urge this Board not to adopt the proposed “Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority” (“Joint Powers Agreement”) in its current form as presented in Item 19 of agenda for the Board’s July 19, 2016 meeting.

Instead, we request that Kern County demonstrate leadership among the prospective JPA public agency members by requiring that the Joint Powers Agreement clearly and specifically establish the specific provisions that will provide “meaningful participation” for Meadowbrook and other private pumpers in the Joint Powers Agreement itself. We believe this can be accomplished with minimal revisions to the Joint Powers Agreement that would clearly establish a “Groundwater Sustainability Plan Development Committee” (“GSP Development Committee”), as we have urged Kern County and the other prospective JPA public agency members to do for months now.

Under the Sustainable Groundwater Management Act (“SGMA”), a Groundwater Sustainability Agency (“GSA”) for the Indian Wells Valley (“Valley”)

does not need to be formed until June 30, 2017. There is plenty of time to adopt a minimally revised Joint Powers Agreement that sets forth the basic membership, functions and duties of private pumpers on a clearly defined GSP Development Committee, and then establish the GSA. On behalf of Meadowbrook, we ask that the Board resolve to incorporate into the Joint Powers Agreement the revisions reflected in the partial redline enclosed with this letter as "Attachment "A".

Concerns with the Proposed Joint Powers Agreement

On January 26, 2016, this Board continued for two weeks its hearing regarding the adoption of a resolution regarding the structure of the GSA for Valley. The primary stated reason for the continuance was to provide an opportunity for the County to deliver private pumpers, including Meadowbrook, with sufficient assurances that the proposed GSP Development Committee concept would provide meaningful participation in the GSA and GSP processes.

Mojave Mutual Water Company ("Mojave"), Meadowbrook and Searles Valley Minerals ("Searles") presented Kern County Counsel with a proposed *GSP Development Committee Conceptual* ("Conceptual Outline") which endeavored to better define "meaningful participation." At the February 9, 2016 Board of Supervisors meeting, Kern County Counsel presented to this Board a revised version of the Conceptual Outline that included changes not previously discussed with or mentioned to Mojave, Meadowbrook and Searles, and then conveyed to the Board her interpretation of the Conceptual Outline as an attempt by the private pumpers to "control" the development of the GSP, which clearly not the intent. To the contrary, the February 8, 2016 version of the Conceptual Outline that was presented to Kern County Counsel defined the "GSP Development Committee Members" to include:

- One representative each of three or more of the voting GSA members
- One representative of the U.S. Navy
- One representative of Mojave Mutual Water Company
- One representative of Meadowbrook Mutual Water Company
- One representative of Searles Valley Minerals
- One or more at-large private pumper representative(s)

Since February, the Bureau of Land Management ("BLM") decided to participate as an Associate Member of the Board of the prospective GSA Board.

Consequently, the proposed GSP Development Committee language in Attachment "A" to this letter *adds* the BLM to group listed above as a member of the GSP Development Committee. Meadowbrook has always supported an inclusive group for the GSP Development Committee.

The Kern County Administrative Office ("CAO") report for tomorrow's Board meeting, entitled "Request for Approval of a Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority" ("Report") states on page 1, that on January 12, 2016, "your Board directed that the GSA in the IWV Basin must ensure the meaningful participation of the Department of the Navy." Notably absent from the CAO report, however, is Section 2 of the Board's February 9, 2016 Resolution, in which:

"The Board also directs staff to ensure that the GSA includes the meaningful participation of the Department of the Navy, the Bureau of Land Management, mutual water companies and other private well owners. For the Department of the Navy, meaningful participation means having a non-voting member position on the GSA Board of Directors. For all other water users, including mutual water companies and other private well owners, meaningful participation means the ability to participate on a groundwater sustainability plan development committee, provided that such participation does not violate the State ethics and conflict of interest laws, including Government Code §§ 1090 et. seq. or any other law." (Emphasis added.)

The current version of the Joint Powers Agreement does not comply with the Board's directives from February 9, 2016. Whereas the March 3, 2016 version of the Joint Powers Agreement specifically referenced in Section 7.04 a "groundwater sustainability plan development committee," the current version of the Joint Powers Agreement presented now to the Board does not even reference a groundwater sustainability development committee and refers instead merely to a "committee or committees of the Board."

Based on our experience over the past several months, and on the current language of Section 7.04 of the Joint Powers Agreement (entitled "Committees of the Board"),

neither Meadowbrook nor any other private pumper has any reasonable assurance that they will have participation on a committee of the Joint Powers Authority; or that it will, in fact, afford meaningful participation in the development and implementation of the Groundwater Sustainability Plan ("GSP"). Instead, we are informed by the unanimously-approved minutes of the closed "GSA-Eligible Agencies" meetings that, according to Kern County representatives at those meetings, the *"Vision is that GSA staff will prepare a draft GSP,"* that *"Formulation will lie with staff and not [a] Development committee,"* and that a *"GSP Development Committee is really Citizen's Advisory Committee."* ("GSA Eligible Agency" meeting notes of March 3, 2016 posted on Kern County Website.)

Those alarming statements, combined with the direct removal from Section 7.04 of any express reference to a "groundwater sustainability plan development committee," *on the same day those comments were made,* lead to only one inescapable conclusion, that Kern County, and possibly other prospective GSA members, has no intention of legitimately including Meadowbrook or other private pumpers in the GSP development and implementation processes. Regrettably, it is becoming increasingly likely that the only way for private pumpers to meaningfully participate in the process of achieving sustainability for the Indian Wells Valley Groundwater Basin ("Basin") under SGMA might be through litigation.

Meadowbrook is one of the largest and oldest pumpers in the Valley with well-established overlying rights to groundwater. As such, it is in the best interests of all groundwater users in the Basin to include Meadowbrook in the process of achieving the shared objective of long-term Basin sustainability. Indeed, regarding the development of GSPs, Kern County Counsel stated during the June 7, 2016 Board of Supervisors Meeting, that:

"If we want to avoid costly litigation over the assumptions and the outcomes of the GSPs, it truly behooves the County to ensure that GSPs are impartially developed to ensure meeting the needs of all water users in the basin, which is what SGMA demands. Any less of a result, even in perception only, will result in years of litigation that would stagnate economic development in the County." (Emphasis added).

At that same meeting, Supervisor Gleason stated: “My main theme is fair representation of people in the white space,” and that he is “interested in developing trusting relationships in all elements of the GSP.”

In light of these statements regarding SGMA implementation on the West side of Kern County, we cannot fathom why Kern County would take a contrary approach here in this Valley. The Joint Powers Agreement must establish the basic membership, functions and duties of a GSP Development Committee in order to more clearly define “meaningful participation” for private pumpers, including Meadowbrook, domestic well owners and others. Instead, the current proposed Joint Powers Agreement has entirely removed the prior language that referred to the establishment of a “groundwater sustainability plan development committee.”

Under the Joint Powers Agreement as written, a nebulous, Joint Powers Authority Board-appointed committee (which, according to Section 7.04 could apparently be dissolved “at any time” through “a vote” of the JPA Board) does not “ensure that [the] GSP [will be] impartially developed to ensure meeting the needs of all water users in the basin,” nor does it engender “trusting relationships in all elements of the GSP.”

Accountability for Stakeholder Inclusion Under SGMA

As we have stated for months, SGMA was amended by California Senate Bill 13 to clarify that mutual water companies are entitled to fully participate in the SGMA process. The author of Senate Bill 13 further explained that it is intended to prevent local agencies from excluding mutual water companies and regulated water corporations from participating in GSAs at an executive management level. The term “GSA Eligible Agencies” was a misnomer from the beginning and been perpetually misconstrued as a way to justify excluding Meadowbrook and other similar entities from participating in the GSA formation process in the Valley.

SGMA requires GSAs to consider the interests of beneficial uses and users of groundwater. Those “interests” specifically include holders of overlying groundwater rights such as agricultural users, domestic well owners, public water systems, local land use planning agencies, and others. (Water Code § 10723.2.) When submitting its notice of intent to become a GSA to the California Department of Water Resources (“DWR”), the prospective Indian Wells Valley Groundwater Authority will be required to explain how those very “interests will be considered in the development and operation of the groundwater sustainability agency and the development and

implementation of the agency's sustainability plan." (Water Code § 10723.8(a)(4), emphasis added.) The prospective Indian Wells Valley Groundwater Authority will also be required to submit with that notice a copy of the Joint Powers Agreement, any bylaws or ordinances of the Authority, service area maps, and other materials.

By clearly establishing a GSP Development Committee in the Joint Powers Agreement consistent with our proposed revisions, the Indian Wells Valley Groundwater Authority can satisfy those legal requirements, which will be triggered and then due just thirty (30) days after deciding to become a GSA. (Water Code § 10723.8(a).)

SGMA also requires GSAs to maintain a list of "persons interested in receiving notices regarding plan preparation, meeting announcements, and availability of draft plans, maps, and other relevant documents." (Water Code § 10723.4.) If Kern County, and by extension the GSA, sees the "committee or committees" described in the second paragraph of Section 7.04 of the proposed Joint Powers Agreement (regarding "meaningful participation") as a mere "citizen's advisory committee(s)" comprised of "interested persons," then such committees will have no legitimate voice in the development or implementation of the GSP.

The SGMA language quoted above suggests that "interested persons" are merely informed of decisions that have already been made by the GSA, such as the "availability of draft plans." Meadowbrook is obviously much more than a mere "interested person" — it is one of the largest private pumpers in the Basin and has been for decades!

Accountability for Stakeholder Inclusion Under the GSP Regulations

On June 8-9, 2016, Associate Director and Managing Senior Mediator with the Center for Collaborative Policy ("CPC"), Dave Ceppos, delivered a presentation at a conference of the Groundwater Resources Association of California. As you know, DWR contracted with the CPC to provide facilitators to assist with SGMA implementation throughout California, including Dale Schaefer who has been involved in SGMA implementation for this Valley. The subject of the June conference was "Developing Groundwater Sustainability Plans for Success." Mr. Ceppos' presentation was entitled, "Stakeholder Engagement, Administrative Approaches and Lessons Learned," during which he made the following statements:

- “Being collaborative will get you across the finish line; not being collaborative will not get you there.”
- “To you water agencies: the ‘junk-yard dog’ is not the right way to go here. Junk yard dogs may be useful elsewhere, but not for SGMA implementation.”
- Emphasizing the importance of establishing “authentic” roles for stakeholders, he stated that “while the Brown Act does not require everything to be done in public until the GSA is formed, you must strike a balance with that and you will be held accountable for that under the GSP Regulations.”
- He described the level of accountability for public involvement in the GSP development and implementation process as being “much higher than CEQA involvement. You must show *how* you engaged them, and it must be *meaningful*. It’s a higher standard than you are used to.”
- Regarding the use of committees, he stated, “being too exclusive will make you pay later. It is better to involve people *now*, even if it’s large, than exclude them and pay the negative consequences.”

Mr. Ceppos is correct that GSAs will be held accountable for the manner in which they involve or fail to involve stakeholders in the development and implementation of GSPs. The Department of Water Resources’ recently adopted “GSP Regulations” (Cal. Code Regs. Tit. 23, Div. 2, Ch. 1.5, Sub Ch. 2, approved by the California Water Commission on May 18, 2016) establish the requirements for GSPs and the standards by which GSPs will be evaluated for approval by DWR. Section 354.10 of the GSP Regulations, entitled “Notice and Communication,” within the Article entitled “Plan Contents” provides as follows:

“Each Plan shall include a summary of information relating to notification and communication by the Agency with other agencies and interested parties including the following:

- (a) A description of the **beneficial uses and users of groundwater** in the basin, including the land uses and property interests potentially affected by the use of groundwater in the basin, the types of parties representing those interests, **and the nature of consultation with those parties.**
- (b) A list of public meetings at which the Plan was discussed or considered by the Agency.
- (c) Comments regarding the Plan received by the Agency and a summary of any responses by the Agency.
- (d) A **communication section of the Plan** that includes the following:
 - (1) An explanation of the Agency's **decision-making process.**
 - (2) Identification of **opportunities for public engagement and a discussion of how public input and response will be used.**
 - (3) A description of **how the Agency encourages the active involvement of diverse social, cultural, and economic elements of the population within the basin.**
 - (4) The method the Agency shall follow to inform the public about progress implementing the Plan, including the status of projects and actions." (Emphasis added.)

Both the GSP Regulations and Mr. Ceppos' experience and sound practical guidance demand a well-defined GSP Development Committee in the proposed Joint Powers Agreement.

Other Joint Powers Authorities, GSAs and Management Structures Provide Meaningful Representation of Private Pumpers

In response to both SGMA's mandates and good policy of broad stakeholder involvement, representatives of the various prospective GSA public agency members in this Valley were presented back in January 2016 with a proposed draft Joint Powers Agreement prepared by Mojave, that included broad representation of stakeholder interests on the GSA Board. Kern County representatives, however, rejected that proposal.

Nevertheless, there are many examples of joint powers authorities managing groundwater basins throughout California that have agricultural representatives, small domestic well owner representatives and mutual water company representatives on their boards of directors. We have identified examples many times in public hearings and prior comment letters over the past six months, including at hearings before this Board, such as the Sacramento Groundwater Authority and the Sacramento Central Groundwater Authority, to name a couple.

In addition to those examples, there are similar broadly-representative groundwater management authorities and GSAs in California that are responsible for managing other basins deemed by DWR to be in a **condition of critical overdraft**. The Fox Canyon Groundwater Management Agency (“Fox Canyon”), for example, is a GSA responsible for managing Bulletin 118 Basin Numbers 4-4.02 (Oxnard) and 4-5 (Pleasant Valley) with a five-member board comprising representatives of: (1) the County of Ventura; (2) the United Water Conservation District; (3) a group of seven small water districts and **mutual water companies**; (4) the five incorporated cities within Fox Canyon’s jurisdictional area; and (5) **farmers**. Fox Canyon is a special act district and one of the SGMA-mandated exclusive GSAs listed in Water Code Section 10723. In other words, the California Legislature expressly named Fox Canyon, with its five-member Board including both **mutual water company** and **farmer representatives**, as the **exclusive** GSA for its management area.

Notably, Kern County’s Berkeley-based outside legal counsel for water matters is specifically acknowledged and thanked for his input in a March 2016 publication of UC Berkeley Law’s Wheeler Water Institute, entitled “Designing Effective Groundwater Sustainability Agencies: Criteria for Evaluation of Local Governance Options.”¹ The report states that “designing institutions for sustainable groundwater management is one of the most pressing challenges for SGMA implementation.” (Report, p. 7.) The report identifies several criteria by which GSA structures should be evaluated, including but not limited to participation, representation, accountability and transparency. The report defines “participation” as:

“**direct, meaningful** stakeholder engagement in the **decision making** process. Local governments should develop effective mechanisms for **substantive** participation by a **broad** stakeholder base during GSA

¹ The report can be found at: https://www.law.berkeley.edu/wp-content/uploads/2016/02/CLEE_GroundwaterGovernance_2016-03-08.pdf

formation, as well as during subsequent planning and implementation phases.” (Report, p. 9.)

For months now, Meadowbrook has sought a voice in the GSA formation process to no avail. We have approached this process in good faith with one objective: to obtain a commitment for well-defined and truly meaningful participation in the GSA from the inception of the process. A well-defined GSP Development Committee in the proposed Joint Powers Agreement would provide a clear, straightforward framework consistent with legal and regulatory mandates, good policy and common sense.

The Joint Powers Agreement Should Be Revised to Clearly Establish The GSP Development Committee

As a prospective general member of the Authority, Kern County is presented with an opportunity now to show leadership and do the right thing. Kern County Counsel has refused to incorporate our requested minor revisions to prior drafts of the Joint Powers Agreement in the past, saying that “policy” provisions like Section 7.04 regarding committee membership should be decided “in public” and “not behind closed doors.” That characterization is misleading. Several versions of the Conceptual Outline consistent with the language in Attachment “A” to this letter were discussed in public hearings, including before this Board on February 9, 2016. More to the point, this comment letter and the attached proposed revisions are presented to this Board at a publicly noticed regular meeting for consideration, just like our prior comment letters and appearances.

It is also worth noting that, unless there have been violations of the Brown Act, no complete board of any of the various prospective GSA member public agencies in the Valley has made any policy decisions that are now reflected in the Joint Powers Agreement, because the entire Joint Powers Agreement itself was negotiated and drafted “behind closed doors.” In a January 13, 2016 letter, Kern County Counsel expressly rejected Meadowbrook’s request to participate in the “GSA Eligible Agency” meetings and teleconferences, stating that:

“the staff meetings have been among representatives of public agencies that are eligible to form a [GSA] in the Indian Wells Valley. These staff members have no authority to approve any formation but are instead seeking to outline the possible approaches that their agencies,

holding the common requisite police powers to become members of a GSA through a joint exercise of powers, will propose to their own governing boards and the general public.”

Kern County released incomplete and outdated drafts of the Joint Powers Agreement from time to time; however, with the exception of the early resolutions adopted by some of the public agencies regarding board membership on the GSA, Meadowbrook is unaware of any public meeting during which policy decisions now already drafted into the proposed Joint Powers Agreement, including voting, funding and committee membership, were ever discussed before any public agency board.

We note that agenda Item 33(F) of tomorrow’s Board meeting memorializes the Board’s receipt of the Kern County Grand Jury Final Report entitled, “Kern County Groundwater – Cooperation or Conflict,” dated June 16, 2016 (“Grand Jury Report”). The Grand Jury Report discusses the Grand Jury’s February 2016 report that described joint powers authorities in Kern County as “hidden governments” that often lack transparency, accountability, and accessibility. The Grand Jury Report describes the SGMA processes in Kern County both on the west side of the County and in this Valley and provides recommendations to avoid the pitfalls of existing joint powers authorities described in the February 2016 report.

Consistent with our comments above, the Grand Jury Report cites the GSP Regulations regarding the requirement to involve beneficial users of groundwater, and then specifically states that: “[n] addition to entities that have groundwater rights, the interests of all water users need to be taken into account. These users therefore have a right to participate in the planning process.” (Page 4, third full paragraph, emphasis added.) It also finds that while “[a] number of agencies have been involved in the SGMA process...many agencies, individuals and areas with small farms or small housing developments that depend on pumped water have not been advised of the process.” (Page 6, Finding F6.) The Grand Jury Report bears the signature of Kern County Counsel.

Supervisor Gleason repeatedly voices extreme urgency to complete the GSA formation process for the Valley as quickly as possible, threatening that a failure to do so will result in regulation of the Basin by the State Water Board. In reality, the Valley does not have time to form an inadequate GSA that does not sufficiently include broad stakeholder interests. Note also that if the State Water Board finds that a GSA is not

Kern County Board of Supervisors

Re: July 19, 2016 Board of Supervisors Meeting, Agenda Item 19 – Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority

July 18, 2016

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timely formed because of delays caused by litigation, the State Water Board “shall” not designate a basin as probationary for the period of time equal to the delay caused by the litigation. (Water Code § 10735.2(d).)

Likewise, obtaining a court-ordered physical solution would by definition involve significant participation of all pumpers and stakeholders in the Basin and would be a viable alternative to, or mandate upon, a GSP. (Water Code §§ 10733.6(b)(2), 10737.4, 10737.6, 10737.8.)

Again, we urge the Board not to adopt the proposed Joint Powers Agreement unless and until it is revised to clearly establish the basic membership, functions and duties of a defined GSP Development Committee. We recognize that the GSA Bylaws may be an appropriate place to establish the details of the GSP Development Committee. But if Kern County and the other prospective JPA public agency members are unwilling to make even the minor revisions to the proposed Joint Powers Agreement that we are requesting, we must assume that the GSA has no intention of affording direct, meaningful private pumper participation in the development and implementation of the GSP.

We trust that Kern County will show leadership now, before establishing the Indian Wells Valley Groundwater Authority, to ensure the meaningful participation of Meadowbrook and other private pumpers, large and small, in the SGMA process. At this time, we are seeking memorialization of that commitment in the proposed Joint Powers Agreement.

Very truly yours, .



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

Enclosure

cc: A. Christensen (w/encl.) [achristensen@co.kern.ca.us]

Clerk of the Board (w/encl.) [clerkofboard@co.kern.ca.us]

Client (w/encl.)

Attachment “A”

Article VII: Board Meetings and Actions

Section 7.04 – Committees of the Board.

The Board may from time to time establish advisory committees for the purpose of making recommendations to the Board on the various activities of the Authority. The establishment of any committee and its duties shall require the vote of the Board of Directors and the activities of the committee shall be subject to the provisions of the Ralph M. Brown Act (Government Code sections 54950, *et seq.*). Committees shall exist for the term specified in the action creating the committee and the Board may dissolve a committee at any time through a vote of the Board of Directors.

The Board shall ensure that the development of the GSP includes the meaningful participation of all water users in the Basin including but not limited to the General Members, Associate Members, regulated public water utilities, mutual water companies and other private well pumpers.

[New] Section 7.05 – Groundwater Sustainability Plan Development Committee

Irrespective of any committees that are established by the Board pursuant to Section 7.04, The Board shall ensure this meaningful participation through the establishment of one or more committees a Groundwater Sustainability Plan Development Committee (“GSP Development Committee”) is hereby established and shall be maintained.- The GSP Development Committee is composed of one representative each of three or more of the voting GSA Members, one representative of the U.S. Navy, one representative of the Bureau of Land Management, one representative of Mojave Mutual Water Company, one representative of Meadowbrook Mutual Water Company, one representative of Searles Valley Minerals, and one or more at-large private pumper representative(s), which will contain members from the above groups so long as their participation does not violate the State ethics and conflict of interest laws, including Government Code sections 1090 *et seq.*, or any other law.

The Board shall assign the responsibility for developing a non-binding GSP proposal, including any individual portions or elements of the GSP, to the GSP Development Committee, which GSP proposal shall be submitted to the Board for final consideration and approval. Upon adoption, the GSP Development Committee shall continue to meet regularly and advise the Board concerning the administration and any later modifications of the GSP. The Board may appoint a technical subcommittee for the purpose of assisting the GSP Development Committee. The Bylaws adopted by the Board pursuant to Section 8.05 shall contain provisions for the operation of the GSP Development Committee, which provisions shall be prepared and proposed by the GSP Development Committee to the Board for final consideration and approval.

EXHIBIT 9

August 2, 2016

VIA EMAIL [rford@ridgecrest-ca.gov]

Mayor Peggy Breeden

[pbreeden@ridgecrest-ca.gov]

Vice Mayor Lori Acton

[lacton@ridgecrest-ca.gov]

Mayor Pro Tem Jim Sanders

[jsanders@ridgecrest-ca.gov]

Council Member Mike Mower

[mmower@ridgecrest-ca.gov]

Council Member Eddie Thomas

[ethomas@ridgecrest-ca.gov]

Re: *August 3, 2016 City of Ridgecrest City Council Meeting, Agenda Items 5 and 6 –
Proposed Joint Exercise of Powers Agreement Creating the Indian Wells Valley
Groundwater Authority*

To the members of the City Council ("City Council") of the City of Ridgecrest ("City"):

On behalf of our clients, Meadowbrook Dairy and Meadowbrook Mutual Water Company ("Meadowbrook"), we urge the City Council not to adopt the proposed "*Joint Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority*" ("Joint Powers Agreement") in its current form as presented in Item 5 and included in Item 6 of agenda for the City Council's August 3, 2016 meeting.

Instead, the City Council should demonstrate leadership and responsible fiscal management as a prospective member of the Indian Wells Valley Groundwater Authority ("Joint Powers Authority") by requiring that the Joint Powers Agreement clearly and specifically establish the specific provisions that will provide "meaningful participation" for Meadowbrook and other private pumpers in the Joint Powers Agreement itself. We believe this can be accomplished with minimal revisions to the Joint Powers Agreement that would clearly establish a "Groundwater Sustainability Plan Development Committee" ("GSP Development Committee"), as we have urged each of the prospective public agency members of the Joint Powers Authority to do for months now.

Under the Sustainable Groundwater Management Act (“SGMA”), a Groundwater Sustainability Agency (“GSA”) for the Indian Wells Valley (“Valley”) does not need to be formed until June 30, 2017. There is plenty of time to adopt a minimally revised Joint Powers Agreement that sets forth the basic membership, functions and duties of private pumpers on a clearly defined GSP Development Committee, and then establish the GSA. On behalf of Meadowbrook, we ask that the City Council resolve to incorporate into the Joint Powers Agreement the revisions reflected in the partial redline enclosed with this letter as “Attachment “A”.

Concerns with the Proposed Joint Powers Agreement

As detailed in this letter, Kern County has and continues to lead the GSA formation process down a path of potential conflict. Meadowbrook and other private pumpers have for months repeatedly urged the prospective public agency members of the Joint Powers Authority to establish and define meaningful participation for large private stakeholders in the development and implementation of the Groundwater Sustainability Plan (“GSP”). Instead, the Joint Powers Agreement fails to establish a GSP Development Committee at all.

In February of this year, Mojave Mutual Water Company (“Mojave”), Meadowbrook and Searles Valley Minerals (“Searles”) presented Kern County Counsel and the City Attorney with a proposed *GSP Development Committee Conceptual* (“Conceptual Outline”) which endeavored to better define “meaningful participation.” The Conceptual Outline defined “GSP Development Committee Members” to include:

- One representative each of three or more of the voting GSA members
- One representative of the U.S. Navy
- One representative of Mojave Mutual Water Company
- One representative of Meadowbrook Mutual Water Company
- One representative of Searles Valley Minerals
- One or more at-large private pumper representative(s)

Since February, the Bureau of Land Management (“BLM”) decided to participate as an Associate Member of the Board of the prospective JPA Board. Consequently, the proposed GSP Development Committee language in Attachment “A” to this letter *adds* the BLM to group listed above as a member of the GSP

Development Committee. Meadowbrook has always supported an inclusive group for the GSP Development Committee.

On February 9, 2016, the Kern County Board of Supervisors adopted a Resolution, in which the "Board direct[ed] staff to ensure that the GSA includes the meaningful participation of the Department of the Navy, the Bureau of Land Management, mutual water companies and other private well owners." (emphasis added). The Resolution defined "meaningful participation" for the Department of the Navy as "having a non-voting member position on the GSA Board of Directors," and further defined "meaningful participation" for all other water users in the Valley, specifically including mutual water companies and other private well owners, as "the ability to participate on a groundwater sustainability plan development committee," subject to compliance with State ethics and conflict of interest laws. (Emphasis added.)

The current version of the Joint Powers Agreement does not comply with Kern County's February 9, 2016 Resolution. Whereas the March 3, 2016 version of the Joint Powers Agreement specifically referenced in Section 7.04 a "groundwater sustainability plan development committee," the current version of the Joint Powers Agreement presented now to the City Council does not even reference a groundwater sustainability development committee and refers instead merely to a "committee or committees of the [Joint Powers Authority] Board."

Based on our experience over the past several months, and on the current language of Section 7.04 of the Joint Powers Agreement (entitled "Committees of the Board"), neither Meadowbrook nor any other private pumper has any reasonable assurance that they will have participation on a committee of the Joint Powers Authority; or that it will, in fact, afford meaningful participation in the development and implementation of the GSP. Instead, we are informed by the unanimously-approved minutes of the closed "GSA-Eligible Agencies" meetings that, according to Kern County representatives at those meetings, the "*Vision is that GSA staff will prepare a draft GSP,*" that "*Formulation will lie with staff and not [a] Development committee,*" and that a "*GSP Development Committee is really Citizen's Advisory Committee.*" ("GSA Eligible Agency" meeting notes of March 3, 2016 posted on Kern County Website.)

Those alarming statements, combined with the direct removal from Section 7.04 of any express reference to a "groundwater sustainability plan development committee," *on the same day those comments were made,* lead to only one inescapable conclusion, that Kern County, and possibly other prospective GSA members, has no

intention of legitimately including Meadowbrook or other private pumpers in the GSP development and implementation processes.

Regrettably, it is becoming increasingly likely that the only way for private pumpers to meaningfully participate in the process of achieving sustainability for the Indian Wells Valley Groundwater Basin (“Basin”) under SGMA might be through litigation.

Meadowbrook is one of the largest and oldest pumpers in the Valley with well-established overlying rights to groundwater. As such, it is in the best interests of all groundwater users in the Basin to include Meadowbrook in the process of achieving the shared objective of long-term Basin sustainability. Indeed, regarding the development of GSPs, Kern County Counsel stated during the June 7, 2016 Board of Supervisors Meeting, that:

“If we want to avoid costly litigation over the assumptions and the outcomes of the GSPs, it truly behooves the County to ensure that GSPs are impartially developed to ensure meeting the needs of all water users in the basin, which is what SGMA demands. Any less of a result, even in perception only, will result in years of litigation that would stagnate economic development in the County.”
(Emphasis added).

At that same meeting, Kern County Supervisor Gleason stated: “My main theme is fair representation of people in the white space,” and that he is “interested in developing trusting relationships in all elements of the GSP.”

The Joint Powers Agreement must establish the basic membership, functions and duties of a GSP Development Committee in order to more clearly define “meaningful participation” for private pumpers, including Meadowbrook, domestic well owners and others. Instead, the current proposed Joint Powers Agreement has entirely removed the prior language that referred to the establishment of a “groundwater sustainability plan development committee.”

Under the Joint Powers Agreement as written, a nebulous, Joint Powers Authority Board-appointed committee (which, according to Section 7.04 could apparently be dissolved “at any time” through “a vote” of the JPA Board) does not “ensure that [the] GSP [will be] impartially developed to ensure meeting the needs of

all water users in the basin,” nor does it engender “trusting relationships in all elements of the GSP.”

Accountability for Stakeholder Inclusion Under SGMA

As we have stated for months, SGMA was amended by California Senate Bill 13 to clarify that mutual water companies are entitled to fully participate in the SGMA process. The author of Senate Bill 13 further explained that it is intended to prevent local agencies from excluding mutual water companies and regulated water corporations from participating in GSAs at an executive management level. The term “GSA Eligible Agencies” was a misnomer from the beginning and been perpetually misconstrued as a way to justify excluding Meadowbrook and other similar entities from participating in the GSA formation process in the Valley.

SGMA requires GSAs to consider the interests of beneficial uses and users of groundwater. Those “interests” specifically include holders of overlying groundwater rights such as agricultural users, domestic well owners, public water systems, local land use planning agencies, and others. (Water Code § 10723.2.) When submitting its notice of intent to become a GSA to the California Department of Water Resources (“DWR”), the Joint Powers Authority will be required to explain how those very “interests will be considered in the development and operation of the groundwater sustainability agency and the development and implementation of the agency’s sustainability plan.” (Water Code § 10723.8(a)(4), emphasis added.) The Joint Powers Authority will also be required to submit with that notice a copy of the Joint Powers Agreement, any bylaws or ordinances of the Authority, service area maps, and other materials.

By clearly establishing a GSP Development Committee in the Joint Powers Agreement consistent with our proposed revisions, the Joint Powers Authority can satisfy those legal requirements, which will be triggered and then due just thirty (30) days after deciding to become a GSA. (Water Code § 10723.8(a).)

SGMA also requires GSAs to maintain a list of “persons interested in receiving notices regarding plan preparation, meeting announcements, and availability of draft plans, maps, and other relevant documents.” (Water Code § 10723.4.) If the Joint Powers Authority members see the “committee or committees” described in the second paragraph of Section 7.04 of the proposed Joint Powers Agreement (regarding “meaningful participation”) as a mere “citizen’s advisory committee(s)” comprised of

“interested persons,” then such committees will have no legitimate voice in the development or implementation of the GSP.

The SGMA language quoted above suggests that “interested persons” are merely informed of decisions that have already been made by the GSA, such as the “availability of draft plans.” Meadowbrook is obviously much more than a mere “interested person” – it is one of the largest private pumpers in the Basin and has been for decades!

Accountability for Stakeholder Inclusion Under the GSP Regulations

On June 8-9, 2016, Associate Director and Managing Senior Mediator with the Center for Collaborative Policy (“CPC”), Dave Ceppos, delivered a presentation at a conference of the Groundwater Resources Association of California. As you know, DWR contracted with the CPC to provide facilitators to assist with SGMA implementation throughout California, including Dale Schaefer who has been involved in SGMA implementation for this Valley. The subject of the June conference was “Developing Groundwater Sustainability Plans for Success.” Mr. Ceppos’ presentation was entitled, “Stakeholder Engagement, Administrative Approaches and Lessons Learned,” during which he made the following statements:

- “Being collaborative will get you across the finish line; not being collaborative will not get you there.”
- “To you water agencies: the ‘junk-yard dog’ is not the right way to go here. Junk yard dogs may be useful elsewhere, but not for SGMA implementation.”
- Emphasizing the importance of establishing “authentic” roles for stakeholders, he stated that “while the Brown Act does not require everything to be done in public until the GSA is formed, you must strike a balance with that and you will be held accountable for that under the GSP Regulations.”

- He described the level of accountability for public involvement in the GSP development and implementation process as being “much higher than CEQA involvement. You must show *how* you engaged them, and it must be *meaningful*. It’s a higher standard than you are used to.”
- Regarding the use of committees, he stated, “being too exclusive will make you pay later. It is better to involve people *now*, even if it’s large, than exclude them and pay the negative consequences.”

Mr. Ceppos is correct that GSAs will be held accountable for the manner in which they involve or fail to involve stakeholders in the development and implementation of GSPs. The Department of Water Resources’ recently adopted “GSP Regulations” (Cal. Code Regs. Tit. 23, Div. 2, Ch. 1.5, Sub Ch. 2, approved by the California Water Commission on May 18, 2016) establish the requirements for GSPs and the standards by which GSPs will be evaluated for approval by DWR. Section 354.10 of the GSP Regulations, entitled “Notice and Communication,” within the Article entitled “Plan Contents” provides as follows:

“Each Plan shall include a summary of information relating to notification and communication by the Agency with other agencies and interested parties including the following:

(a) A description of the **beneficial uses and users of groundwater** in the basin, including the land uses and property interests potentially affected by the use of groundwater in the basin, the types of parties representing those interests, **and the nature of consultation with those parties.**

(b) A list of public meetings at which the Plan was discussed or considered by the Agency.

(c) Comments regarding the Plan received by the Agency and a summary of any responses by the Agency.

(d) A **communication section of the Plan** that includes the following:

(1) An explanation of the Agency’s **decision-making process.**

(2) Identification of **opportunities for public engagement and a discussion of how public input and response will be used.**

(3) A description of **how the Agency encourages the active involvement of diverse social, cultural, and economic elements of the population within the basin.**

(4) The method the Agency shall follow to inform the public about progress implementing the Plan, including the status of projects and actions.” (Emphasis added.)

Both the GSP Regulations and Mr. Ceppos’ experience and sound practical guidance demand a well-defined GSP Development Committee in the proposed Joint Powers Agreement.

Other Joint Powers Authorities, GSAs and Management Structures Provide Meaningful Representation of Private Pumpers

In response to both SGMA’s mandates and good policy of broad stakeholder involvement, representatives of the prospective public agency members of the Joint Powers Authority were presented back in January 2016 with a proposed draft Joint Powers Agreement prepared by Mojave, that included broad representation of stakeholder interests on the GSA Board. Kern County representatives, however, rejected that proposal.

Nevertheless, there are many examples of joint powers authorities managing groundwater basins throughout California that have agricultural representatives, small domestic well owner representatives and mutual water company representatives on their boards of directors. We have identified examples many times in public hearings and prior comment letters to the prospective public agency members of the Joint Powers Authority over the past six months, such as the Sacramento Groundwater Authority and the Sacramento Central Groundwater Authority, to name a couple.

In addition to those examples, there are similar broadly-representative groundwater management authorities and GSAs in California that are responsible for managing other basins deemed by DWR to be in a **condition of critical overdraft**. The Fox Canyon Groundwater Management Agency (“Fox Canyon”), for example, is a GSA responsible for managing Bulletin 118 Basin Numbers 4-4.02 (Oxnard) and 4-5 (Pleasant Valley) with a five-member board comprising representatives of: (1) the

County of Ventura; (2) the United Water Conservation District; (3) a group of seven small water districts and **mutual water companies**; (4) the five incorporated cities within Fox Canyon’s jurisdictional area; and (5) **farmers**. Fox Canyon is a special act district and one of the SGMA-mandated exclusive GSAs listed in Water Code Section 10723. In other words, the California Legislature expressly named Fox Canyon, with its five-member Board including both **mutual water company** and **farmer representatives**, as the **exclusive** GSA for its management area.

Notably, Kern County’s Berkeley-based outside legal counsel for water matters is specifically acknowledged and thanked for his input in a March 2016 publication of UC Berkeley Law’s Wheeler Water Institute, entitled “Designing Effective Groundwater Sustainability Agencies: Criteria for Evaluation of Local Governance Options.”¹ The report states that “designing institutions for sustainable groundwater management is one of the most pressing challenges for SGMA implementation.” (Report, p. 7.) The report identifies several criteria by which GSA structures should be evaluated, including but not limited to participation, representation, accountability and transparency. The report defines “participation” as:

“**direct, meaningful stakeholder engagement in the decision making process.** Local governments should develop effective mechanisms for **substantive participation** by a **broad stakeholder base during GSA formation**, as well as during subsequent **planning and implementation** phases.” (Report, p. 9.)

For months now, Meadowbrook has sought a voice in the GSA formation process to no avail. We have approached this process in good faith with one objective: to obtain a commitment for well-defined and truly meaningful participation in the GSA from the inception of the process. A well-defined GSP Development Committee in the proposed Joint Powers Agreement would provide a clear, straightforward framework consistent with legal and regulatory mandates, good policy and common sense.

¹ The report can be found at: https://www.law.berkeley.edu/wp-content/uploads/2016/02/CLEE_GroundwaterGovernance_2016-03-08.pdf

The Joint Powers Agreement Should Be Revised to Clearly Establish The GSP Development Committee

As a prospective general member of the Joint Powers Authority, the City is presented with an opportunity now to show leadership and do the right thing. The entire Joint Powers Agreement was negotiated and drafted behind closed doors. Back in January of this year, Kern County Counsel expressly rejected Meadowbrook's request to participate in the "GSA Eligible Agency" meetings and teleconferences. Instead, Kern County merely released incomplete and outdated drafts of the Joint Powers Agreement from time to time.

Notably, just two weeks ago, Kern County acknowledged receipt of a Kern County Grand Jury Final Report entitled, "Kern County Groundwater – Cooperation or Conflict," dated June 16, 2016 ("Grand Jury Report"). The Grand Jury Report discusses the Grand Jury's February 2016 report that described joint powers authorities in Kern County as "hidden governments" that often lack transparency, accountability, and accessibility. The Grand Jury Report describes the SGMA processes in Kern County both on the west side of the County and in this Valley and provides recommendations to avoid the pitfalls of existing joint powers authorities described in the February 2016 report.

Consistent with our comments above, the Grand Jury Report cites the GSP Regulations regarding the requirement to involve beneficial users of groundwater, and then specifically states that: "[n] addition to entities that have groundwater rights, the interests of all water users need to be taken into account. These users therefore have a right to participate in the planning process." (Page 4, third full paragraph, emphasis added.) It also finds that while "[a] number of agencies have been involved in the SGMA process...many agencies, individuals and areas with small farms or small housing developments that depend on pumped water have not been advised of the process." (Page 6, Finding F6.) The Grand Jury Report bears the signature of Kern County Counsel.

Kern County Supervisor Gleason repeatedly voices extreme urgency to complete the GSA formation process for the Valley as quickly as possible, threatening that a failure to do so will result in regulation of the Basin by the State Water Board. In reality, the Valley does not have time to form an inadequate GSA that does not sufficiently include broad stakeholder interests. Note also that if the State Water Board finds that a GSA is not timely formed because of delays caused by litigation, the

City of Ridgecrest City Council

Re: August 3, 2016 City of Ridgecrest City Council Meeting, Agenda Items 5 and 6 – Proposed Joint

Exercise of Powers Agreement Creating the Indian Wells Valley Groundwater Authority

August 2, 2016

Page 11

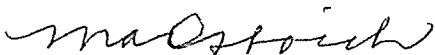
State Water Board “shall” not designate a basin as probationary for the period of time equal to the delay caused by the litigation. (Water Code § 10735.2(d).)

Likewise, obtaining a court-ordered physical solution would by definition involve significant participation of all pumpers and stakeholders in the Basin and would be a viable alternative to, or mandate upon, a GSP. (Water Code §§ 10733.6(b)(2), 10737.4, 10737.6, 10737.8.)

Again, we urge the City Council not to adopt the proposed Joint Powers Agreement unless and until it is revised to clearly establish the basic membership, functions and duties of a defined GSP Development Committee. We recognize that the JPA Bylaws may be an appropriate place to establish the details of the GSP Development Committee. But if the City and the other public agency members of the Joint Powers Authority are unwilling to make even the minor revisions to the proposed Joint Powers Agreement that we are requesting, we must assume that the Joint Powers Authority has no intention of affording direct, meaningful private pumper participation in the development and implementation of the GSP.

We trust that the City will show leadership now, before joining the Joint Powers Authority, to ensure the meaningful participation of Meadowbrook and other private pumpers, large and small, in the SGMA process. At this time, we are seeking memorialization of that commitment in the proposed Joint Powers Agreement.

Very truly yours,



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

Enclosure

cc: Ridgecrest City Attorney [Keith@lemieux-oneill.com] (w/ encl.)

Client (w/encl.)

Attachment "A"

Article VII: Board Meetings and Actions

Section 7.04 – Committees of the Board.

The Board may from time to time establish advisory committees for the purpose of making recommendations to the Board on the various activities of the Authority. The establishment of any committee and its duties shall require the vote of the Board of Directors and the activities of the committee shall be subject to the provisions of the Ralph M. Brown Act (Government Code sections 54950, *et seq.*). Committees shall exist for the term specified in the action creating the committee and the Board may dissolve a committee at any time through a vote of the Board of Directors.

The Board shall ensure that the development of the GSP includes the meaningful participation of all water users in the Basin including but not limited to the General Members, Associate Members, regulated public water utilities, mutual water companies and other private well pumpers.

[New] Section 7.05 – Groundwater Sustainability Plan Development Committee

Irrespective of any committees that are established by the Board pursuant to Section 7.04, The Board shall ensure this meaningful participation through the establishment of one or more committees a Groundwater Sustainability Plan Development Committee ("GSP Development Committee") is hereby established and shall be maintained.- The GSP Development Committee is composed of one representative each of three or more of the voting GSA Members, one representative of the U.S. Navy, one representative of the Bureau of Land Management, one representative of Mojave Mutual Water Company, one representative of Meadowbrook Mutual Water Company, one representative of Searles Valley Minerals, and one or more at-large private pumper representative(s), which will contain members from the above groups so long as their participation does not violate the State ethics and conflict of interest laws, including Government Code sections 1090 *et seq.*, or any other law.

The Board shall assign the responsibility for developing a non-binding GSP proposal, including any individual portions or elements of the GSP, to the GSP Development Committee, which GSP proposal shall be submitted to the Board for final consideration and approval. Upon adoption, the GSP Development Committee shall continue to meet regularly and advise the Board concerning the administration and any later modifications of the GSP. The Board may appoint a technical subcommittee for the purpose of assisting the GSP Development Committee. The Bylaws adopted by the Board pursuant to Section 8.05 shall contain provisions for the operation of the GSP Development Committee, which provisions shall be prepared and proposed by the GSP Development Committee to the Board for final consideration and approval.

EXHIBIT 10

October 19, 2016

VIA EMAIL

The Board of Directors of the Indian Wells Valley Groundwater Authority:

Peggy Breeden (City of Ridgecrest)
[pbreeden@ridgecrest-ca.gov]
Peter Brown (Indian Wells Valley Water District)
[earthlandscaping@gmail.com] and
[Peter.Brown.Director@gmail.com]
Mick Gleason (Kern County Supervisor)
[mgleason@co.kern.ca.us] and
[district1@co.kern.ca.us]
Matt Kingsley (Inyo County Supervisor)
[mkingsley@inyocounty.us]
Robert Lovingood (San Bernardino County Supervisor)
[SupervisorLovingood@sbcounty.gov]

Re: *October 20, 2016 Indian Wells Valley Groundwater Authority Board Meeting
Agenda Item 6 – Policy and Technical Advisory Committees*

To the members of the Board of Directors ("Board") of the Indian Wells Valley Groundwater Authority ("IWVGA"):

On behalf of Meadowbrook, we appreciate the effort and forward-progress reflected in the Staff Report for Agenda Item 6 of the October 20, 2016 Board Meeting, regarding committees of the IWVGA.

We specifically appreciate staff's recommendation (which we understand is based upon the recommendation of the Ad Hoc Committee established at the last Board meeting) to designate one of the two Large Agriculture seats of the "Policy Advisory Committee" ("PAC") specifically for Meadowbrook. This designation marks a significant step toward greater collaboration in the SGMA process. As one point of clarification regarding Meadowbrook's seat on the PAC, we kindly request that the reference to "Meadowbrook Farms" be changed simply to "Meadowbrook" (since "Farms" is not in the name).

With respect to the proposed "Technical Advisory Committee" ("TAC") concept, we ask that the Board consider and incorporate a change that we believe to be important, which is to add one additional TAC position for Agriculture. As stated under the "Mission and Objectives" section of the Staff Report, the TAC will be the "workhorse" for the IWVGA. The TAC will serve a vital role to ensure that the important groundwater management decisions of the IWVGA are based on sound and complete technical science. Arriving at a common technical understanding of the dynamic nature of the water resources, demands and management alternatives in the Indian Wells Valley Groundwater Basin ("Basin") will require both a broad range and depth of technical expertise.

Adding one additional TAC position for Agriculture will further the stated membership objective that each organization represented on the IWVGA and the PAC may nominate one representative to sit on the TAC. More importantly, the TAC, the IWVGA and the Basin will greatly benefit from the technical expertise of the highly-qualified experts supplied by Agriculture PAC members. Finally, an additional TAC position for Agriculture will create an odd—rather than even—number of committee members, which is typical of these types of committees.

We appreciate the Board's consideration of our comments and respectfully request that they be incorporated into the PAC and TAC proposals being considered for Board approval on October 20th.

Very truly yours,



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

cc: L. Duffy [lduffy@iwwvd.com]
Client

EXHIBIT 11

October 19, 2016

VIA EMAIL to the Clerk of the Board [lduffy@iwwvd.com]

The Board of Directors of the Indian Wells Valley Groundwater Authority:

Peggy Breeden (City of Ridgecrest)
Peter Brown (Indian Wells Valley Water District)
Mick Gleason (Kern County Supervisor)
Matt Kingsley (Inyo County Supervisor)
Robert Lovingood (San Bernardino County Supervisor)

Re: *October 20, 2016 Indian Wells Valley Groundwater Authority Board Meeting*
Agenda Item 5 –Minutes of September Board Meeting

To the members of the Board of Directors ("Board") of the Indian Wells Valley Groundwater Authority ("IWVGA"):

On behalf of Meadowbrook, we respectfully request that the minutes for the September 15, 2016 IWVGA Board Meeting be revised to more accurately reflect our comments on one particular item during that meeting. Specifically, page 4 of September 15, 2016 minutes should be corrected to read as follows (the changes are shown in red underline / strike-out):

"Derek Hoffman, legal counsel for Meadowbrook Dairy, noted that it shows promise, agreed-stated that if there should be a TAC as well with-as a 3rd party consultant, then whose selection should include input by the Policy Advisory Committee, noted that Meadowbrook thinks that two seats for AG is underrepresentation, and requested that Meadowbrook be listed by name as a participant of the Advisory Committee."

Please incorporate these changes to the September 15, 2016 Board meeting minutes, and ensure that this letter is entered into the record.

Board of Directors of the Indian Wells Valley Groundwater Authority
Re: October 20, 2016 Indian Wells Valley Groundwater Authority Board Meeting
Agenda Item 5 –Minutes of September Board Meeting
October 19, 2016
Page 2

We appreciate your attention to this matter, and we also appreciate the staff's efforts to maintain the meeting minutes particularly during these early organizational meetings of the IWVGA.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark A. Ostoich". The signature is fluid and cursive, with the first name "Mark" and last name "Ostoich" clearly distinguishable.

Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

cc: Client

EXHIBIT 12

November 11, 2016

VIA EMAIL

The Board of Directors of the Indian Wells Valley Groundwater Authority:

Peggy Breeden (City of Ridgecrest)

[pbreeden@ridgecrest-ca.gov]

Peter Brown (Indian Wells Valley Water District)

[earthlandscaping@gmail.com] and

[Peter.Brown.Director@gmail.com]

Mick Gleason (Kern County Supervisor)

[mgleason@co.kern.ca.us] and

[district1@co.kern.ca.us]

Matt Kingsley (Inyo County Supervisor)

[mkingsley@inyocounty.us]

Robert Lovingood (San Bernardino County Supervisor)

[SupervisorLovingood@sbcounty.gov]

Re: *Meadowbrook Representative on Technical Advisory Committee*

To the members of the Board of Directors ("Board") of the Indian Wells Valley Groundwater Authority ("IWVGA"):

On behalf of Meadowbrook, we are pleased to inform the Board that Meadowbrook has retained Mr. Eddy Teasdale, P.G., CHg, of Kennedy/Jenks Consultants, as a technical consultant. A copy of Mr. Teasdale's extensive resume is attached. As you can see, Mr. Teasdale is a California Professional Geologist and a Certified Hydrogeologist with over 20 years of experience in a variety of areas pertaining to groundwater and surface water management throughout California (as well as nationally and internationally).

As you know, the types, structure and membership of committees of the IWVGA is critically important to successfully managing groundwater and implementing the Sustainable Groundwater Management Act in the Indian Wells Valley ("Valley"). The subject of committees was discussed at the last two Board meetings. At the October 20, 2016 Board meeting, the Board considered an outline structure for two committees, namely a Policy Advisory Committee ("PAC") which

specifically names Meadowbrook as member, and a Technical Advisory Committee ("TAC") which includes categorical seats (e.g. Voting GSA Members, Associate GSA Members, Agriculture, Domestic Well Owner, etc.). The Board approved the PAC and TAC proposals in draft, subject to consideration of the comments made during the October 20, 2016 Board meeting.

During public comment, Meadowbrook expressed appreciation to the Board for naming Meadowbrook as a member of the PAC. Regarding the TAC structure, Meadowbrook requested, with support from Mojave Pistachios, that the TAC structure include at least two (2) seats for Agriculture, including a seat for Meadowbrook as one of only two major agricultural groundwater producers and one of the largest groundwater pumpers in the Valley. As stated during that meeting, the IWVGA, the TAC and the Basin will greatly benefit from the technical expertise of Meadowbrook's highly qualified technical expert.

On behalf of Meadowbrook, we respectfully reiterate our request that the IWVGA include a seat for Meadowbrook on the TAC. We are confident that Mr. Teasdale will, as a TAC member, provide unique and invaluable insight, skill and expertise toward meeting the objectives of the TAC.

Very truly yours,



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

Enclosure (E. Teasdale Resume)

cc: L. Duffy [lduffy@iwvwd.com]
A. Christensen [achristensen@co.kern.ca.us]
R. McGlothlin [RMcGlothlin@bhfs.com]
E. Teasdale [EddyTeasdale@kennedyjenks.com]
Client

Resume

Eddy Teasdale, P.G., CHg

Subject Matter Expert – Hydrogeology and Water Resources

Education

BS, Geology, University of Texas, 1996
MS, Hydrogeology, University of Idaho, 2002

Registrations

Professional Geologist, California (7791)
Professional Geologist, Idaho (1561)

Certifications

Certified Hydrogeologist, California (926)

Memberships/Affiliations

National Groundwater Association
Groundwater Resources Association of California
International Association of Hydrogeologists
American Water Resources Association

Areas of Expertise

Groundwater Assessments
Geologic Site Characterization and Assessment
Aquifer Storage and Recovery
Indirect Potable Reuse
Geologic Modeling
Water Resources Evaluation
Litigation Support
Subsidence
Water Supply Wells
Well Rehabilitation
Well Optimization
Environmental Impact Studies
Contaminant Fate and Transport
Hydrogeologic Studies
Aquifer Testing Design and Analysis
Numerical Groundwater Modeling

Professional Summary

Eddy Teasdale has over 20 years of experience working on geological and hydrogeological investigations in the United States and internationally (England, Ireland, North Africa, and Guam). Projects have involved complex, comprehensive geology, hydrogeology, conveyance, flood control, and environmental issues. He has worked in all major aquifer types (alluvial basins, volcanic, carbonate and bedrock terrains). He is an experienced project manager who has successfully managed large, complex projects. He has extensive experience in writing technical reports and working with local, state, and federal regulatory agencies including presenting project information and resolving project issues. Mr. Teasdale's primary areas of technical expertise are in hydrogeologic characterization and groundwater modeling. Mr. Teasdale has served as a subject matter expert for the Professional Geologist and Certified Hydrogeologist exams for the Department of Consumer affairs in California Since 2006. He has assisted in the development, review, grading, and appeals process for the annual hydrogeologist certification exam. Participation in the six member expert team is by invitation only and participants are required to be both licensed and certified in their specialties in addition to having demonstrated extensive applied experience in their respective fields. Mr. Teasdale is the current President of the North Sacramento Valley Groundwater Resources Association and is a member on the technical advisory committee for the Butte County Well Drillers Advisory Group.

Mr. Teasdale has worked on projects for a wide range of clients including:

- Federal - U.S. Bureau of Reclamation (USBR), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (USEPA), and the United States International Boundary and Water Commission (USIBWC)
- State of California - California Department of Water Resources (DWR), and California Department of Toxic Substances Control (DTSC)

- Private clients (Shell, Chevron, BNSF, the Boeing Company, First Solar, British Petroleum, Duke Energy, Freeport-McMoran, First-Solar, Anheuser-Bush)
- City, County and Water Districts in California - LA Department of Water and Power, Butte County, Glenn County, South Tahoe PUD, Fresno County, City of Fresno, City of Manteca, City of Sacramento, City of Modesto, City of Winters, Yolo County Flood Control, City of Newman, Three Valley's Water District, Mojave Water Agency, Twenty-Nine Palms, City of Knight's Landing, Yolo County, City of Santa Cruz, San Frisco PUC, Monterrey Regional Water Pollution Agency, Eastern Municipal Water District, Antelope Valley East Kern, Arizona American Water Company.
- Other Consultant Companies (expert witness) – AECOM, SPF

Relevant Publications

Jim Zhang, and Eddy Teasdale, 2015, "An Iterative Method of Modeling Pump and Treat-Injection System with "Partial Treatment" AGU Meeting 2015, San Francisco, CA.

Jim Zhang, and Eddy Teasdale, 2012, "Steady-State Flow Model Calibration Using Multiple Sets of Observed Groundwater Elevation Data" AGU Meeting 2012, San Francisco, CA.

Eddy W. Teasdale, Jim Zhang, and Liz Elliott, 2010, "Using General Head Boundary Conditions in Groundwater Flow Models" AGU Meeting 2010, San Francisco, CA.

Parrish, K.E., R. Nommenson, and E. Teasdale, 2008, Practical Groundwater Cleanup Optimization with a TMR Model, Abstracts for Applications of Optimization Techniques to Groundwater Symposium, Sacramento, California, October.

Eddy W. Teasdale, Jim Zhang, and Kent Parrish, 2007, "An Enhanced Method of MODFLOW Simulation of Groundwater Extraction/Injection through Wells Penetrating Multiple Aquifers" AGU Meeting 2007, San Francisco, CA.

Kent Parrish, Jim Zhang and Eddy Teasdale, 2007. "A Closed-form Equation for Predicting Groundwater Response to Pumping in Homogeneous, Confined Horizontal Aquifer with Unidirectional Flow" AGU Meeting, December 2007, San Francisco, CA.

Eddy Teasdale, Kent Parrish and Ed Titus, Presentation 2007 "Well Field Optimization" 27th Biennial Groundwater Conference and 16th Annual Meeting of the Groundwater Resources Association of California.

Eddy Teasdale, Kent Parrish and Robb Clayton, Presentation 2005 "Groundwater Models;" The Geological Conceptual Approach" 25th Biennial Groundwater Conference and 14th Annual Meeting of the Groundwater Resources Association of California.

"Groundwater Pollution." Presentation: Northern California Natural History Museum without walls lecture series, Chico, CA, October, 2004.

"In-Situ Well Rehabilitation Techniques, Case Studies from the Desert", Presented as an in-house training seminar, Leeds U.K, November, 2003.

John H. Bush, Dean L. Garwood, and Eddy W. Teasdale, Poster, 2002, Re-Interpretation of the Pullman-Moscow Geology, Idaho-Washington: "An Example of the Importance of Geological Mapping to Groundwater Modeling", Idaho Rural Water Development Project, December, 2002.

Xeriscape ("Zeri" scape" your garden, and help in conserving our "groundwater" in the Palouse, Presentation: Latah County, Pullman, and Whitman County, January 2002.

Abstract "Evidence for Structural Partitioning of Groundwater Resources in Moscow, Idaho Pullman, Washington and surrounding areas", Geological Sciences, University of Idaho, Moscow, ID, AGU Fall Meeting, San Francisco, CA, December, 2001.

Groundwater Supply Experience

Hydrogeologist, Water Quality Evaluation, Antelope Valley-East Kern Water Agency (AVEK), Palmdale, California: Mr. Teasdale is working with AVEK to support the groundwater banks to provide water supply stability and water quality control. AVEK plans to recharge surplus SWP water during average-to-wet periods and withdraw groundwater during dry-to-drought periods. Mr. Teasdale is providing hydrogeology and engineering services to evaluate water-bank performance using groundwater flow modeling, providing locations and designs for extraction wells and recharge basins, construction stormwater compliance, designing delivery systems and connections to water-supply lines, and estimating the TOC concentration of discharge water from the new extraction wells.

Groundwater Modeling, SFPUC, San Francisco, California: Reviewed a complex 3-D finite element groundwater flow model (FEFLOW) to simulate groundwater conditions during the construction, maintenance, and operation of the new Irvington Tunnel: Modeling objectives are: (1) Evaluate the influence of tunnel construction on groundwater system (groundwater drops); (2) Simulate groundwater inflows to tunnel during tunnel construction and maintenance; (3) Simulate groundwater recovery after tunnel construction, and (4) Evaluate the effectiveness of grouting along the length of the tunnel to promote increases in groundwater levels near the tunnel.

Project Hydrogeologist, Groundwater Assessment and Modeling, Gulf Coast, TX Lower Colorado River Authority: Provided peer review support for the groundwater study and modeling of flow system in the lower portion of the Colorado River Watershed. The purpose of the study was to evaluate well field alternatives to develop approximately 62,000 acres/year of additional groundwater supply for irrigation districts in the lower portion of the Colorado Watershed. The numerical model covered approximately 10,000 square miles and consisted of six model layers.

Hydrogeologist, Production Well Assessment, City of Palo Alto, Palo Alto, California: Provided hydrologic and engineering services to the City of Palo Alto to assist in establishing a municipal emergency backup water supply system. The City is required to demonstrate the capability of providing adequate backup water supply for fire suppression and emergency public use in the event that the primary water supply is disrupted by a seismic event or other catastrophe. Since 1962, the City has received most of its municipal water supply from the Hetch Hetchy system. Prior to 1962, the City operated five groundwater wells for its entire drinking water supply to the public. Evaluated the feasibility of using these five inactive wells to meet water supply requirements and function as a backup system.

Hydrogeologist, Beneficial Use Analysis, Santa Clara Valley Water District, Santa Clara, California: This project consisted of a study to evaluate the feasibility of extracting shallow groundwater in the Santa Clara Valley Groundwater Basin. The project focused on the Santa Clara and Coyote sub-basins. Based on the feasibility of groundwater extraction for selected areas, potential beneficial uses of extracted groundwater were evaluated. Rating criteria were developed that included sustainable pumping rates, quality of extracted groundwater and the necessity of treatment, program implementability, permitting issues, proximity to existing pipeline conveyance and infrastructure, and cost. Beneficial uses that were considered included industrial, commercial, landscaping, irrigation, residential, stream augmentation and others. The study allowed the SCVWD to decide whether to proceed with a detailed planning study for specific beneficial use projects and to identify the most likely partners for such each project. The first phase of the project has been completed and the second phase will be implemented later in 2010.

Hydrogeologist, Pure Water Monterey Project, Monterey Regional Water Pollution Control Agency, Monterey, California: The Kennedy/Jenks team has been involved in the Pure Water Monterey Project, working closely with MRWPCA, regulators, funding agencies, and stakeholders for several years. For the AWPf and pump station, Kennedy/Jenks led the 30% and is currently completing the final design for the injection field system, Kennedy/Jenks conducted injection well monitoring and performed the 30% and final design.

Hydrogeologist, Groundwater Resource Modeling, Chandler, Arizona: Assisted in constructed a numerical groundwater flow model to evaluate additional recharge capacity for the proposed expansion of an existing direct injection recharge facility. The analysis of potential groundwater mounding included a review of existing hydrogeologic data and development of a three-dimensional groundwater flow model. The client was considering expanding its operations by construction of another facility, and needed to know whether the existing injection system was capable of receiving additional flow. A 3-dimensional groundwater model (MODFLOW) was constructed covering approximately 60 square miles, and with 10 vertical model layers to simulate the Upper, Middle, and Lower Alluvial Units. The model successfully demonstrated that additional injection is possible at the site. The project was completed on schedule and under budget.

Hydrogeologist, Groundwater Resource Assessment and Water Supply Study, Riverside County, California: Mr. Teasdale prepared a desktop water supply analysis for the Desert Quartzite Solar Project (Project) to assess the feasibility of obtaining the water supplies needed to support construction and operation of the Project. The water supply sources considered are: groundwater wells developed on the Project site; existing groundwater wells in the immediate vicinity of the Project site; and/or other off-site sources that would need to be conveyed (i.e., trucked) to the Project site. Mr. Teasdale is also developing a regional (basin) scale groundwater flow model which included portion of the Colorado River, mountain front recharge, hundreds of miles drain and canal system, valley inflow and outflow gaps; calibrated the model with multiple hydraulic targets; evaluated groundwater pumping influence to the USGS accounting surface of the Colorado River basin.

Hydrogeologist, Groundwater Resource Assessment, City of Modesto, California: Mr. Teasdale completed a drawdown analysis for two proposed production wells in the Del Rio Area. The purpose of the analysis was to evaluate the potential impacts on local groundwater levels in the area from pumping the Del Rio New Well and the Del Rio Replacement Well. Because both of these wells will be located within the active pumping area, the City of Modesto has chosen to conduct the analysis to determine impacts to groundwater that may result from pumping the proposed wells. Mr. Teasdale utilized the USGS Northeastern San Joaquin Valley Groundwater Numerical Flow Model and converted it to a local-scale model.

Hydrogeologist, Groundwater Resource Assessment, CSU-Chico, California: Mr. Teasdale conducted construction and testing of the CSU-Chico Irrigation Well Relining project. As part of this project, he prepared contractor bid documentation, prepared an engineer cost estimate and also supervised all field related field activities including: geophysical investigation consisting of downhole video camera, caliper log and gyroscopic surveys, temporary removal of existing irrigation infrastructure, installation of well casing and screen relining, installation of temporary test pump, aquifer testing tasks and installation of permanent pump. Prior to relining activities the irrigation well produced 500 gpm (with 150 feet of drawdown) and post relining the wells produced 1,200 gpm (with only 25 feet of drawdown).

Hydrogeologist, Groundwater Resource Assessment, City of Tehachapi, California: Concept Study evaluates the City's setting for potential to implement an indirect potable reuse (IPR) disinfected tertiary effluent groundwater replenishment reuse project (GRRP). Scope included a review of the regulatory regulations and review of the proposed concepts with DDW and the RWQCB with specific metrics and criteria presented to meet the criteria above as well as control of pathogenic organisms. Need for the project and reliability of quantified supply sources (local, imported and recycled water) was identified. Project developed to meet needs for BOR funding. Plans developed to secure additional funding sources like Prop1 and SRLF. Engineering Report to begin Spring 2016.

Hydrogeologist, Groundwater Resource Assessment, Fresno County Department of Public Works and Planning, Fresno County, California: Constructed a numerical groundwater flow model to evaluate additional recharge capacity for the proposed recharge facility. The analysis of potential groundwater mounding included a review of existing hydrogeologic data and development of a three-dimensional groundwater flow model. The applicant was considering using extracted groundwater (related to dewatering activities) to recharge the aquifer and needed to know whether the proposed recharge system was capable of receiving additional flow and what the impacts of the additional recharge would be on the local hydrogeology. A 3-dimensional groundwater model (MODFLOW) was constructed covering approximately 60 square miles; the model successfully demonstrated that additional recharge is possible at the site. The project was completed on schedule and under budget.

Project Hydrogeologist, Hydrogeological Analysis, Los Angeles County, Los Angeles Department of Water and Power EIR Revisions, Hansen Spreading Grounds, Sun Valley, California: To maintain the reliability of the City of Los Angeles' potable water supply and reduce dependence on imported sources of water, the City, as represented by the Los Angeles Department of Water and Power (LADWP) and the Los Angeles Department of Public Works Bureau of Sanitation (LASAN) and Bureau of Engineering (BOE), proposes to implement the Los Angeles Groundwater Replenishment (LAGWR) Project (the Proposed Project or Project) to replenish the San Fernando Groundwater Basin (SFB) with up to 30,000 acre-feet per year (AFY) of purified recycled water (purified water) from the Donald C. Tillman Water Reclamation Plant (DCTWRP). As a team member, assisted in the preparation of the Geology and Hydrogeology sections of the Environmental Impact Report, in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines.

Project Hydrogeologist, Hydrogeological Analysis SUNPOWER Corporation, Plant Water Supply Hydrogeologic Evaluation, Richmond, California: Reviewed a 3-D groundwater flow model to evaluate the net impact of groundwater pumping for a proposed solar power plant on the local aquifer. The model was utilized to evaluate the current and future groundwater flow conditions and the water budget of the aquifer system, and to predict the potential maximum drawdown in the vicinity of extraction wells and the impacted area of the project-specific pumping for various scenarios of plant operation conditions.

Project Hydrogeologist, Hydrogeological Analysis, Initial Study/Mitigated Negative Declaration, Anheuser Busch, Groundwater Replenishment and Reuse Project, Van Nuys, California: Prepared the Water Quality Section of the Initial Study/proposed Mitigated Negative Declaration (IS/MND) evaluating the potential environmental effects of the proposed Recycled Water System Expansion Project, in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. AECOM is also designing and testing the injection well, bench testing the treatment train, and will be involved with further pilot testing

Project Hydrogeologist, Hydrogeological Analysis, Newmark Groundwater Facility, San Bernardino, California: Mr. Teasdale performed numerous groundwater resources investigations in this area for the USEPA, including designing, installing, and aquifer testing 13 production wells; performing groundwater flow and capture zone modeling; and evaluating the effects of potential groundwater level declines. Accomplished planning, design, and construction of 52,000 feet of 12-, 16-, 20-, 24-, and 30-inch ductile iron pipe; 4,000 feet of 12-inch PVC pipe; three new treatment plants with over 30 MGD capacity; and a 7,500-gpm pump station and hydrotank. Mr. Teasdale also evaluated hydrogeology and surface and subsurface geophysical studies as part of this project.

Project Hydrogeologist, Regional Groundwater Flow Modeling of Folsom JFP Auxiliary Spillway Area, U.S. Army Corps of Engineers (USACE), Folsom, California: Reviewed a 3-D finite-element groundwater flow model using FEFLOW to simulate groundwater flow in the Folsom JFP Auxiliary Spillway Area. Model was used to estimate uplift pressures acting on the base and walls of the spillway, and to estimate the seepage rate into the spillway excavation. Analyzed results, prepared reports, and met with the U.S. Army Corps of Engineers.

Project Hydrogeologist, Public Supply Well Siting, Groundwater Modeling, Design, and Installation, City of Modesto, Modesto, California: Responsible for a project involving the siting, design, installation, and testing of one 600-foot deep public supply wells. Well siting tasks included developing A 3-dimensional groundwater model (MODFLOW) was constructed covering approximately 10 square miles, and with 3 vertical model layers to simulate the Upper, Middle, and Lower Alluvial Units. The model will be utilized simulate the impacts that additional extraction could have in surrounding wells. Well design tasks include preparation of a site-specific design for the well based on an exploratory boring analysis, and coordination of contractor activities. Project management/oversight responsibilities include the supervision of lithologic log preparation, analysis of geophysical logs, evaluation of the results of sieve analyses of drilled cuttings, oversight of depth-specific groundwater sample collection and analysis, and supervision of post-construction aquifer testing and analysis. The final site-specific well design for the public supply well will be determined on the basis of this information.

Project Hydrogeologist, New Irvington Tunnel Project, San Francisco Public Utilities Commission (SFPUC), San Francisco, California: Reviewed a complex 3-D finite element groundwater flow model (FEFLOW) to simulate groundwater conditions during the construction, maintenance, and operation of the new Irvington Tunnel. Modeling objectives are: (1) Evaluate the influence of tunnel construction on groundwater system (groundwater drops); (2) Simulate groundwater inflows to tunnel during tunnel construction and maintenance; (3) Simulate groundwater recovery after tunnel construction, and (4) Evaluate the effectiveness of grouting along the length of the tunnel to promote increases in groundwater levels near the tunnel.

Project Hydrogeologist, Groundwater Evaluation and Hydrology Study, Fresno County Department of Public Works and Planning, Fresno County, California: Conducted hydrology studies as technical support of an EIR for permitting the construction and operation of a proposed gravel mine operation. The project consisted of a geologic/hydrologic study subject to review by the Fresno County Planning Department. Mr. Teasdale conducted groundwater modeling to assess the impacts of mine operations on nearby groundwater and surface water resources, prepared technical reports and coordinated with regulatory agencies.

Project Hydrogeologist, Groundwater Evaluation, Sites Reservoir, Colusa County, California: Mr. Teasdale assisted in preparing the Initial Alternatives Information Report, Plan Formulation Report, and worked on the Feasibility Study for the North of the Delta Offstream Storage (NODOS) investigation. The Initial Alternatives Information Report identified the project study area; problems and needs; and developed a formal mission statement for the investigation. This report also studied the feasibility of four offstream storage sites that would be suitable for the offstream storage of water from the Sacramento River (Sites Reservoir, Colusa Reservoir, Thomes-Newville Reservoir, and Red Bank Reservoir). The primary objectives for the study are increased water supply and improving the survivability of anadromous fish and other aquatic species. Secondary objectives include recreation, hydropower, and flood control benefits.

The Plan Formulation Report refined the objectives for the study, developed and evaluated alternatives, and provided a preliminary assessment of the environmental consequences associated with the alternatives. The alternatives included modifications to existing fish screens and changes in the operation of Red Bluff Diversion Dam to benefit anadromous fish. New and expanded pumping facilities and a terminal regulating reservoir were proposed for the existing Glenn-Colusa and Tehama-Colusa canals to convey water to and from the new reservoir. Expanding the existing canals to increase their capacity, installing a pipeline to further increase conveyance capacity, and using a diversion from Stony Creek Canal to divert water from Black Butte Reservoir into Sites Reservoir were also considered.

Project Hydrogeologist, Initial Feasibility Study of Industrial Water Resources for Peak Power Generation, Rough and Ready Island Center, Stockton, California: Provided hydrogeologic review for this study. The purpose of the study was to identify and screen the potential water supply sources available to meet future industrial water demand requirements. The study required estimating future potable water demands and critically reviewing previous geologic and hydrogeologic work for the area.

Project Hydrogeologist, Groundwater Assessment, Northfield, Kentucky, Louisville: Conducted a groundwater resource study to assess if two new water wells could produce the projected water yields needed for operations. Compiled results and prepared an implementation plan for the contractor.

Hydrogeologist, Groundwater Assessment, US Naval Facilities Engineering Command Pacific, Guam and CNMI Military Relocation Supplemental Enviro, Guam, Guam: Senior peer-review hydrogeologist for 11.3-million gallons per day (MGd) expansion of the groundwater production network in northern Guam to support the US Marine Relocation from Okinawa, Japan to Guam. The final report estimated the total number of wells required to support the additional groundwater production requirements, provided a range of expected pumping rates, provided well design specifications, and recommended well field locations. The report provided a ranking of well locations based on costs per installed well capacity and various constraints such as impacts to military mission, quality of life, biological resources, cultural resources, and existing wells; and proximity to sinkholes and other karst features, faults, fuel lines, wastewater utilities, and explosive ordnance.

Project Hydrogeologist, Tidal Study, Pearl, HI, Waipahu Ash Landfill, Oahu, California: Lead hydrogeologist on a tidal study related to the Waipahu Ash Landfill (WALF) located on the Waipio Peninsula I Waipau, Hawaii, near Pearl Harbor. The tidal study was performed at five monitoring wells. Data from these wells were used to evaluate whether the groundwater flow direction changes significantly during tidal events.

Project Hydrogeologist, Public Outreach, Groundwater Water Usage Compliance, California High-Speed Rail Authority High-Speed Train (HST), Palmdale to Burbank Section, CA, High Speed Rail Authority: Responsible for budget, scope, and schedule oversight of the groundwater task under the Palmdale to Burbank segment of the HST project, alternatives design development with the CEQA/NEPA environmental planning process and the public outreach efforts for this highly complex, high-profile transportation project to link the Bay Area with Los Angeles. Developed strong working relationships with the all the JV task leads and JV management team, the California High-Speed Rail Authority, the Program Management Team, the Engineering Management Team, the Federal Railroad Administration, and the environmental and engineering task leads for the adjoining Burbank to Los Angeles section of the project.

Project Hydrogeologist, Water Supply Investigation, Confidential Client, Pismo Beach, California: Provided technical assistance and aquifer test analysis to evaluate the potential development of a groundwater resource. The purpose of the testing was to support a water supply analysis for the client's proposed Phase V development. In summary, the assessment indicates that the predicted groundwater level drawdown impacts for the proposed project requirements (approximately 13.28 acre feet per year [AFY] or 8.23 gpm on a constant average pumping rate basis) would result in negligible drawdowns and less than significant effects on nearby wells/users.

Project Hydrogeologist, Water Supply Investigation, City of Marysville, Ohio: Provided technical assistance to investigate the feasibility of construction and operating an ASR facility for the City of Marysville using portable water (consisting of a combination of treated surface water and treated groundwater). The study considered the ability of the aquifer to store and release treated water as needed. Specific tasks included a hydrogeologic assessment, mounding analysis, water quality analysis and geochemical model screening, conceptual design and economic considerations, regulatory and water right issues.

Project Hydrogeologist, Groundwater Well Installation, Confidential Client, Morenci, Arizona: Provided technical oversight for the drilling, testing and design construction of two, 1,600 foot groundwater supply wells for a private mining facility. Provided review of the open hole geophysical logs to confirm producing zones, evaluated the borehole conditions for well completion, and evaluated and approved the final design of the well screen and casing.

Project Hydrogeologist, Groundwater Well Installation, and Aquifer Testing, Confidential Client, Inyo County, California: Supervised aquifer pumping tests that were performed as part of a geotechnical investigation used

to assess the constructability of the new dam site. As part of the aquifer testing scope two pumping wells were installed, the development of 11 existing monitoring wells were evaluated and three additional monitoring wells were installed at the Site. The purpose of the tests will be to establish aquifer properties in the area of the proposed dam, which can then be applied to designing a dewatering system that will maintain sufficient drawdown of groundwater (up to 20 to 30 feet) during the course of subsurface construction activities.

Project Hydrogeologist, Groundwater Well Evaluation, and Aquifer Testing, Confidential Client, Richmond, Virginia: Supervised the evaluation of the well conditions of seven production wells, provided recommendations to help reduce future operation and maintenance costs and provided future well design guidance alternatives to reduce O&M costs. Specific tasks included an historical data evaluation of extraction wells, well evaluation video surveys, pre-rehabilitation well and aquifer samples (geochemical and biological), sample result interpretations, well rehabilitation alternatives and recommendations (including procedure) and post-well testing.

Hydrogeologist, Water Supply Wells, Lake Los Angeles, Los Angeles County Department of Public Works, California: Provided hydrogeology for a team of geologists/engineers installing three water supply wells for LACDPW. The well installation oversight activity included installing a sanitary seal conductor casing, logging cuttings during the pilot boring, geophysical logging, isolation testing at discrete depths, well design, installation of well casing/screen, well development, aquifer testing/analysis, and pump design. A DWSAP was provided in the final documentation report. One well was completed as an Aquifer Storage & Recovery (ASR). Another well required depth specific sampling of arsenic using a sampling technology developed by the USGS. The projects are typically fast-tracked and conducted in residential neighborhoods.

Hydrogeologist, Water Supply Wells, Torrance, California: Hydrogeologic support for a team of geologists/engineers drilling two pilot borings to assess groundwater quality in the North Torrance Well Field. The city is currently evaluating their options for well screen placement in consideration of a nearby chlorinated solvent plume that also contains the emergent chemical 1, 4-Dioxane.

Hydrogeologist, Groundwater Well Installation, Confidential Client, Firebaugh, California: Provided technical oversight for the drilling, testing and design construction of two, 1,300 foot groundwater supply wells for a private power energy facility. Provided review of the open hole geophysical logs to confirm producing zones, evaluated the borehole conditions for well completion, and evaluated and approved the final design of the well screen and casing. The identification of saline zones for potential isolation was also an issue at this site. Also oversaw the technical review of the well development and testing program, which included the successful development and aquifer testing of both wells. Each well produced more than 2,500 gpm sustained yield.

Hydrogeologist, Water Supply Investigation, Coalinga, California: Provided technical assistance and aquifer test analysis to evaluate the potential development of a groundwater resource for a potential solar hybrid power plant. The objective of the test was to evaluate the aquifer characteristics in order to estimate well yield and the affects long-term pumping may have on other wells in the vicinity of the proposed site. The proposed project was planning to use recycled water for fifty percent of the water demand and the remaining fifty percent would be from groundwater.

Hydrogeologist, Production Well Assessment, Arizona, American Water Company, Phoenix, Arizona: Worked on the Arizona-American Water Company Well Evaluation Project, a wellfield analysis that incorporated 25 wells in Sun City and 11 wells in Sun City West (36 wells), of which most were over 40 years old. Over 60% of the wells had problems associated with sand production, structural stability, low production, high pump costs, or water quality. The evaluation successfully characterized the primary cause of the well performance problems and provided recommendations for each well (clean, replace, rehabilitate, etc.).

Environmental Project Experience

Project Hydrogeologist for the Neal Road Recycling and Waste Facility, Butte County, California: Mr. Teasdale was responsible for the coordination of staff and subcontractors in the implementation of quarterly, monthly, and on-call field sampling events for landfill gas, groundwater, surface water, soil pore water, leachate, septage pond supernatant as well as the preparation of periodic reports for media sample results. In addition to the environmental monitoring he was the responsible in charge for the design and installation of four groundwater monitoring wells at the site and he supervised the installation of seven soil gas monitoring probes under the responsible charge of a professional engineer. He evaluates geochemical data and prepares Stiff and Piper diagrams. He coordinates with the analytical laboratory for electronic data deliverables and uploads the quarterly monitoring data and reports to GeoTracker, the State Water Resource Control Board database.

Project Hydrogeologist for the CalRecycle - Johnson Road Illegal Dump Site Remediation Oversight, Del Norte County, California: Mr. Teasdale provided senior oversight and waste removal oversight and sampling and analysis for the Johnson Road Illegal Dump Site on Yurok Tribal and privately owned lands in remote northern California. Ms. Teasdale was responsible for preparation of the scope of work, coordinating staff and subcontractors, documentation of the waste removal, and providing CalRecycle with subcontractor options for high angle training. Staff working under Mr. Teasdale's leadership were trained for work on high angle slopes and staff was made available to the CalRecycle 24/7 and over weekends to document waste removal over a six week period.

Project Manager for the CalRecycle - Tulley Creek Illegal Dump Site Remediation Oversight, Humboldt County, California: Mr. Teasdale supervised staffs that were providing sampling and analysis for the Tulley Creek Illegal Dump Site. Mr. Teasdale's responsibilities were to conduct the sampling and provide waste characterization for soil and ash to be disposed. This project had a very tight schedule and Mr. Teasdale successfully coordinated with multiple laboratories to perform analyses over a weekend to meet the needs of CalRecycle.

Hydrogeologist, Nitrate Well Assessment, Town of Paradise, Paradise, California: The project involved assessing the impacts to groundwater from septic systems. Assisted the Town in identifying potential contaminant sources. Preliminary data led identified key data gaps, and additional monitoring wells will be installed. Designed and supervised the installation of the proposed monitoring wells.

Hydrogeologist, Groundwater Resource Development, Dublin, Ireland: Investigated the impacts of illegal disposal activities on a nearby village's water supply. The disposal activities occurred within a sand and gravel quarry. Activities included overseeing the site work of the quarry's sub-consultant and guiding the local council authorities throughout the site investigation.

Program Hydrogeologist, Mather Air Force Base Environmental Restoration Program, Sacramento, California: Performed senior technical oversight for \$10M environmental restoration program including CERCLA remedial investigations, risk assessments, feasibility studies, pilot tests, engineering evaluations and cost analyses, and the basewide groundwater monitoring program. Compiled and successfully presented closure strategy for 69 IRP sites at Headquarters Air Training Command. This included the development of the Operable Unit Strategy that was implemented for the restoration program. Provided technical review of the basewide groundwater monitoring program reports. Aided in developing the Groundwater Monitoring Program Evaluation document that specified the strategy for optimizing and reducing the sampling frequency and analytical suites for wells in the monitoring program. The strategy was presented to the regulatory community and successfully implemented.

Supervising Rig Geologist Former McClellan AFB Groundwater Monitoring Well and SVE Well Network Optimization and Task Leader for Development of the Field Summary Report, Sacramento, California: Mr. Teasdale. Successfully supervised the drilling and installation of groundwater monitoring wells and soil vapor

extractions wells. Documented the lithology in accordance with the Unified Soil Classification System, determined depth to groundwater, developed well construction specifications, and monitored site health and safety in the work areas. Upon completion of the well installations she was the primary author and team coordinator for developing the Field Summary Report (FSR). Wherein, the field activities were documented. The FSR included, site maps for each well location, lithologic logs, well construction diagrams, and waste manifests showing that investigation derived waste was properly disposed.

Project Hydrogeologist for Development of the Site 3 (Former Burn Pit) Remedial Investigation Report, Beale, California: Mr. Teasdale was the project team coordinator and primary author for the Site 3 RI report including a risk based water quality site assessment. Site media were contaminated with dioxins and furans, metals, PAHs, chlorinated solvents, and petroleum hydrocarbons. Investigations and remedial actions at the site had been ongoing for approximately 21 years and site hydrogeologic conditions showed significant changes over that same time period. Mr. Teasdale's involvement in the Site 3 RI included the development of a data gap work plan that included sampling strategies for delineation of dioxin and furans in soil and site drainages, confirmation soil gas sampling, data gap groundwater sampling, and design of five aquifer pumping tests. Mr. Teasdale was also responsible for communicating data needs to other contractors performing concurrent remedial actions to support the human health and ecological risk assessments and coordinating project staff involved in the development of the HHRA and ERA, the groundwater model and model documentation, and report graphics.

Project Hydrogeologist, DTSC Skyway Subdivision Remedial Investigation, Chico, California. Mr. Teasdale was the field coordinator and primary author for the Work Plan and Field Summary Report. The Skyway Subdivision project effort was to investigate a chlorinated solvent plume discovered to be present in groundwater beneath the southwest portion of Chico, CA. The investigation included the development of a drilling and sampling strategy, preparation of a work plan including preparation of a health and safety plan, implementation of the work plan, groundwater monitoring well design, data compilation and interpretation, and preparation of the Field Summary Report. One source area for the groundwater contaminant plume was identified during the investigation, which assisted DTSC in identifying a responsible party.

Senior Geologist for a Major Petroleum Company's Retail Service Station Project, Redding, CA: Conducted aquifer testing to determine aquifer hydraulic conductivity for use in a site-specific groundwater/contaminant transport model. Three slug tests were implemented and falling head data were analyzed using Aquifer Test® software. Developed a site structure contour map of the bedrock and isopach map of the shallow aquifer using boring logs and outcrop survey data. Performed surface water monitoring to determine connectivity to groundwater. Prepared a Corrective Action Plan for remediation of the contaminated aquifer.

Project Hydrogeologist, Nitrogen Isotope Study, Chico, California: Designed an investigation program for Butte County to assess the source of elevated nitrate in local groundwater. The City was seeking data that would indicate whether elevated nitrate concentrations were attributable to leaky water conveyance piping or to agricultural practices. The study relied on collecting groundwater samples from strategic-located regional water wells and analyzing them for stable nitrogen isotopes and indicator parameters that are associated with municipal wastewater, agricultural fertilizers, and other livestock wastes.

Project Hydrogeologist, Groundwater Evaluation and Modeling, Victor Industries Site, and Central Plume Site, State of California, Chico, CA: Study included the evaluation of the aquifer system beneath the City of Chico and Butte County, a regional water balance, and detailed spatial and temporal correlation of groundwater pumping and influences in site monitoring wells. The project also involves development of a two 3-D numerical groundwater flow and transport models. The models are being used to aid in implementing an interim remedial design that will clean-up dissolved concentrations of TCE and PCE. The preliminary design includes two extraction wells, a treatment plan and injection of treated water.

Lead Hydrogeologist, Old Seaman's Club and Lower Tower, Cabras Island, Guam, Private Client: As the Lead Hydrogeologist and technical advisor, Mr. Teasdale was responsible for evaluating the performance of natural attenuation of fuel hydrocarbons at both sites.

Lead Hydrogeologist, Former Adak Naval Complex, Adak, Alaska: As the Lead Hydrogeologist and technical advisor, Mr. Teasdale developed a groundwater flow, particle tracking and transport model and the data analysis and interpretation for site. He performed the groundwater modeling using MODFLOW, MODPATH and MT3D computer programs. A Municipal water supply source was threatened with diesel range organic compounds from the Site. The contaminant plumes have impacted down-gradient properties and threaten other nearby domestic and agricultural water supply sources.

Project Hydrogeologist, Landfill Project, Various sites in California: Mr. Teasdale developed a one-dimensional unsaturated zone leaching modeling process to support site closeout. The process involves modeling residual unsaturated zone contamination leaching to groundwater. Predicted groundwater impact is compared to groundwater threshold concentrations and the results are used to obtain regulatory closure. Several sites in Northern California have been closed and others are pending using this process.

Hydrogeologist, Sharpe Army Depot (formerly DLA Defense Distribution Depot, San Joaquin – Sharpe Site), Lathrop, CA: Mr. Teasdale performed ITRs on all environmental program reports, work plans, and analytical and numerical modeling. He led the performance evaluation of the groundwater remedy and performed technical review the Sharpe Site Third Five-Year Review. He supported the preparation of the ESD for OU 1, which modified the groundwater remedy to include in situ treatment and LUCs. Mr. Teasdale was involved with designing the investigation to determine whether natural attenuation of VOCs is occurring in the distal portions of groundwater plumes. Results from the investigation will determine whether MNA is a viable component to add to the groundwater remedy.

Hydrogeologist, DLA Defense Distribution Depot, San Joaquin – Sharpe Site, Sharpe, CA, AFCEE: Mr. Teasdale led technical reviews of all environmental annual monitoring, work plans, and interpretative reports. He guided the development of the CSMs for the site. He prepared the technical arguments that successfully achieved shutdown of 21 EWs on the Sharpe Site. Mr. Teasdale presented the arguments in a focused feasibility study for adding MNA as a part of the groundwater remedy. He demonstrated that natural attenuation was occurring across the site, while EWs were hydraulically stabilizing VOC plumes. Mr. Teasdale wrote the summary evaluation of historical water quality and potential threats to 30 privately owned potable water wells from contaminant plumes.

Hydrogeologist, DLA Defense Distribution Depot, San Joaquin – Tracy Site, Tracy, CA, AFCEE: Mr. Teasdale led technical reviews of environmental annual monitoring, work plans, and interpretative reports. He guided the development of the CSMs for the Tracy Site. He led technical team that created the proposed plan and ROD for the extraction and treatment remedy for dieldrin contamination beneath a portion of the Tracy Site. Mr. Teasdale also participated in meetings with AFCEE and DLA managers and regulatory agency personnel to select a remedy for this controversial project.

Hydrogeologist, Emergency Response, Nubieber, California: Initiated an emergency response team to assess, characterize and clean-up a 4,000 gallon diesel spill that involved the derailment of seven locomotives. The assessment consisted of removing liquid diesel; drilling and sampling several boreholes in the area of the former spill at the site. It was determined that the spill had impacted the soil and groundwater at the site. The site was characterized, remediated and closed within 10 months after the spill occurred.

Hydrogeologist, Groundwater Resource Investigation, Chico, California: Acted as the supervising hydrogeologist for the installation, site characterization and general testing of 6, 200 foot exploratory test borings. Testing involved general lithological characterization using sample cuttings and geophysical logs.

Utilized downhole video, optical televiewer and flowmeter equipment to further characterize an existing agricultural well.

Hydrogeologist, Groundwater Resource Investigation, Bristol, England: Investigated the subsurface geology, hydrogeology and hydrology of a former transportation depot. Geological investigations included producing a conceptual model of extent of contamination, installing 5 monitoring and 6 vapor wells and performing limited risk-based modeling. Hydrogeological investigation included monitoring tidal influences on site hydrology, general hydraulic testing. Other duties included overall site project management, contractor oversight and completing final report.

Environmental Groundwater Modeling Project Experience

Project Hydrogeologist, Naval Facilities Engineering Command Southwest, Marine Corps Air Station, Yuma, Arizona: Developed a 3-D groundwater flow and transport model for the characterization and simulation of volatile organic compounds (VOCs) and 1, 4-Dioxane in groundwater at OU 1 Area. The modeling objectives are to 1) evaluate the potential for off-site migration of contamination; and 2) assess the fate and transport of chemicals of concern (COCs) under various scenarios.

Project Hydrogeologist, BAE System Test Facility, Hollister, California: Developed a 3-D groundwater model to simulate ground water flow and contaminant transport at the site. The model is used to evaluate the effectiveness of MNA and other remedial alternatives and estimate the respective cleanup times under natural condition and various remedial alternatives.

Project Hydrogeologist, Wood River Refinery, Roxana, Illinois: Developed a 3-D groundwater flow model to simulate the current ground water flow conditions. The model was used to simulate the groundwater pathlines and delineate the capture zone under the current onsite pumping. The model was also served as a tool for optimizing the existing groundwater pumping system.

Project Hydrogeologist, Numerical Model Evaluation, Carmichael Water District, Carmichael, California: Evaluated the capability of the MODFLOW numerical model developed for Aerojet Superfund in assessing the existing and future perchlorate and NDMA contamination plumes. The model had not been able to predict ongoing impacts to municipal wells. Provided recommendations on how to improve model performance.

Project Hydrogeologist, Confidential Client, Shell Carson Terminal, Carson, California: Developed a LNAPL distribution and recovery model to assess the total and recoverable volumes of LNAPL at the site, to simulate LNAPL distributions, the recovery rates, and time to reach recovery goal of current system, and to optimize the current system by changing pumping schedules and/or relocating/adding pumping wells.

Project Hydrogeologist, Hydrogeological Analysis SUNPOWER Corporation, Plant Water Supply Hydrogeologic Evaluation, Richmond, California: Reviewed a 3-D groundwater flow model to evaluate the net impact of groundwater pumping for a proposed solar power plant on the local aquifer. The model was utilized to evaluate the current and future groundwater flow conditions and the water budget of the aquifer system, and to predict the potential maximum drawdown in the vicinity of extraction wells and the impacted area of the project-specific pumping for various scenarios of plant operation conditions.

Project Hydrogeologist, Regional Groundwater Flow Modeling of Folsom JFP Auxiliary Spillway Area, Folsom, CA, U.S. Army Corps of Engineers (USACE): Reviewed a 3-D finite-element groundwater flow model using FEFLOW to simulate groundwater flow in the Folsom JFP Auxiliary Spillway Area. Model was used to estimate uplift pressures acting on the base and walls of the spillway, and to estimate the seepage rate into the spillway excavation. Analyzed results, prepared reports, and met with the U.S. Army Corps of Engineers.

Project Hydrogeologist, Groundwater Investigation and Groundwater Modeling, Whidbey Island, Washington: Providing groundwater modeling support for the on-going remediation of a former municipal landfill and nearby former liquid industrial waste disposal area. The designed model simulated the migration of

chlorinated volatile organic compounds (CVOCs) under the influence of the groundwater extraction system at the site and assessed the potential for CVOCs to migrate to downgradient subsurface and surface receptors, including the Pacific Ocean. The model was further utilized to simulate a number of proposed remedial strategies aimed at reducing the necessity for continued operation of the site's pump and treat system. Designed the model through the conceptual model approach using the Groundwater Modeling System software package. The model incorporated climatic data, surface water recharge, and other factors to simulate an accurate groundwater flow regime which served as the basis for CVOC transport.

Project Hydrogeologist, Groundwater Investigation and Groundwater Modeling, BAE System Test Facility, Hollister, California: Assisted in the Developed a 3-D groundwater model to simulate ground water flow and contaminant transport at the site. The model is used to evaluate the effectiveness of MNA and other remedial alternatives and estimate the respective cleanup times under natural condition and various remedial alternatives.

Project Hydrogeologist, Groundwater Evaluation and Modeling, Victor Industries Site, and Central Plume Site, State of California, Chico, California: Study included the evaluation of the aquifer system beneath the City of Chico and Butte County, a regional water balance, and detailed spatial and temporal correlation of groundwater pumping and influences in site monitoring wells. The project also involves development of a two 3-D numerical groundwater flow and transport models. The models are being used to aid in implementing an interim remedial design that will clean-up dissolved concentrations of TCE and PCE. The preliminary design includes two extraction wells, a treatment plan and injection of treated water.

Project Hydrogeologist, Groundwater Evaluation and Modeling, Brunswick, NC, Progress Energy Carolinas: Developed the 3-D groundwater flow model for the Brunswick Nuclear Plant. This 3-D groundwater flow model (MODFLOW) was used to assist in the development of a groundwater extraction system and to evaluate additional extraction well arrays while maintaining capture and containment at the site. The groundwater model utilized particle tracking (MODPATH) to evaluate capture and optimize the groundwater extraction system.

Project Hydrogeologist, Groundwater Evaluation and Modeling, South Gate, EPA, Los Angeles, California: Led the development of a 3-D groundwater flow and fate and transport model for the Cooper-Drum facility. This 3-D groundwater flow model was used to optimize the existing groundwater extraction systems, and to evaluate additional recharge capacity for the proposed expansion of an existing direct injection remediation recharge facility. The analysis of potential groundwater mounding included a review of existing hydrogeologic data and development of a three-dimensional groundwater flow model. Model recharge scenarios to simulate current and potential future recharge at the site indicate that additional recharge capacity is possible at the site.

Modeling Team Leader, Numerical Flow and Transport Modeling, Confidential Client: Evaluate dewatering scenarios and potential effects on an ammonia plume related to installation of a subsurface pipeline in Southern California.

Modeling Team Leader, Numerical Flow and Transport Modeling, Confidential Client: Investigated historical contamination of groundwater for a confidential industrial client on a site in Modesto, California. Developed site and regional conceptual model. Determine potential effects to neighboring residential potable wells. 3 dimensional flow and transport model using USGS MODFLOW, MODPATH and EPA's MT3D.

Modeling Team Leader, Numerical Flow Modeling, Confidential Client, 2009: Evaluate dewatering scenarios and potential flow impacts to surrounding water bodies involving installation of a subsurface pipeline in central California.

Modeling Team Leader, Numerical Flow and Transport Modeling, Confidential Client: Estimate the time to complete attenuation of chlorinated groundwater plumes zone plumes and evaluate potential impacts to surrounding water bodies in California.

Project Hydrogeologist, Groundwater Modeling, Stockton, CA, DOD: Mr. Teasdale lead the development of a transient 3-D groundwater flow model. This 3-D groundwater flow model is be used to optimize the existing groundwater extraction systems, and to evaluate additional recharge capacity. The analysis of potential groundwater mounding included a review of existing hydrogeologic data and development of a three-dimensional groundwater flow model. Model recharge scenarios to simulate current and potential future recharge at the site indicate that additional recharge capacity is possible at the site.

Air Force Center for Environmental Excellence (AFCEE), Beale AFB (Air Force Base), California: Analyzed and modeled groundwater flow and contaminant transport migrations under natural attenuation condition (RI), and designed, evaluated and optimized various alternative remedial actions (FS) for various sites of Beale AFB. The modeled sites include Sites 18 & 31, Site 23/SMNU 23, and Site 3.

Hydrogeologist, Groundwater Modeling and Well Evaluation, Sacramento, CA: Mr. Teasdale providing hydrogeological support for complex modeling efforts at McClellan AFB. Current efforts involve 3-D finite difference groundwater flow (MODFLOW-SURFACT), particle tracking (MODPATH), and fate and transport (MODFLOW-SURFACT) modeling to evaluate capture and optimize groundwater extraction systems. Past efforts involved 3D finite element (FEMWATER) and finite difference groundwater flow (MODFLOW) and transport modeling (MT3DMS) coupled with vadose zone transport modeling (VENT2D) to evaluate long-term groundwater remediation cost analysis. Mr. Teasdale also conducted aquifer tests analysis and assessed the structural properties of three, 8-inch diameter extraction wells. The project involved well analysis utilizing a technique to collect geophysical logging and depth-specific groundwater sampling data under both pumping and non-pumping conditions. In addition, conventional aquifer test data was collected and analyzed from each well, and a well video survey of each well was conducted to assess its structural condition. This information was utilized to prepare an appropriate well modification design for each well. Mr. Teasdale coordinated the field inspection of the well structure modification by a drilling contractor at each well. The project resulted in a reduction of well clogging and increased water production.

Hydrogeologist, Groundwater Resource Development, Dublin, Ireland, Citizens Advisory Council: Investigated the impacts of illegal disposal activities on a nearby village's water supply. The disposal activities occurred within a sand and gravel quarry. Activities included overseeing the site work of the quarry's sub-consultant and guiding the local council authorities throughout the site investigation.

Lead Hydrogeologist, Former Adak Naval Complex, Adak, Alaska, U.S. Navy: As the Lead Hydrogeologist and technical advisor: Mr. Teasdale developed a groundwater flow, particle tracking and transport model and the data analysis and interpretation for site. He performed the groundwater modeling using MODFLOW, MODPATH and MT3D computer programs. A Municipal water supply source is threatened with diesel range organic compounds from the Site. The contaminant plumes have impacted down-gradient properties and threaten other nearby domestic and agricultural water supply sources.

Project Hydrogeologist, Groundwater Evaluation, Delta Habitat, Conservation, and Conveyance Program, Sacramento, CA, CA Department of Water Resources: Mr. Teasdale was the Project Hydrogeologist for the dewatering evaluation task on this program to improve delta conservation and conveyance. He provided independent technical review on initial geologic and hydrogeologic analysis of several areas in the Sacramento/San Joaquin Delta. He is also lead the development of a screening-level analysis of potential construction dewatering protocol for a future feasibility study on the program. MODFLOW is being used to evaluate the general size of the construction dewatering activities and the predicted changes in groundwater levels during construction.

Mining Experience

Project Hydrogeologist, Groundwater Evaluation and Hydrology Study, Fresno County Public Works, Fresno County, California: Mr. Teasdale conducted hydrology studies as technical support of an EIR for permitting the construction and operation of a proposed gravel mine operation. The project consisted of a geologic/hydrologic study subject to review by the Fresno County Planning Department. Mr. Teasdale conducted groundwater modeling to assess the impacts of mine operations on nearby groundwater and surface water resources, prepared technical reports and coordinated with regulatory agencies.

Project Hydrogeologist, Leachate Evaluation, California Department of Toxics Substances Control Argonaut Mine, Jackson, California: Mr. Teasdale is providing hydrogeologic and geologic expertise for this effort to remove abandoned mine tailings and waste materials from one of the largest underground gold mines in California. This site is adjacent to a local high school and county administration complex. The study involved constructing a one-dimensional unsaturated zone leaching modeling process to support site closeout. The process involves modeling residual unsaturated zone contamination leaching to groundwater. Predicted groundwater impact is compared to groundwater threshold concentrations and the results were used to obtain regulatory closure.

Hydrogeologist, Aquifer Protection Permit, Private Mining Firm, Eastern Arizona: Assisted the project manager in completing an Aquifer Protection Permit (APP) applicability assessment for two limestone mining and calcining operations in Arizona. Assisted with conducted site inspections of the operations, collected material and solution samples, and arranged for laboratory analysis of the samples. Prepared APP applicability assessment reports for both sites and submitted the reports to the Arizona Department of Environmental Quality (ADEQ) along with requests for determination of applicability.

Geotechnical Investigations Experience

Project Hydrogeologist, Groundwater Dewatering Shell Carson Terminal, Orange County, California: Developed a dewatering model to assess the total and recoverable volumes of water at the site, to simulate LNAPL recovery rates, and time to reach recovery goal of current system, and to optimize the current system by changing pumping schedules and/or relocating/adding pumping wells.

Project Hydrogeologist, Groundwater Dewatering, Orange County, California. Dewatering during expansion of the Trampas reservoir construction is a critical issue due to the presence of shallow groundwater. Mr. Teasdale conducted, as part of the Groundwater Pumping Pilot Study (GPPS) task, a preliminary dewatering analysis to estimate the volume of groundwater water that could be generated during construction activities associated with expanding the reservoir. Slug tests were performed at a site monitoring well to estimate permeability values of the saturated zone, and then a groundwater model was built, developed and utilized to estimate water volume removal rates and time to dewater.

Project Hydrogeologist, Groundwater Dewatering, Owens Valley, California: The Los Angeles Department of Water and Power (LADWP) requested that Mr. Teasdale provided a third party oversight of their contractor for completion of the dewatering system evaluation associated with the North Haiwee Dam Seismic Improvement Project. As part of the North Haiwee Dam Seismic Improvement Project, a new embankment dam will be designed and constructed approximately 800 feet north of the existing North Haiwee Dam. The materials underlying the proposed dam have the potential to liquefy under seismic loading conditions. As a result, these foundation materials need to be removed and replaced or improved in-situ. The ability to provide groundwater control and dewater the dam foundation is critical for assessing the ground improvement approach.

Hydrogeologist, Confidential Client, Canon City, Colorado: Mr. Teasdale developed a conceptual-level alternatives study for dewatering existing tailings within the primary tailings impoundment with the existing

dewatering drain system and liner. Four conceptual alternatives were evaluated for lowering the phreatic surface within the tailing prior to cover placement in order to minimize differential settlement.

Hydrogeologist, SCRSD, Sacramento Force Main, Lower Northwest Interceptor, Sacramento, California: Assisted in the preliminary evaluation of dewatering requirements, preliminary cost estimates, and appropriate types of groundwater control systems for the 2.7-mile-long project, comprised of twin parallel 66-in. ID force mains constructed in open cut with three micro tunnel segments. Assisted in the preparation of Geotechnical Baseline Report (groundwater conditions, stratification, and hydraulic properties of water-bearing strata); and review of contractor's dewatering submittals.

Project Hydrogeologist, Seepage Evaluation, Urban Levee Evaluation Program, Department of Water Resources, Sacramento, California: Mr. Teasdale was the Project Hydrogeologist for the seepage evaluation task on this program to determine the hydraulic conductivity of the major strata. He completed an in-situ hydrogeologic analysis of several areas in the Sacramento/San Joaquin Delta.

Lead hydrogeologist, USACE Ft. Worth - Lamar Street Levee Site investigation and Design (Section F Project #3), Ft. Worth, Texas: Lead hydrogeologist for the preparation of the geomorphology study for the project and rapid drawdown tests. The proposed 3-mile long levee crosses a State and City Highway, two heavy rail lines and a light rail line. The project included the design of earth embankments, flood walls, flood gates, utility crossing, drainage culverts and other features.

Lead Hydrogeologist, United State International Boundary and Water Commission (USIBWC) American Canal Re-lining, El Paso, Texas: Lead Hydrogeologist for subsurface investigation including conducting large pump tests, groundwater modeling and preliminary dewatering analysis for the final design of the relining and rehabilitation of the American Canal in El Paso, Texas. The project will increase the canal capacity from 1,200 cfs to 1,535 cfs. The urban setting of the project presents major engineering and construction challenges as the project is adjacent to a state highway, a BNSF railroad line, water and sewer pressure lines, fiber optics telecommunications and power lines, and the Department of Homeland Security border fence. The presence of a contamination plume from an adjacent property also requires canal construction dewatering water to be treated to remove contaminants.

Project Hydrogeologist, United State International Boundary and Water Commission (USIBWC) Final Design of the Courchesne/Nemexas Levee Reaches, El Paso, Texas: Lead Hydrogeologist for the rehabilitation of the 3 mile levee reaches. The project includes an extensive field investigation and design to construct earth embankments, flood walls ("T" walls and "I" walls), large drainage structures, cutoff walls and other features.

Project Hydrogeologist, Dewatering Evaluation, American Canal Expansion Project, El Paso, Texas: Developed a Groundwater Flow Control Plan and dewatering design for the expansion of the American Canal in El Paso Texas. The project consisted of a mass excavation and extending 15 feet below grade and 10 feet below groundwater table. Groundwater levels had to be dewatered by a combination of deep pumping wells and temporary shoring systems.

Project Hydrogeologist, Groundwater Evaluation, Delta Habitat, Conservation, and Conveyance Program, CA Department of Water Resources, Sacramento, California: Mr. Teasdale was the Project Hydrogeologist for the dewatering evaluation task on this program to improve delta conservation and conveyance. He provided independent technical review on initial geologic and hydrogeologic analysis of several areas in the Sacramento/San Joaquin Delta. He is also lead the development of a screening-level analysis of potential construction dewatering protocol for a future feasibility study on the program. MODFLOW is being used to evaluate the general size of the construction dewatering activities and the predicted changes in groundwater levels during construction.

Hydrogeologist, Confidential Client, Albany, New York: Mr. Teasdale designed and planned a test well and pumping test to evaluate groundwater control needed (pressure relief) for the excavation of a 110-ft diameter

by 175-ft deep shaft and a shallower adjacent shaft through fill and alluvium. Mr. Teasdale provided consultation on pressure relief wells, filter design, test pump capacity, screened intervals for test well and piezometers, test durations, modification of test well to evaluate characteristics of two distinct pervious zones, tidal effects, analysis of test results, and pump test report. Mr. Teasdale also reviewed and commented on contractor's dewatering plan, specification, aquifer test analysis and system design report and other submittals following award of tunnel construction contract.

Lead Hydrogeologist, Former Adak Naval Complex, U.S. Navy Adak, Alaska: Mr. Teasdale developed a groundwater flow, particle tracking and transport model and the data analysis and interpretation for site. He performed the groundwater modeling using MODFLOW, MODPATH and MT3D computer programs. He is also lead the development of a screening-level analysis of potential construction dewatering protocol for a future feasibility study on the program.

Project Hydrogeologist, Surface Water Modeling, Emergency Levee Repair Program, CA Department of Water Resource, Sacramento, California: During this emergency levee repair effort, Mr. Teasdale assisted in the application hydrodynamic modeling effort in support of emergency levee repairs in the Sacramento River System from Walnut Creek, CA to Oroville, CA. Mr. Teasdale performed hydrologic and hydraulic analysis for the levee erosion sites; developed hydraulic models for the levee erosion sites by utilizing 2-dimensional models CCHE2D and SMS. This modeling effort compares the hydrodynamic flows for existing and project design riverbed bathymetric conditions. This effort is used to evaluate emergency levee repair designs so that they meet strict criteria and minimize negative secondary effects in river flow from the levee repairs.

EXHIBIT 13

November 16, 2016

VIA EMAIL

The Board of Directors of the Indian Wells Valley Groundwater Authority:

Peggy Breeden (City of Ridgecrest)

[pbreeden@ridgecrest-ca.gov]

Peter Brown (Indian Wells Valley Water District)

[earthlandscaping@gmail.com] and

[Peter.Brown.Director@gmail.com]

Mick Gleason (Kern County Supervisor)

[mgleason@co.kern.ca.us] and

[district1@co.kern.ca.us]

Matt Kingsley (Inyo County Supervisor)

[mkingsley@inyocounty.us]

Robert Lovingood (San Bernardino County Supervisor)

[SupervisorLovingood@sbcounty.gov]

Re: *November 17, 2016 Board Meeting*

To the members of the Board of Directors ("Board") of the Indian Wells Valley Groundwater Authority ("IWVGA"):

A few days ago, on November 11, 2016, our firm submitted a letter to the Board on behalf of Meadowbrook requesting that the Board create at least two (2) seats for Agriculture (including a seat for Meadowbrook) on the Technical Advisory Committee ("TAC") to be established by the Board. Having since received a copy of the agenda and supporting materials for the November 17, 2016 Board meeting, we see that Meadowbrook is now listed by name on the TAC Membership document.

We express sincere appreciation to the Board, and specifically to the Ad Hoc committee and staff, for including a seat for Meadowbrook on both the TAC and the Policy Advisory Committee ("PAC"). Meadowbrook looks forward to working with each of you and with the other PAC and TAC members in those respective capacities.

We recognize that much work has been done over the past few weeks in preparing the agenda, the supporting materials and the staff recommendations for this week's Board meeting, and we commend that effort. In considering the draft Bylaws that have been submitted for the Board's review and discussion this week as Item 8 of the agenda, we kindly ask that the Board consider and incorporate our few but important comments and revisions. Specifically, we ask that the Board clarify where the "Engineer" described in Section 3.8 of the draft Bylaws fits in to the organizational framework of the IWVGA, as we do not find a reference to an "Engineer" in the Joint Powers Agreement or in the PAC/TAC outlines.

As the Board has indicated, the PAC is the primary policy advisory body to the Board in the preparation and implementation of the Groundwater Sustainability Plan ("GSP"). The TAC is the technical "workhorse" for the Board. In order to maintain these important and intended committee functions, the duties of the Engineer described in the draft Bylaws should be more seamlessly integrated with those of the PAC and TAC. As currently written, the initial draft Bylaws could potentially be interpreted to allow the Engineer to bypass or marginalize certain critical functions of the PAC and TAC.

For example, Section 3.8.1. of the draft Bylaws provides that the "Engineer shall be responsible for preparing a [GSP]" relying on the "best available science, records and data to support the development of the GSP" and "shall consult with the Technical Committee (sic) in the preparation of the GSP." To be consistent with the PAC Charter, this provision of the draft Bylaws should be revised to require that the Engineer and the GSP shall conform to the Board-approved PAC and TAC recommendations and activities.

In short, if the IWVGA intends to utilize an "Engineer," we request that the functions and duties of the Engineer, the PAC and the TAC be woven together more tightly in the Bylaws. We believe this can be done with minimal revisions to the draft Bylaws, as reflected in the enclosed partial redline, which shows proposed changes to a few selected provisions.

Again, on behalf of Meadowbrook, we are pleased to see Meadowbrook included as a member of the PAC and the TAC, and we look forward to working collaboratively with you in the long-term management of groundwater in the Indian Wells Valley.

Very truly yours,



Mark A. Ostoich, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/MDD/DRH

Enclosure: Bylaws (partial redline)

cc: L. Duffy [lduffy@iwwvd.com]
A. Christensen [achristensen@co.kern.ca.us]
R. McGlothlin [RMcGlothlin@bhfs.com]
E. Teasdale [EddyTeasdale@kennedyjenks.com]
Client

3.8 ENGINEER. The Engineer shall have the following duties:

- 3.8.1 DEVELOPMENT OF THE GROUNDWATER SUSTAINABILITY PLAN. The Engineer shall be responsible for preparing a Groundwater Sustainability Plan ("GSP") pursuant to the terms of Water Code Sections 10720 *et seq.* and in accordance with Board-approved recommendations of the Technical Advisory Committee and other committees of the Board. The Engineer shall rely on and use the best available science, records and data to support the development of the GSP. Where actual records of data are not available, the Engineer shall rely on and use sound scientific and engineering estimates. The Engineer shall consult with the Technical Advisory Committee and other committees of the Board in the preparation and implementation of the GSP.
- 3.8.2 MONITORING OF BASIN CONDITIONS. The Engineer shall monitor all groundwater conditions of the Basin. The Engineer and the Technical Advisory Committee shall develop monitoring protocols that are designed to detect changes in groundwater levels, groundwater quality, surface subsidence, and flow and quality of surface water that directly affect ground water levels or quality or are caused by groundwater extraction in the basin. The monitoring protocols shall be designed to generate information that promotes efficient and effective groundwater management.
- 3.8.3 ANNUAL REPORT. Pursuant to Water Code section 10728, on the April 1 following the adoption of the GSP and annually thereafter, the Engineer and the Technical Advisory Committee shall describe the basin conditions in an annual report to be presented to the Board at a public meeting. The annual report shall be presented to the Authority Board not later than April 1 of each Year. The Annual Report shall include: (a) groundwater elevation data; (b) annual aggregated data identifying groundwater extraction for the preceding water year; (c) surface water supply used for or available for use for groundwater recharge or in-lieu use; (d) total water use; and (e) Change in groundwater storage. Prior to presenting the Annual Report, the Authority shall notify the public that a draft of the Annual Report is available for review by all interested parties. The Authority shall provide notice to all Parties of a public hearing to receive comments and recommendations for changes in the Annual Report. The notice of public hearing may include such summary of the draft Annual Report as Authority may deem appropriate. Authority shall distribute the Annual Report to any Parties requesting copies.
- 3.8.4 PRODUCTION REPORTS. The Engineer shall require each Producer to file an annual Production report with the Authority. Producers shall prepare the Production reports in a form prescribed by the rules and regulations. The Production reports shall state the total Production for the reporting Party, including Production per well, rounded off to the nearest tenth of an acre foot for each reporting period. The Production reports shall include such additional information and supporting documentation as the rules and regulations may reasonably require.
- 3.8.4 REDUCTION IN GROUNDWATER PRODUCTION. If the GSP requires that a reduction groundwater production is necessary to bring the Basin into safe yield, the Engineer shall ensure that reductions of Groundwater Production to the Native Safe Yield take place pursuant to the terms of the GSP. The Engineer and the Technical Advisory Committee

shall develop and recommend to the Board regulations pursuant to Water Code 10726.4 to control groundwater extractions from individual groundwater wells or extractions from ground water wells in the aggregate, construction of new groundwater wells, enlargement of existing groundwater wells, or reactivation of abandoned ground water wells, or otherwise establishing groundwater extraction allocations.

- 3.8.5 MEASURING DEVICES, ETC. If the GSP requires the use of water-measuring devices to measure extraction, the Engineer and the Technical Advisory Committee shall propose, and the Board shall adopt and maintain rules and regulations for the use of such devices including a reasonable calibration schedule. The Engineer and the Technical Advisory Committee may recommend to the Board any other reasonable method to determine groundwater extraction. This section does not apply to de minimis extractors.
- 3.8.6 HYDROLOGIC DATA COLLECTION. The Engineer shall operate, and maintain such wells, measuring devices, and/or meters necessary to monitor stream flow, precipitation, Groundwater levels, and Basin Subareas, and to obtain such other data as may be necessary to carry out these provisions. The Engineer, in collaboration with the Technical Advisory Committee, shall collect and maintain all reports submitted pursuant to Water Code Section 10726 of the diversion of surface water to underground storage.
- 3.8.7 INSPECTION OF PROPERTIES. In connection with an investigation pursuant to Water Code Section 10725.4, the Engineer may inspect the property or facilities of a person or entity to ascertain whether the requirements of the GSP are being met.
- 3.8.8 REGULATIONS TO REDUCE WELL INTERFERENCE. Pursuant to Water Code 10726.4, the Engineer and the Technical Advisory Committee shall develop and recommend to the Board regulations that impose spacing requirements on new groundwater wells and operating regulations on existing groundwater wells to minimize well interference.
- 3.8.9 REGULATIONS REGARDING WATER TRANSFERS. The Engineer and the Technical Advisory Committee shall develop and recommend to the Board regulations pursuant to Water Code 10726.4 to authorize transfers of groundwater extraction allocations within the Basin to ensure that such transfers do not adversely impact the basin.
- 3.8.10 REGULATIONS REGARDING CARRY OVER RIGHTS. The Engineer and the Technical Advisory Committee shall develop and recommend to the Board regulations pursuant to Water Code 10726.4 to establish accounting rules to allow unused groundwater extraction allocations issued by the agency to be carried over from one year to another and voluntarily transferred consistent with the provisions of the GSP.
- 3.8.11 REVIEW OF PERMIT APPLICATIONS. If the County Members elect to forward permit requests for the construction of new groundwater wells, the enlarging of existing groundwater wells, or the reactivation of abandoned groundwater wells to the Authority as a condition of permit approval, then the Engineer shall review such applications and make a recommendation to the applicable agency or the Board.

ARTICLE 4. COMMITTEES, WORKING GROUPS, AND ADVISORY COMMITTEES

- 4.1 ESTABLISHMENT OF ADVISORY COMMITTEES. In accordance with Section 7.04 of the Agreement, the Board of Directors may from time to time establish advisory committees for the purpose of making recommendations to the Board on the various activities of the Authority. The establishment of any committee and its duties shall require the vote of the Board of Directors and the activities of the committee shall be subject to the provisions of the Ralph M. Brown Act (California Government Code sections 54950, et seq.). Committees shall exist for the term specified in the action creating the committee and the Board may dissolve a committee at any time through a vote of the Board of Directors.
- 4.2 CONDUCT OF ADVISORY COMMITTEES. All meetings of Advisory Committees shall be noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code sections 54950, et seq.). A Committee may use teleconferencing in connection with any meeting in conformance with, and to the extent authorized by, applicable law. The Board of Directors shall appoint the respective committee chairs and it may further establish rules of conduct for Committees of the Board meetings provided that said rules do not conflict with the Ralph M. Brown Act or other applicable law. Minutes of committee meetings shall be recorded and upon approval shall be distributed to the Board of Directors.
- 4.3 COMMITTEE MEMBERSHIP. Advisory Committee membership and appointments shall be at the Board of Director's sole discretion. Likewise, the Board of Directors shall have the sole discretion to remove or admonish any member or members of Committees at any time.
- 4.4 COMMITTEE DIRECTION. In establishing an Advisory Committee, the Board of Directors shall provide specific direction to the Committee as to its charge, expected duration for completion of its charge, and a summary of the resources, including staff or consultant support available to the Committee in performing its work. In no event shall a Committee be authorized to speak for the Authority; take final action on behalf of the Authority on any matters; and/or, authorize or direct the use of Authority funds.
- 4.5 TECHNICAL ADVISORY COMMITTEE. The Board shall establish a Technical Advisory Committee to work with the Authority Engineer in the development and implementation of the GSP and the other duties of the Engineer. The Technical Advisory Committee shall meet on a schedule as directed by the ~~District~~ Engineer.

EXHIBIT 14

February 15, 2017

VIA EMAIL

The Board of Directors and Associate Members of
the Indian Wells Valley Groundwater Authority:

Peggy Breeden (City of Ridgecrest)
Peter Brown (Indian Wells Valley Water District)
Mick Gleason (Kern County Supervisor)
Matt Kingsley (Inyo County Supervisor)
Brian Longbottom (Navy Commander)
Robert Lovingood (San Bernardino County Supervisor)
Robert Pawelek (Bureau of Land Management)

Re: *February 16, 2017 IWVGA Board Meeting*
Agenda Item 7 – IWVGA Bylaws with Revised
Policy Advisory Committee Composition

To the members of the Board of Directors ("Board"), and to the Associate Member representatives, of the Indian Wells Valley Groundwater Authority ("IWVGA"):

On behalf of Meadowbrook, and recognizing the need to expeditiously establish bylaws of the IWVGA, we appreciate the concerted effort of the IWVGA staff who has worked to produce the draft bylaws that are presented to the Board for its consideration and possible adoption on February 16th ("Bylaws").

We are concerned, however, by (and respectively object to) five specific aspects of this week's Staff Report and the draft Bylaws. The first three of these concerns arise out of the language of proposed Section 5.6; the fourth concern arises out of Section 5.9; and the fifth concern arises out of Sections 8.3 through 8.5.

We urge the Board's consideration of these issues before taking any action to approve the Bylaws.

Section 5.6 - First Concern: The first concern respects the sudden change to the composition of the Policy Advisory Committee (“PAC”) that is set forth in Section 5.6 of the draft Bylaws and in the Staff Report. As you will recall, the Board—by unanimous motion—approved the PAC membership at the November 17, 2016 IWVGA meeting. For ease of reference, the minutes¹ of that meeting read:

“Motion made by Peter Brown and seconded by Robert Lovingood to approve the recommended Policy Advisory Committee membership list and staff to provide options for Technical Advisory Committee. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood. Nays: None.)”

That action marked a significant step—many months in the making—toward committing to true collaboration among basin stakeholders. Following that action, Meadowbrook expressed its sincere appreciation to the Board for being included, by name, on the PAC. We also applauded the inclusion on the PAC of each of the IWVGA General and Associate Members, along with many other basin stakeholders; all of which would afford truly collaborative, robust and open discussions of important policy issues. A copy of the November 17, 2016, Board-approved PAC membership is enclosed.

In an apparent reversal, this week’s Staff Report states that the draft Bylaws’ revisions to the PAC composition “have been made by legal staff in consultation with the Ad Hoc committee to address certain legal issues,” but fails to describe those legal issues or otherwise attempt to explain or justify a change in that commitment.

Section 5.6 - Second Concern: Section 5.6 of the draft Bylaws removes from the PAC membership all of the IWVGA General Members, with the exception of the Indian Wells Valley Water District that would hold a “non-voting” seat on the PAC. The November 17th Board-approved PAC membership included *all* of the General Members and the Associate Members on the PAC, which Meadowbrook believes is critical to ensuring representation of all major basin stakeholders in discussions of important policy issues. Further, divorcing the General Members from the PAC removes an important line of communication necessary to discuss policy issues in real time and to reach all-important *consensus* on those issues, and will inevitably result in unnecessary and protracted delays as questions, concerns and proposed solutions are

¹ Fifth page of the November 17, 2016 IWVGA minutes, which were approved at the December 8, 2016, IWVGA meeting.

communicated and evaluated outside of the PAC meeting framework. These concerns can be negated by having all of the stakeholders at the PAC meeting table.

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Request: In light of these issues, we urge the Board not to approve Section 5.6 of the Bylaws and instead incorporate the PAC membership that the Board already approved at the November meeting.

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Requests: Meadowbrook makes two specific requests regarding this Fourth Concern: (1) that the Board publicly explain the reasons for the proposed changes to Section 5.6; and (2) that the Board remove all references to the use of “ad hoc” committees from the Bylaws before adoption.

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Indian Wells Valley Groundwater Authority

Re: February 16, 2017 Board Meeting

February 15, 2017

Page 5

We thank the Board in advance for considering these important issues before taking action to approve any final Bylaws.

Sincerely,

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Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/DRH

Encl.: November 17, 2016, Board-approved PAC Membership

cc: L. Duffy, B. Page, B. Harrington, C. Griffin, J. Sanders,
Z. Scrivner, K. Lemieux, P. Hall, J. Worth,
A. Christensen, T. Parker, D. Schaefer, R. McGlothlin,
Meadowbrook, M. Ostoich, Esq., E. Teasdale

POLICY ADVISORY COMMITTEE MEMBERSHIP

Policy Advisory Committee (PAC) Membership/Stakeholder Representation

The PAC membership is appointed by the IWVGA Board and consists of representatives of the City of Ridgecrest, Inyo, Kern, and San Bernardino Counties, Agriculture Groundwater Users, Businesses, Domestic Groundwater Users, Eastern Kern County Resource Conservation District, and the Indian Wells Valley Water District (IWWVD) as listed below. PAC members live throughout the Plan Area or work in agencies/organizations whose service areas include all or part of the area.

5- One for each of the Voting GSA Member - (Inyo, Kern, and San Bernardino Counties, City of Ridgecrest, IWWVD)

2- One each for the Associate GSA Member – (NAWS, BLM)

2- Agriculture – Large (Meadowbrook, Mojave Pistachios)

1- Agriculture – Small

2 – Business Interest

2 – Domestic Well Owners

1- Planning – (Kern County)

1- Environmental – (Eastern Kern County Resource Conservation District)

1- Industrial (Searles Valley Minerals)

17 total

EXHIBIT 15

March 8, 2017

Via Email and First Class Mail

Inyo County Board of Supervisors
c/o Clerk of the Board, Darcy Ellis (dellis@inyocounty.us)
224 North Edwards Street
Independence, CA 93526

Re: *Indian Wells Valley Groundwater Authority Proposed Bylaws*

To the Board of Supervisors of the County of Inyo:

Our firm represents Meadowbrook Dairy (Meadowbrook), one of two large agricultural operators in the Indian Wells Valley (Valley), and one of the Valley's largest groundwater water pumpers of many decades. For over a year now, Meadowbrook has urged the Indian Wells Valley Groundwater Authority (Groundwater Authority) and its member agencies, to provide meaningful participation for Meadowbrook in the implementation of the Sustainable Groundwater Management Act of 2014 (SGMA).

Meadowbrook's message is clear and consistent: successfully implementing SGMA requires *engaging* pumpers and stakeholders in the process, and not relegating them to the sidelines.

The Groundwater Authority has made repeated promises to meaningfully include Meadowbrook and others in the development and implementation of the Groundwater Sustainability Plan that is required under SGMA. Finally, in November 2016, the Groundwater Authority's Board of Directors unanimously carried a motion approving the Groundwater Authority's Policy Advisory Committee (PAC) Membership, which included Meadowbrook as a named member.

At its February meeting, however, the Groundwater Authority tentatively approved a set of proposed Bylaws (Proposed Bylaws), subject to approval by the member agencies, that departed significantly from its November-approved PAC Membership and made further changes designed to marginalize the PAC, Meadowbrook and other significant Valley stakeholders.

On March 1, 2017, residents of the City of Ridgecrest urged the City Council not to approve the Proposed Bylaws, citing numerous issues in their detailed comment letters. The City Council responded accordingly, voting 3-2 against approval of the Proposed Bylaws and submitted instead to the Groundwater Authority a redline/strike-out version with many required revisions.

The City's objection to the Proposed Bylaws illustrates the growing discontent and frustration among Valley pumpers and residents over the lack of transparency and engagement in the SGMA process to date. The Groundwater Authority is unfortunately becoming notorious in the Valley and throughout the State for its confrontational, opaque and politically-driven approach to SGMA implementation. This is not a best-practices model.

As mentioned above, the Groundwater Authority's February approval of the Proposed Bylaws is conditioned upon receiving no requested changes from its member agencies (i.e. the County of San Bernardino, the County of Inyo, the County of Kern, the City of Ridgecrest and the Indian Wells Valley Water District). The City's rejection of the Proposed Bylaws provides an *opportunity* to revise and approve Bylaws that will shape successful SGMA implementation and fulfill the promises made to Meadowbrook and other stakeholders.

Enclosed is Meadowbrook's February 15, 2017, letter to the Groundwater Authority (which we assume each member of this Board previously received) identifying critical issues in the Proposed Bylaws. At this time, we kindly ask that you consider Meadowbrook's comments again and require that our requested revisions be incorporated into the final version of the Bylaws when you consider them for approval. The Mojave Mutual Water Company submitted a similar letter to the Groundwater Authority Board, dated February 14, 2017, which we would also urge you to revisit.

Inyo County Board of Supervisors
Re: Indian Wells Valley Groundwater Authority Proposed Bylaws
March 8, 2017
Page 3

Thank you in advance for your consideration.

Sincerely,



Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MDD/DRH

Enclosure: Meadowbrook's Letter dated February 15, 2017

cc: B. Harrington
M. Ostoich
D. Hoffman
E. Teasdale
R. McGlothlin
Client

February 15, 2017

VIA EMAIL

The Board of Directors and Associate Members of
the Indian Wells Valley Groundwater Authority:

Peggy Breeden (City of Ridgecrest)
Peter Brown (Indian Wells Valley Water District)
Mick Gleason (Kern County Supervisor)
Matt Kingsley (Inyo County Supervisor)
Brian Longbottom (Navy Commander)
Robert Lovingood (San Bernardino County Supervisor)
Robert Pawelek (Bureau of Land Management)

Re: *February 16, 2017 IWVGA Board Meeting*
Agenda Item 7 – IWVGA Bylaws with Revised
Policy Advisory Committee Composition

To the members of the Board of Directors ("Board"), and to the Associate Member representatives, of the Indian Wells Valley Groundwater Authority ("IWVGA"):

On behalf of Meadowbrook, and recognizing the need to expeditiously establish bylaws of the IWVGA, we appreciate the concerted effort of the IWVGA staff who has worked to produce the draft bylaws that are presented to the Board for its consideration and possible adoption on February 16th ("Bylaws").

We are concerned, however, by (and respectively object to) five specific aspects of this week's Staff Report and the draft Bylaws. The first three of these concerns arise out of the language of proposed Section 5.6; the fourth concern arises out of Section 5.9; and the fifth concern arises out of Sections 8.3 through 8.5.

We urge the Board's consideration of these issues before taking any action to approve the Bylaws.

Section 5.6 - First Concern: The first concern respects the sudden change to the composition of the Policy Advisory Committee (“PAC”) that is set forth in Section 5.6 of the draft Bylaws and in the Staff Report. As you will recall, the Board—by unanimous motion—approved the PAC membership at the November 17, 2016 IWVGA meeting. For ease of reference, the minutes¹ of that meeting read:

“Motion made by Peter Brown and seconded by Robert Lovingood to approve the recommended Policy Advisory Committee membership list and staff to provide options for Technical Advisory Committee. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood. Nays: None.)”

That action marked a significant step—many months in the making—toward committing to true collaboration among basin stakeholders. Following that action, Meadowbrook expressed its sincere appreciation to the Board for being included, by name, on the PAC. We also applauded the inclusion on the PAC of each of the IWVGA General and Associate Members, along with many other basin stakeholders; all of which would afford truly collaborative, robust and open discussions of important policy issues. A copy of the November 17, 2016, Board-approved PAC membership is enclosed.

In an apparent reversal, this week’s Staff Report states that the draft Bylaws’ revisions to the PAC composition “have been made by legal staff in consultation with the Ad Hoc committee to address certain legal issues,” but fails to describe those legal issues or otherwise attempt to explain or justify a change in that commitment.

Section 5.6 - Second Concern: Section 5.6 of the draft Bylaws removes from the PAC membership all of the IWVGA General Members, with the exception of the Indian Wells Valley Water District that would hold a “non-voting” seat on the PAC. The November 17th Board-approved PAC membership included *all* of the General Members and the Associate Members on the PAC, which Meadowbrook believes is critical to ensuring representation of all major basin stakeholders in discussions of important policy issues. Further, divorcing the General Members from the PAC removes an important line of communication necessary to discuss policy issues in real time and to reach all-important *consensus* on those issues, and will inevitably result in unnecessary and protracted delays as questions, concerns and proposed solutions are

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communicated and evaluated outside of the PAC meeting framework. These concerns can be negated by having all of the stakeholders at the PAC meeting table.

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Request: In light of these issues, we urge the Board not to approve Section 5.6 of the Bylaws and instead incorporate the PAC membership that the Board already approved at the November meeting.

Section 5.9 - Fourth Concern: In our January 18, 2017 letter to the Board, Meadowbrook expressed concern over the use of “ad hoc” committees to conduct the business of the IWVGA. Though the specific focus of the January 18th letter was funding options, the clear expression of concern was the conduct of the important business of the Authority by informal bodies acting in other than an open-meeting format.

The process by which the proposed changes to the PAC composition, as discussed in the First through Third Concerns, above, is illustrative of Meadowbrook’s concern over the use of ad-hoc committees. Though the Board—in an open, public meeting—had already and *unanimously* approved the PAC membership at its November 17, 2016 meeting, after many months of public discussion on iterations of PAC composition options and *with no concerns then raised by legal counsel*; the private, ad-hoc bylaws committee, proposes to disregard that formal Board action on the basis of undisclosed and questionably legitimate concerns about the Board-approved PAC membership. Regardless of the potential merits of the reasons for that recommendation, the process leaves the stakeholders in the dark and feeling alienated—the opposite of what SGMA requires.

² The draft Bylaws do not yet include any content regarding the Technical Advisory Committee (“TAC”) membership (see Section 5.8 – “[Reserved]”). Meadowbrook reiterates its previous request that its position on the TAC also be memorialized in the final Bylaws.

Requests: Meadowbrook makes two specific requests regarding this Fourth Concern: (1) that the Board publicly explain the reasons for the proposed changes to Section 5.6; and (2) that the Board remove all references to the use of “ad hoc” committees from the Bylaws before adoption.

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Indian Wells Valley Groundwater Authority

Re: February 16, 2017 Board Meeting

February 15, 2017

Page 5

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Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/DRH

Encl.: November 17, 2016, Board-approved PAC Membership

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Z. Scrivner, K. Lemieux, P. Hall, J. Worth,
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1- Agriculture – Small

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1- Planning – (Kern County)

1- Environmental – (Eastern Kern County Resource Conservation District)

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17 total

EXHIBIT 16

March 8, 2017

Via Email and First Class Mail

San Bernardino County Board of Supervisors
c/o Clerk of the Board, Laura Welch (COB@sbcounty.gov)
385 N. Arrowhead Avenue
San Bernardino, CA 92415

Re: *Indian Wells Valley Groundwater Authority Proposed Bylaws*

To the Board of Supervisors of the County of San Bernardino:

Our firm represents Meadowbrook Dairy (Meadowbrook), one of two large agricultural operators in the Indian Wells Valley (Valley), and one of the Valley's largest groundwater water pumpers of many decades. For over a year now, Meadowbrook has urged the Indian Wells Valley Groundwater Authority (Groundwater Authority) and its member agencies, to provide meaningful participation for Meadowbrook in the implementation of the Sustainable Groundwater Management Act of 2014 (SGMA).

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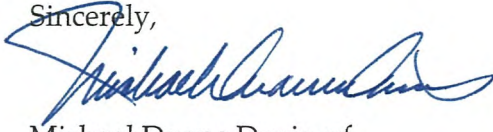
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San Bernardino County Board of Supervisors
Re: Indian Wells Valley Groundwater Authority Proposed Bylaws
March 8, 2017
Page 3

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Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
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MDD/DRH

Enclosure: Meadowbrook's Letter dated February 15, 2017

cc: B. Page
G. Devereaux
R. Frame
M. Ostoich
D. Hoffman
E. Teasdale
R. McGlothlin
Client

February 15, 2017

VIA EMAIL

The Board of Directors and Associate Members of
the Indian Wells Valley Groundwater Authority:

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Mick Gleason (Kern County Supervisor)
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Policy Advisory Committee Composition

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Indian Wells Valley Groundwater Authority

Re: February 16, 2017 Board Meeting

February 15, 2017

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MAO/DRH

Encl.: November 17, 2016, Board-approved PAC Membership

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Z. Scrivner, K. Lemieux, P. Hall, J. Worth,
A. Christensen, T. Parker, D. Schaefer, R. McGlothlin,
Meadowbrook, M. Ostoich, Esq., E. Teasdale

POLICY ADVISORY COMMITTEE MEMBERSHIP

Policy Advisory Committee (PAC) Membership/Stakeholder Representation

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17 total

EXHIBIT 17

March 8, 2017

Via Email and First Class Mail

Indian Wells Valley Water District
Board of Directors
c/o Clerk of the Board, Lauren Duffy [lduffy@iwwvd.com]
P.O. Box 1329
Ridgecrest, CA 93556-1329

Re: *Indian Wells Valley Groundwater Authority Proposed Bylaws*

To The Board of Directors of the Indian Wells Valley Water District:

Our firm represents Meadowbrook Dairy (Meadowbrook), one of two large agricultural operators in the Indian Wells Valley (Valley), and one of the Valley's largest groundwater water pumpers of many decades. For over a year now, Meadowbrook has urged the Indian Wells Valley Groundwater Authority (Groundwater Authority) and its member agencies, to provide meaningful participation for Meadowbrook in the implementation of the Sustainable Groundwater Management Act of 2014 (SGMA).

Meadowbrook's message is clear and consistent: successfully implementing SGMA requires *engaging* pumpers and stakeholders in the process, and not relegating them to the sidelines.

The Groundwater Authority has made repeated promises to meaningfully include Meadowbrook and others in the development and implementation of the Groundwater Sustainability Plan that is required under SGMA. Finally, in November 2016, the Groundwater Authority's Board of Directors unanimously carried a motion approving the Groundwater Authority's Policy Advisory Committee (PAC) Membership, which included Meadowbrook as a named member.

At its February meeting, however, the Groundwater Authority tentatively approved a set of proposed Bylaws (Proposed Bylaws), subject to approval by the member agencies, that departed significantly from its November-approved PAC Membership and made further changes designed to marginalize the PAC, Meadowbrook and other significant Valley stakeholders.

On March 1, 2017, residents of the City of Ridgecrest urged the City Council not to approve the Proposed Bylaws, citing numerous issues in their detailed comment letters. The City Council responded accordingly, voting 3-2 against approval of the Proposed Bylaws and submitted instead to the Groundwater Authority a redline/strike-out version with many required revisions.

The City's objection to the Proposed Bylaws illustrates the growing discontent and frustration among Valley pumpers and residents over the lack of transparency and engagement in the SGMA process to date. The Groundwater Authority is unfortunately becoming notorious in the Valley and throughout the State for its confrontational, opaque and politically-driven approach to SGMA implementation. This is not a best-practices model.

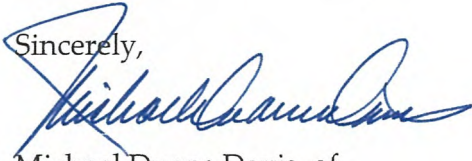
As mentioned above, the Groundwater Authority's February approval of the Proposed Bylaws is conditioned upon receiving no requested changes from its member agencies (i.e. the County of San Bernardino, the County of Inyo, the County of Kern, the City of Ridgecrest and the Indian Wells Valley Water District). The City's rejection of the Proposed Bylaws provides an *opportunity* to revise and approve Bylaws that will shape successful SGMA implementation and fulfill the promises made to Meadowbrook and other stakeholders.

Enclosed is Meadowbrook's February 15, 2017, letter to the Groundwater Authority (which we assume each member of this Board previously received) identifying critical issues in the Proposed Bylaws. At this time, we kindly ask that you consider Meadowbrook's comments again and require that our requested revisions be incorporated into the final version of the Bylaws when you consider them for approval. The Mojave Mutual Water Company submitted a similar letter to the Groundwater Authority Board, dated February 14, 2017, which we would also urge you to revisit.

Indian Wells Valley Water District
Board of Directors
Re: Indian Wells Valley Groundwater Authority Proposed Bylaws
March 8, 2017
Page 3

Thank you in advance for your consideration.

Sincerely,



Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MDD/DRH

Enclosure: Meadowbrook's Letter dated February 15, 2017

MDD/DRH

cc: J. Worth
M. Ostoich
D. Hoffman
E. Teasdale
R. McGlothlin
Client

February 15, 2017

VIA EMAIL

The Board of Directors and Associate Members of
the Indian Wells Valley Groundwater Authority:

Peggy Breeden (City of Ridgecrest)
Peter Brown (Indian Wells Valley Water District)
Mick Gleason (Kern County Supervisor)
Matt Kingsley (Inyo County Supervisor)
Brian Longbottom (Navy Commander)
Robert Lovingood (San Bernardino County Supervisor)
Robert Pawelek (Bureau of Land Management)

Re: *February 16, 2017 IWVGA Board Meeting*
Agenda Item 7 – IWVGA Bylaws with Revised
Policy Advisory Committee Composition

To the members of the Board of Directors ("Board"), and to the Associate Member representatives, of the Indian Wells Valley Groundwater Authority ("IWVGA"):

On behalf of Meadowbrook, and recognizing the need to expeditiously establish bylaws of the IWVGA, we appreciate the concerted effort of the IWVGA staff who has worked to produce the draft bylaws that are presented to the Board for its consideration and possible adoption on February 16th ("Bylaws").

We are concerned, however, by (and respectively object to) five specific aspects of this week's Staff Report and the draft Bylaws. The first three of these concerns arise out of the language of proposed Section 5.6; the fourth concern arises out of Section 5.9; and the fifth concern arises out of Sections 8.3 through 8.5.

We urge the Board's consideration of these issues before taking any action to approve the Bylaws.

Section 5.6 - First Concern: The first concern respects the sudden change to the composition of the Policy Advisory Committee (“PAC”) that is set forth in Section 5.6 of the draft Bylaws and in the Staff Report. As you will recall, the Board—by unanimous motion—approved the PAC membership at the November 17, 2016 IWVGA meeting. For ease of reference, the minutes¹ of that meeting read:

“Motion made by Peter Brown and seconded by Robert Lovingood to approve the recommended Policy Advisory Committee membership list and staff to provide options for Technical Advisory Committee. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood. Nays: None.)”

That action marked a significant step—many months in the making—toward committing to true collaboration among basin stakeholders. Following that action, Meadowbrook expressed its sincere appreciation to the Board for being included, by name, on the PAC. We also applauded the inclusion on the PAC of each of the IWVGA General and Associate Members, along with many other basin stakeholders; all of which would afford truly collaborative, robust and open discussions of important policy issues. A copy of the November 17, 2016, Board-approved PAC membership is enclosed.

In an apparent reversal, this week’s Staff Report states that the draft Bylaws’ revisions to the PAC composition “have been made by legal staff in consultation with the Ad Hoc committee to address certain legal issues,” but fails to describe those legal issues or otherwise attempt to explain or justify a change in that commitment.

Section 5.6 - Second Concern: Section 5.6 of the draft Bylaws removes from the PAC membership all of the IWVGA General Members, with the exception of the Indian Wells Valley Water District that would hold a “non-voting” seat on the PAC. The November 17th Board-approved PAC membership included *all* of the General Members and the Associate Members on the PAC, which Meadowbrook believes is critical to ensuring representation of all major basin stakeholders in discussions of important policy issues. Further, divorcing the General Members from the PAC removes an important line of communication necessary to discuss policy issues in real time and to reach all-important *consensus* on those issues, and will inevitably result in unnecessary and protracted delays as questions, concerns and proposed solutions are

¹ Fifth page of the November 17, 2016 IWVGA minutes, which were approved at the December 8, 2016, IWVGA meeting.

communicated and evaluated outside of the PAC meeting framework. These concerns can be negated by having all of the stakeholders at the PAC meeting table.

Section 5.6 - Third Concern: The Board-approved PAC membership specifically identified Meadowbrook and Mojave Pistachios as the holders of the two “Large Agriculture” PAC seats, and identified Searles Valley Minerals as the holder of the “Industrial” seat. Section 5.6 of the draft Bylaws has been revised to remove these names from the PAC composition framework. Please ensure that any final, approved Bylaws include Meadowbrook by name as holding one of the two Large Agriculture seats.²

Request: In light of these issues, we urge the Board not to approve Section 5.6 of the Bylaws and instead incorporate the PAC membership that the Board already approved at the November meeting.

Section 5.9 - Fourth Concern: In our January 18, 2017 letter to the Board, Meadowbrook expressed concern over the use of “ad hoc” committees to conduct the business of the IWVGA. Though the specific focus of the January 18th letter was funding options, the clear expression of concern was the conduct of the important business of the Authority by informal bodies acting in other than an open-meeting format.

The process by which the proposed changes to the PAC composition, as discussed in the First through Third Concerns, above, is illustrative of Meadowbrook’s concern over the use of ad-hoc committees. Though the Board—in an open, public meeting—had already and *unanimously* approved the PAC membership at its November 17, 2016 meeting, after many months of public discussion on iterations of PAC composition options and *with no concerns then raised by legal counsel*; the private, ad-hoc bylaws committee, proposes to disregard that formal Board action on the basis of undisclosed and questionably legitimate concerns about the Board-approved PAC membership. Regardless of the potential merits of the reasons for that recommendation, the process leaves the stakeholders in the dark and feeling alienated—the opposite of what SGMA requires.

² The draft Bylaws do not yet include any content regarding the Technical Advisory Committee (“TAC”) membership (see Section 5.8 – “[Reserved]”). Meadowbrook reiterates its previous request that its position on the TAC also be memorialized in the final Bylaws.

Requests: Meadowbrook makes two specific requests regarding this Fourth Concern: (1) that the Board publicly explain the reasons for the proposed changes to Section 5.6; and (2) that the Board remove all references to the use of “ad hoc” committees from the Bylaws before adoption.

Sections 8.3 - 8.5 – Fifth Concern: Finally, the “Records Retention” provisions of Article 8 are apparently duplicative, confusing and incomplete.

Sections 8.3 and 8.4 provide rights of inspection of IWVGA records to “Members” (Section 8.3) and to “Directors” (Section 8.4), but are otherwise identical. Neither “Members” nor “Directors” are expressly defined in the Joint Powers Agreement or in the proposed Bylaws, and these provisions appear to be redundant, with no apparently logical reason for the redundancy.

Section 8.5 contains the only other rights, which are afforded to the members of the “Public,” rights that are clearly aligned to the Public Records Act process.

No provision is made for members of any IWVGA committees, standing or otherwise, to inspect or copy IWVGA records, to allow for the performance of their duties and responsibilities. Without such a provision, members of IWVGA Committees – who do not fit within Section 8.3 or 8.4 – would be relegated to inspecting and copying IWVGA records pursuant to cumbersome Public Records Act requests as members of the “Public” under Section 8.5. In order to effectively operate, Standing Committees must be afforded express rights of inspection and copying consistent with Sections 8.3 and 8.4.

Requests: Meadowbrook requests (1) that Sections 8.3 and 8.4 be re-evaluated and clarified as to the intent and purpose of any redundancy – if any there is; and (2) that the Board direct staff to include in Article 8 express inspection and copying rights for the members of all IWVGA Committees, whether standing or otherwise.

Indian Wells Valley Groundwater Authority

Re: February 16, 2017 Board Meeting

February 15, 2017

Page 5

We thank the Board in advance for considering these important issues before taking action to approve any final Bylaws.

Sincerely,

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Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/DRH

Encl.: November 17, 2016, Board-approved PAC Membership

cc: L. Duffy, B. Page, B. Harrington, C. Griffin, J. Sanders,
Z. Scrivner, K. Lemieux, P. Hall, J. Worth,
A. Christensen, T. Parker, D. Schaefer, R. McGlothlin,
Meadowbrook, M. Ostoich, Esq., E. Teasdale

POLICY ADVISORY COMMITTEE MEMBERSHIP

Policy Advisory Committee (PAC) Membership/Stakeholder Representation

The PAC membership is appointed by the IWVGA Board and consists of representatives of the City of Ridgecrest, Inyo, Kern, and San Bernardino Counties, Agriculture Groundwater Users, Businesses, Domestic Groundwater Users, Eastern Kern County Resource Conservation District, and the Indian Wells Valley Water District (IWWVD) as listed below. PAC members live throughout the Plan Area or work in agencies/organizations whose service areas include all or part of the area.

5- One for each of the Voting GSA Member - (Inyo, Kern, and San Bernardino Counties, City of Ridgecrest, IWWVD)

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1- Agriculture – Small

2 – Business Interest

2 – Domestic Well Owners

1- Planning – (Kern County)

1- Environmental – (Eastern Kern County Resource Conservation District)

1- Industrial (Searles Valley Minerals)

17 total

EXHIBIT 18

March 8, 2017

Via Email and First Class Mail

City of Ridgecrest City Council
c/o City Clerk, Rachel Ford (rford@ridgecrest-ca.gov)
100 W California Avenue
Ridgecrest, CA 93555

Re: *Indian Wells Valley Groundwater Authority Proposed Bylaws*

To the City Council of the City of Ridgecrest:

Our firm represents Meadowbrook Dairy (Meadowbrook), one of two large agricultural operators in the Indian Wells Valley (Valley), and one of the Valley's largest groundwater water pumpers of many decades. For over a year now, Meadowbrook has urged the Indian Wells Valley Groundwater Authority (Groundwater Authority) and its member agencies, to provide meaningful participation for Meadowbrook in the implementation of the Sustainable Groundwater Management Act of 2014 (SGMA).

Meadowbrook's message is clear and consistent: successfully implementing SGMA requires *engaging* pumpers and stakeholders in the process, and not relegating them to the sidelines.

The Groundwater Authority has made repeated promises to meaningfully include Meadowbrook and others in the development and implementation of the Groundwater Sustainability Plan that is required under SGMA. Finally, in November 2016, the Groundwater Authority's Board of Directors unanimously carried a motion approving the Groundwater Authority's Policy Advisory Committee (PAC) Membership, which included Meadowbrook as a named member.

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The City's objection to the Proposed Bylaws illustrates the growing discontent and frustration among Valley pumpers and residents over the lack of transparency and engagement in the SGMA process to date. The Groundwater Authority is unfortunately becoming notorious in the Valley and throughout the State for its confrontational, opaque and politically-driven approach to SGMA implementation. This is not a best-practices model.

As this Council is aware, the Groundwater Authority's February approval of the Proposed Bylaws is conditioned up receiving no requested changes from its member agencies (i.e. the County of San Bernardino, the County of Inyo, the County of Kern, the City of Ridgecrest and the Indian Wells Valley Water District). The City's rejection of the Proposed Bylaws provides an *opportunity* to revise and approve Bylaws that will shape successful SGMA implementation and fulfill the promises made to Meadowbrook and other stakeholders. We appreciate the City's careful attention to the details of the Proposed Bylaws and the concerted effort made by City residents and this Council to supply the Groundwater Authority with specific revisions to the Proposed Bylaws.

Enclosed is Meadowbrook's February 15, 2017, letter to the Groundwater Authority (which we assume each member of this Council previously received) identifying critical issues in the Proposed Bylaws. At this time, we kindly ask that you consider Meadowbrook's comments again and require that our requested revisions be incorporated into the final version of the Bylaws when you consider them for approval. The Mojave Mutual Water Company submitted a similar letter to the Groundwater Authority Board, dated February 14, 2017, which we would also urge you to revisit.

City of Ridgecrest City Council
Re: Indian Wells Valley Groundwater Authority Proposed Bylaws
March 8, 2017
Page 3

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Sincerely,



Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MDD/DRH

Enclosure: Meadowbrook's Letter dated February 15, 2017

cc: K. Lemieux
M. Ostoich
D. Hoffman
E. Teasdale
R. McGlothlin
Client

February 15, 2017

VIA EMAIL

The Board of Directors and Associate Members of
the Indian Wells Valley Groundwater Authority:

Peggy Breeden (City of Ridgecrest)
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Mick Gleason (Kern County Supervisor)
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Agenda Item 7 – IWVGA Bylaws with Revised
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Indian Wells Valley Groundwater Authority
Re: February 16, 2017 Board Meeting
February 15, 2017
Page 5

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Sincerely,

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Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/DRH

Encl.: November 17, 2016, Board-approved PAC Membership

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Z. Scrivner, K. Lemieux, P. Hall, J. Worth,
A. Christensen, T. Parker, D. Schaefer, R. McGlothlin,
Meadowbrook, M. Ostoich, Esq., E. Teasdale

POLICY ADVISORY COMMITTEE MEMBERSHIP

Policy Advisory Committee (PAC) Membership/Stakeholder Representation

The PAC membership is appointed by the IWVGA Board and consists of representatives of the City of Ridgecrest, Inyo, Kern, and San Bernardino Counties, Agriculture Groundwater Users, Businesses, Domestic Groundwater Users, Eastern Kern County Resource Conservation District, and the Indian Wells Valley Water District (IWVWD) as listed below. PAC members live throughout the Plan Area or work in agencies/organizations whose service areas include all or part of the area.

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2- One each for the Associate GSA Member – (NAWS, BLM)

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1- Agriculture – Small

2 – Business Interest

2 – Domestic Well Owners

1- Planning – (Kern County)

1- Environmental – (Eastern Kern County Resource Conservation District)

1- Industrial (Searles Valley Minerals)

17 total

EXHIBIT 19

March 15, 2017

Via Email and First Class Mail

City of Ridgecrest City Council
c/o City Clerk, Ricca Charlon (rcharlon@ridgecrest-ca.gov)
100 W California Avenue
Ridgecrest, CA 93555

Re: *March 15, 2017 Ridgecrest City Council Meeting, Agenda Item 11 – Indian Wells Valley Groundwater Authority Proposed Bylaws*

To the City Council of the City of Ridgecrest:

On behalf our client, Meadowbrook Dairy (Meadowbrook), we submit this comment letter in addition to our letter of March 8, 2017, for your consideration, and we request that both letters be included in the record.

Meadowbrook is one of the oldest and largest pumpers in the Indian Wells Valley ("Valley") with well-established overlying rights to groundwater. Under the Sustainable Groundwater Management Act ("SGMA"), groundwater basins like the Indian Wells Valley must establish Groundwater Sustainability Agencies ("GSAs") and develop Groundwater Sustainability Plans ("GSPs") to sustainably manage groundwater resources over the long term. The Indian Wells Valley Groundwater Authority ("Groundwater Authority") is a Joint Powers Authority to which the City is a signatory member, and the Groundwater Authority is currently on track to become the GSA for this groundwater basin. **The only way for the GSA and GSP to succeed is to meaningfully engage the pumpers and stakeholders in the process.**

Mayor Breeden is the City's representative on the Groundwater Authority Board. The agenda item before your Council tonight is specifically to provide direction to Mayor Breeden regarding the Groundwater Authority's proposed bylaws ("Proposed Bylaws")

We urge your Council tonight to:

(1) Direct Mayor Breeden to require that Section 5.6 of the Proposed Bylaws be revised to specifically name Meadowbrook to one of the "2 Large

Agriculture” seats on the Policy Advisory Committee (PAC), consistent with the November 17, 2016, Groundwater Authority-approved PAC Membership.

(2) Require that additional revisions be made to the Proposed Bylaws that are detailed both in our March 8, 2017 letter to your Council and the identified further below.

(3) Obtain, review and carefully consider the Groundwater Authority staff’s memorandum response to your Council’s prior written objections, which was issued as early as March 10, 2017 but is omitted from your agenda packet tonight.

As you know, serious concerns are swelling among the public and the groundwater pumpers in this Valley over the Proposed Bylaws and the management of the Groundwater Authority. In fact, just a couple days ago, the Indian Wells Valley Water District (“Water District”) voted 3-1-0 (there was one abstention) to approve a **revised** set bylaws—and **not** the version of the Proposed Bylaws that the Groundwater Authority Board has circulated among the member agencies for approval. Because the Groundwater Authority Board’s approval of the Proposed Bylaws is expressly contingent upon all member Agencies’ approval, there is no set of Proposed Bylaws that can yet be approved.

Also on Monday, the Water District’s Board approved its own committee recommendation to seek a further revision to the Groundwater Authority bylaws to specifically name Meadowbrook, Mojave Mutual Water Company, and Searles Valley Minerals on the PAC. The Water District Board specifically directed its Groundwater Authority representative, Peter Brown, to request the Groundwater Authority to make that revision at tomorrow’s 10:00am Groundwater Authority meeting. Several of your Council members were at that Water District meeting on Monday and heard both that Board’s direction to Mr. Brown as well as his commitment. In his words, his request tomorrow will be “beyond strong.” We are asking your Council to direct Mayor Breeden to make and support that same request.

The Groundwater Authority staff memorandum (which has not been reviewed or approved by the Groundwater Authority Board) rejects nearly all of the City’s proposed changes. On behalf of Meadowbrook, we applaud the public and your Council’s efforts to seek specific important revisions to the Bylaws, and we share many of the same concerns that your Council has raised, including the following:

- We agree that the Groundwater Authority Board Secretary, and not a General Manager of the Groundwater Authority, should maintain the records of the Groundwater Authority Board. (Proposed Bylaws Section 3.4)
- We agree that the Groundwater Authority would best be served by a single, independent general counsel. This will be much less costly and will help to avoid conflicts of interest. Was it not the City Attorney who wrote the very Groundwater Authority Proposed Bylaws that the City Council has objected to, and who helped write the recent Groundwater Authority staff memorandum explaining the Groundwater Authority staff's rejection to the City Council's requests? (Proposed Bylaws Section 3.5)
- We agree that members of the public, and we would add members of the Groundwater Authority's Committees, should have rights of direct inspection of the Groundwater Authority's records, unless protected by law. Clearly, no one is asking to see Groundwater Authority staff's W-2s or social security numbers, as the Groundwater Authority staff memorandum suggests. (Proposed Bylaws Section 3.7.)
- We have detailed some of our concerns above regarding the language pertaining to the PAC. We also share your Council's concerns that the language for removing PAC members is punitive and arbitrary. We also object to the manner in which the Proposed Bylaws minimize and marginalize the functions of the PAC and the TAC. The PAC and TAC—and not the proposed "Water Resources Manager"—should lead and conduct the heavy lifting in developing and implementing the GSP; they should not be relegated to sidelines and summoned to duty only when called upon by the Board. (See, e.g., Proposed Bylaws Sections 5.5, 5.6., 5.7.)

Finally, we are concerned that your Council does not have all the necessary materials before you tonight on this issue. As early as March 10, 2017, the Groundwater Authority staff issued a memorandum responded in writing to many of the City's objections to the Proposed Bylaws. If you have not yet reviewed that memorandum, we urge you to do so before moving forward to approve any form of the Bylaws. We note that tonight's agenda packet does not include the Groundwater Authority staff's memorandum. We also note that the City's staff report states that the "at the time of agenda preparation, the City had not yet received comments/explanations from the JPA board regarding the [City's] comments" This

City of Ridgecrest City Council

Re: March 15, 2017 Ridgecrest City Council Meeting, Agenda Item 11 – Indian Wells Valley

Groundwater Authority Proposed Bylaws

March 15, 2017

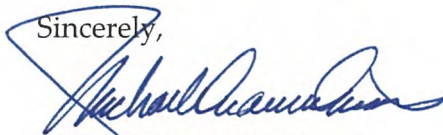
Page 4

does not appear to be accurate, however, since the Groundwater Authority's memorandum was included in the Water District's March 13, 2017, Meeting Agenda packet that was **distributed to the public on Friday, March 10, 2017**. In other words, the Water District had clearly received the Groundwater Authority staff's memorandum in time for its meeting two days ago, and we question why that memorandum was not included in tonight's agenda packet for your Council's consideration.

To sum up Meadowbrook's consistent message over the last approximately 18 months, Meadowbrook wishes to work *collaboratively* with the City, the other member agencies of the Groundwater Authority, and the other pumpers and stakeholders in this Valley. We share the same urgency to comply with SGMA's mandates, and we wish to begin working with you immediately on the GSP. Naming Meadowbrook on the PAC in the Bylaws will mark a significant step toward that path.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Duane Davis", written over a blue ink scribble that resembles a large, stylized "X" or a checkmark.

Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MDD/DRH

cc: K. Lemieux
M. Ostoich
D. Hoffman
E. Teasdale
R. McGlothlin
Client

EXHIBIT 20

March 16, 2017

VIA EMAIL and FIRST CLASS MAIL

The Board of Directors and Associate Members of
the Indian Wells Valley Groundwater Authority:

Peggy Breeden (City of Ridgecrest)
Peter Brown (Indian Wells Valley Water District)
Mick Gleason (Kern County Supervisor)
Matt Kingsley (Inyo County Supervisor)
Brian Longbottom (Navy Commander)
Robert Lovingood (San Bernardino County Supervisor)
Robert Pawelek / Ryan Klausch (Bureau of Land Management)

Re: *March 16, 2017 IWVGA Board Meeting*
Agenda Items 6 and 7 – IWVGA Bylaws and PAC Charter

To the members of the Board of Directors ("Board"), and to the Associate Member representatives, of the Indian Wells Valley Groundwater Authority ("Groundwater Authority"):

On February 16, 2017, your Board adopted a resolution regarding the approval of bylaws for the Groundwater Authority. Section 2.2. of the Resolution reads as follows:

"2. Adoption. The By-laws of the Indian Wells Valley Groundwater Authority, **in the form presented at this meeting and attached hereto and incorporated by reference**, are adopted and approved as the By-laws of this Authority, **contingent upon the approval** of the **General Member Boards**. If the by-laws are **not** subsequently reviewed and approved by **any** General Member **Board**, the issue **will** be brought back before the JPA **for action again in March 2017**. If they are approved by **all** General Member Boards, the February 2017 action shall be final without additional action." (Emphasis added.)

In short, the contingencies of this Board's February resolution have not been satisfied, and further action is definitely necessary before any final approval can occur.

FIRST, in order to comply with the Board's February resolution, we kindly ask that each Groundwater Authority Board Member Representative, and particularly Kern County, Inyo County and San Bernardino County, state the specific date and time of its respective publicly-noticed **Board** (or Council) Meeting at which its Board (or Council) **approved** the Bylaws **in the form presented** at the February Groundwater Authority Meeting ("February Bylaws").

We currently find no such public meeting agendas for Kern County, Inyo County or San Bernardino County. Moreover, we understand that San Bernardino County will not be represented at today's Groundwater Authority meeting due to absences of its primary and alternate representatives, and it cannot therefore inform your Board in this public hearing (as required by the Brown Act) whether or not San Bernardino has approved the February Bylaws.

SECOND, neither the Indian Wells Valley Water District ("Water District") Board of Directors nor the City of Ridgecrest City Council ("City Council") approved the February Bylaws. Rather, on March 13, 2017, the Water District considered, as reflected in its agenda packet, a different, redline mark-up version of the bylaws that included changes proposed by Groundwater Authority staff but for which there is no indication that they were ever considered by the Groundwater Authority Board.

The Water District Board also approved on March 13th its own committee recommendation to seek further revisions to the bylaws, including to specifically name Meadowbrook, Mojave Mutual Water Company ("Mojave"), and Searles Valley Minerals ("Searles") on the PAC. The Water District Board specifically directed its Groundwater Authority representative, Mr. Brown, to request the Groundwater Authority to make that revision at today's Groundwater Authority meeting.

Likewise, late last night the City Council carried a motion to approve a different version of the bylaws (i.e. not the February Bylaws) and to direct its Groundwater Authority representative, Mayor Breeden, to require that the Bylaws be revised to name Meadowbrook, Mojave and Searles on the PAC and in the PAC Charter.

We commend the Water District's and the City Council's decisions and direction on this point, and we look forward to having Meadowbrook expressly identified in the Bylaws as a member of the PAC holding one of the "2 Large Agriculture" positions.

THIRD, there are many critical bylaw provisions that have not yet been drafted or even considered by the Groundwater Authority Board. Provisions on critically important policy issues, like the composition of the Technical Advisory Committee, simply say, "Reserved." Members of the Groundwater Authority Board have repeatedly stated how critically important it is to get the TAC up and running. Leaving out entirely the bylaws provisions for the TAC is not consistent with that message, and those provisions should include representation for Meadowbrook on the TAC and should be included in the first officially approved final bylaws.

FOURTH, the February Bylaws contain many objectionable policy provisions that must be revisited and revised. Meadowbrook identified several of those issues in our prior comment letters in the record, **some** of which are restated below:

- The Groundwater Authority Board Secretary, and not a General Manager of the Groundwater Authority, should maintain the records of the Groundwater Authority Board. (Draft Bylaws Section 3.4)
- The Groundwater Authority would best be served by a single, independent general counsel. This will be much less costly and will help to avoid conflicts of interest. (Draft Bylaws Section 3.5)
- Members of the public (and we would add, members of the Groundwater Authority's Committees) should have rights of direct inspection of the Groundwater Authority's records, unless protected by law. Clearly, no one is asking to see Groundwater Authority staff's W-2s or social security numbers, as the Groundwater Authority staff memorandum suggests. (Draft Bylaws Section 3.7, 8.3 – 8.5.)
- Aside from expressly identifying Meadowbrook in the bylaws as a member of the PAC (which we expect will occur today), we and many others have serious concerns with several provisions in Article 5 and elsewhere as it pertains to the functions and duties of the PAC and the TAC. Chief among those is the manner in which the bylaws currently minimize and marginalize the functions of the PAC and the TAC, while simultaneously empowering the proposed "Water Resources Manager" to develop and implement the GSP, with some input from the PAC and TAC, but only when the Board directs the Water Resources Manager to seek that input. The PAC and TAC—and not the proposed "Water Resources Manager"—should lead and conduct the heavy lifting in developing and implementing the GSP; they should not be relegated

to sidelines and summoned to duty only when called upon by the Board. The language for removing PAC members is also punitive and arbitrary, and it suggests that the Board might remove a PAC member simply because it does not like the views expressed by that PAC member. (See, e.g., Draft Bylaws Sections 3.8, 5.5, 5.6., 5.7.)

- The bylaws should **not** authorize the use of “ad hoc” committees to conduct the business of the IWVGA. As provided in the Joint Powers Agreement, committees of the Board are to be publicly noticed and held consistent with the Brown Act. (Draft Bylaws Section 5.9.)

FIFTH, last night the City Council also approved two additional motions. First, it approved a motion directing Mayor Breeden to present to the Groundwater Authority Board the comments and proposed revisions to the bylaws that were made by the “Ridgecrest Panel” and to strongly request the Groundwater Authority Board to review the proposed changes, consider and incorporate them into the Bylaws, and to provide either compromise language or an explanation for rejecting any of the proposed revisions. Second, the City Council voted unanimously to direct Mayor Breeden **not** to approve the PAC Charter today, due primarily to the fact that even the Groundwater Authority Board has not yet considered the proposed PAC Charter (i.e. today’s agenda item 7.)

FINALLY, since none of the required contingencies for approval have been satisfied, we urge your Board **not** to adopt any form of bylaws today, and to instead establish a public workshop meeting at which **all** of the proposed and required changes that have been submitted by each of the Member Agencies and the public (including Meadowbrook) will be considered and included into a final set of bylaws. This would also include drafting critically important language for the TAC and other provision that are currently “Reserved” in February Bylaws, as well as formulating the PAC Charter. Though some may argue that the use of public workshops would result in undue delay, the Board has the ability to call a special meeting as needed to approve final bylaws after obtaining the critically important input of the public.

Though the needed changes are imperative, the number of needed revisions and content is relatively small. It is also especially important that the elected officials of each of the Groundwater Authority Member Agencies give careful consideration of the **policy** matters that are contained within the bylaws, and not simply defer to legal counsel under a guise of perceived legal issues.

Indian Wells Valley Groundwater Authority

Re: March 16, 2017 Board Meeting

March 16, 2017

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We thank the Board in advance for considering these important issues before taking action to approve any final Bylaws.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Duane Davis". The signature is stylized with a large, sweeping initial "M" and a long, horizontal flourish at the end.

Michael Duane Davis, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

MAO/DRH

cc: L. Duffy, B. Page, B. Harrington, C. Griffin, M. Mower,
Z. Scrivner, K. Lemieux, P. Hall, J. Worth,
A. Christensen, T. Parker, D. Schaefer, R. McGlothlin,
Meadowbrook, M. Ostoich, Esq., E. Teasdale

EXHIBIT 21

June 29, 2017

Indian Wells Valley Groundwater Authority
Policy Advisory Committee

Re: *Policy Advisory Committee Meeting*

Dear Fellow Policy Advisory Committee Members,

It is my pleasure to join with you on this Policy Advisory Committee as we work together toward long-term groundwater management opportunities and solutions for our Indian Wells Valley Groundwater Basin.

In an effort to help the PAC hit the ground running on the assignments that we have been given by the Board, *and to make sure we do everything we can to meet the rapidly-approaching deadlines to apply for millions of dollars in grant funding for the benefit of the entire Basin*, I am writing this letter to summarize my thoughts and proposals for certain items listed on our PAC meeting agenda. My hope is that this will help to focus our discussion and also to raise awareness that we already have several extremely time-sensitive and critical objectives that must be met over the next several weeks.

Agenda Item 3 – Overview

Item 3.a. Elect Chair and Vice Chair

I would like to nominate Donna Thomas as Chair, and Steve Godard as Vice Chair, of the PAC. Donna Thomas has valuable experience as chair the Indian Wells Valley Cooperative Groundwater Management Group and also on the board of the Eastern Kern County Resources Conservation District. She is a natural fit to Chair the PAC. Likewise, Steve Godard is a team-leader on complex technical projects for one the largest mining operations in California. I believe he would serve well in the role of Vice Chair for the PAC.

Item 3.b. Select a Disadvantaged Communities Representative

Here too, I propose we select either Donna Thomas or Steve Godard to fill this role. Whoever is selected as the Disadvantaged Communities Representative must be prepared to be deeply engaged in the grant funding application process. Significant portions of the Proposition 1 grant funding and also the Integrated Regional Water Management Planning grant funding are earmarked specifically for disadvantaged communities, which comprises a significant portion of our Valley. Donna Thomas has experience in writing grant funding applications for the Eastern

Kern County Resource Conservation District, and Steve Godard's PAC constituency includes the town of Trona. The Basin needs a DAC representative that has those qualifications, and who is prepared to jump in on day one (today) to help with the technical work to apply for grant funding.

Item 6. Set Regular Meeting Dates

The PAC should meet twice monthly until the Groundwater Authority has successfully applied for and secured all available grant funding for the Basin. We have an opportunity – if not an obligation to our Basin – to pursue at least \$1.5 million in Proposition 1 grant funds.

I propose the PAC meets at least twice in both July and August, and that the PAC meets the 2nd and 4th Thursdays of each month afterward at least until the grant funding process is complete. The PAC meetings would straddle the Groundwater Authority's Board Meetings (on the 3rd Thursdays). This is important to enable the PAC to meet, deliberate and provide timely recommendations to the Board, which must make decisions and take steps over the next few weeks in order to meet the grant funding application deadlines.

With this proposal, PAC meetings for July and August would be:

- Thursday, July 13th
- Friday, July 21st
- Tuesday, August 15th
- Thursday, August 24th.

There will be a very short, approximately two-month window to apply for Proposition 1 funds, which will begin in August and will close in October 2017. Just weeks ago, DWR released its Draft Proposal Solicitation Package ("PSP") for Groundwater Sustainability Plans and Projects for Proposition 1 funds. Once the final PSP is released, applications from GSAs all over the State will compete for those funds! DWR will begin awarding grants in December 2017. Once Proposition 1 funds are exhausted, there will be no more application windows. We owe a responsibility to our Basin to maximize grant funding opportunities, but we can only do that if we get organized now with enough meeting dates and times to pursue those opportunities.

Item 7. Action Items Assigned

Item 7.a. How do we bring various interests, needs and dollars to allow for continued growth, and additional growth?

In order to address this question, the PAC should identify and consider:

- What are the growth objectives of the City, the Counties and the Navy?
- What are the growth forecasts of the City, the Counties and the Navy?
- What do the City's and Counties' General Plans provide for?

SGMA requires municipalities to coordinate with the GSA and the GSP in the land use development process, to address water use and availability. Everyone should bear a fair share of responsibility in reducing water use and using water more efficiently.

Item 7.b. Funding options to address solutions; Item 7.d. Become experts on Proposition 1 funding; and Item 7.e. Coordinate Proposition 1 Funding Priorities.

These are critical issues that will shape our path to successfully implementing SGMA. There are two fast-approaching DWR Sustainable Groundwater Management Program Proposition 1 grant funding opportunities under the PSP:

- (1) Category 1 holds \$10 million total, statewide, to be allocated in up to \$1 million grants for projects serving Severely Disadvantaged Communities; and
- (2) Category 2 holds approximately \$76.3 million statewide, including up to \$1.5 million per basin for those deemed critically overdrafted (such as our Basin) to support activities associated with the planning, development and preparation of GSPs.

The Prop 1 Guidelines require a 50% cost share, which can include certain in-kind services. DWR also administers grant funding under the Integrated Regional Water Management Planning program, for which the next funding solicitation cycle will begin in the first quarter of 2018. The application process for both programs is technical and complex. There are also limits on the number and type of applications that may be submitted, which requires that we coordinate all potential Proposition 1 funding projects, including the Brackish Water Resources Study project, in order to maximize grant funding opportunities.

The PAC should encourage the Board to utilize available cash on hand (approximately \$75,000 according to Mr. Christensen's recent report) to invest in the preparing the necessary Proposition 1 grant funding application(s) and to fund our local cost share requirements. Investing that money to obtain over \$1.5 million in grant funds is an enormous return on investment that will benefit the entire Valley; likewise, failing to invest has an enormous opportunity cost. The Board and its Ad Hoc Finance Committee are currently considering hiring a funding consultant. The PAC should recommend that the Board utilize our PAC and existing resources first, to apply for grant funding, which must begin now.

To improve our chances for success, I propose that we establish a "PAC SGMA Funding Workgroup":

- The objective of the Workgroup would include identifying funding options and presenting recommendations to the PAC. The PAC would then make recommendations to the Board.
- The Workgroup's first priority is developing a strategy for securing Proposition 1 grant funds to meet the upcoming application deadlines.

- The Workgroup would utilize available technical consultants and resources. Meadowbrook would offer, for example, to have its consultant, Kennedy Jenks, prepare a technical memorandum for the PAC on how to maximize grant funding opportunities for the Basin. It would include specific grant funding application requirements, deadlines, deliverables, strategy recommendations, and proposed grant funding application cost allocations.
- The Workgroup would bring back recommendations to the PAC at the July 13th PAC Meeting, which would enable the PAC to make timely recommendations to the Board at its July 20th meeting.
- The Workgroup would exist for an initial 18-month duration, to see the grant funding process through completion and to provide recommendations to the PAC regarding funding SGMA implementation.

The Workgroup would be comprised of the following PAC Members:

- Don Zdeba (IWV Water District)
- Donna Thomas (EKCRCD)
- Eddie Imsand (Large Agriculture)
- Scott O'Neill (Business Interests)
- Rod Stiefvater (Large Agriculture)

Establishing a lean, efficient PAC SGMA Funding Workgroup to research and present options and recommendations to the PAC is critical to enable us to meet the upcoming grant funding deadlines. The Workgroup will also help the PAC to quickly become experts on Proposition 1 funding and coordinate Proposition 1 funding priorities as we have been assigned by the Board.

I hope you will support this proposal.

Item 7.c. Outreach study and program Federal, State and Local.

We need to establish a robust outreach strategy to Basin stakeholders, including for example to domestic well owners and other small pumpers, Indian tribes, business communities, and residents in the Valley. We have several PAC members who are uniquely qualified to lead that effort. *I propose we establish a “PAC Outreach Workgroup” to develop and bring back outreach strategy recommendations, and that this Workgroup be comprised of the following PAC Members:*

- Carol Wilson (Business Interests – Realtors)
- Lyle Fisher (Domestic Wells Owners)
- Nick Panzer (Residential Customer of Public Agency Water Supplier)
- Ryan Klausch (BLM)
- Pat Quist (Small Agriculture)

The proposed Workgroup composition is diverse, and each member represents a distinct and broad interest group in the Valley. I suggest requesting Mr. Klaush to provide guidance on outreach to Indian tribes.

Thank you for considering my letter. I truly look forward to serving with you on the PAC, and I hope you will join me in getting the PAC organized and operational as quickly as possible so we can maximize our chances for success—especially the upcoming grant funding opportunities.

Sincerely,

Eddie Imsand
PAC Member – Large Agriculture

EXHIBIT 22

July 11, 2017

VIA ELECTRONIC MAIL

The Board of Directors and Associate Members of
Indian Wells Valley Groundwater Authority

Re: *Urgent Agenda Item for July 20, 2017, Board Meeting to Timely Secure Millions of Dollars in Grant Funding for SGMA Implementation in the Indian Wells Valley*

Dear Board of Directors:

On behalf of Mr. Edward Imsand, a member of the Indian Wells Valley Groundwater Authority's (Groundwater Authority) recently established Policy Advisory Committee ("PAC") representing Large Agriculture, it was a pleasure to attend the PAC's first official meeting on June 29, 2017. Consistent with Mr. Imsand's comments at that PAC meeting, and per the direction of the Groundwater Authority's General Counsel at that meeting, the purpose of this letter is to request that your Board include an agenda item for July 20, 2017, Board meeting to approve taking the necessary and time-sensitive actions to apply for millions of dollars of grant funding for the benefit of the Groundwater Authority and the entire Indian Wells Valley Groundwater Basin ("Basin").

To be clear, a failure to take the steps requested in this letter at the July 20, 2017, Board meeting will very likely cause the Groundwater Authority to forfeit the opportunity to apply for millions of dollars in available grant funding, including funding to develop the Groundwater Sustainability Plan (GSP).

A very short, two-month window will begin in August and will close in mid-October 2017, to apply (i.e. compete) for Proposition 1 funds administered under the California Department of Water Resources' (DWR) Sustainable Groundwater Program ("SGWP"). DWR will begin awarding grants in December 2017. Once the Proposition 1 SGWP funds are exhausted, there will be no more application windows or funds to support GSP development and preparation.

Board of Directors and Associate Members of
Indian Wells Valley Groundwater Authority

Re: *Urgent Agenda Item for July 20, 2017, Board Meeting to Timely Secure Millions of Dollars in
Grant Funding for SGMA Implementation in the Indian Wells Valley*

July 11, 2017

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Specifically, it is requested that the Board include the following as an agenda item for the July 20, 2017, Groundwater Authority meeting:

*ITEM ____: CONSIDER AND APPROVE ASSIGNMENTS TO POLICY
ADVISORY COMMITTEE REGARDING STRATEGY FOR PURSUING GRANT
FUNDING*

a. Authorize the PAC to prepare and submit to the Board at the August Board meeting, or at an earlier special meeting of the Board, a proposal including scope of work, budget, schedule and consultant service contract approvals as necessary to complete a SGWP grant funding application for the Groundwater Authority's GSP deliverable, consistent with Proposition 1 and related regional grant funding programs.

b. Authorize the PAC to prepare grant funding application documents for approval by the Board, and to oversee the grant funding process under the direction of the Board.

c. Authorize the PAC to meet as often as needed specifically regarding grant funding opportunities, in order to accomplish items (a) and (b).

Enclosed with this letter is a proposed grant funding plan schedule designed to meet immediate and long-term grant funding deadlines, consistent with the proposed agenda item above.

As further explanation, there are two fast-approaching DWR Sustainable Groundwater Management Program Proposition 1 grant funding opportunities:

(1) Category 1 holds \$10 million total, statewide, to be allocated in up to \$1 million grants for projects serving Severely Disadvantaged Communities; and

(2) Category 2 holds approximately \$76.3 million statewide, including up to \$1.5 million per basin for those deemed critically overdrafted (such as our Basin) to support activities associated with the planning, development and preparation of GSPs.

The Proposition 1 Guidelines require a 50% cost share, which can include certain in-kind services. DWR also administers grant funding under the Integrated Regional

Board of Directors and Associate Members of
Indian Wells Valley Groundwater Authority

Re: *Urgent Agenda Item for July 20, 2017, Board Meeting to Timely Secure Millions of Dollars in
Grant Funding for SGMA Implementation in the Indian Wells Valley*

July 11, 2017

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Water Management Planning ("IRWM") program, for which the next funding solicitation cycle will begin in the first quarter of 2018. The application process for both programs is technical and complex. There are also limits on the number and type of applications that may be submitted, which requires that we coordinate all potential Proposition 1 funding projects, including the ongoing Brackish Water Resources Study project, in order to maximize grant funding opportunities.

The Board is requested to utilize available cash on hand (approximately \$75,000 according to the Interim General Manager's recent report) to help cover the costs associated with preparing the grant funding application(s) and contribute toward the local cost share requirements. Investing that money to obtain over \$1.5 million in grant funds is an enormous return on investment that will benefit the entire Basin; likewise, failing to invest has an enormous opportunity cost. We understand that the Board and its Ad Hoc Finance Committee are currently considering hiring a funding consultant, which may be necessary at some point regarding long-term funding matters. In the meantime, we encourage the Board to utilize its PAC and existing resources first, to apply for grant funding, which must begin now. Using grant funds for initial Groundwater Authority start-up organizational costs during the development of the GSP will provide the Board with ample time to plan and develop a long term funding policy.

At the June 15, 2017, Groundwater Authority meeting, Chairperson Gleason assigned several action items to the PAC, including the following:

- "Funding options to address solutions"
- "Become experts on Proposition 1 funding"
- "Coordinate Proposition 1 funding priorities"

At the June 29, 2017, PAC meeting, Mr. Imsand proposed and the PAC discussed these assignments, including a PAC meeting schedule that would enable the PAC to timely develop and implement a grant funding application strategy. That proposed schedule included two specific meeting dates in July, and two in August, followed by a regular PAC meeting schedule on the 2nd and 4th Thursdays of each month afterward at least until the grant funding process is complete.

Unfortunately, the proposed scheduling for PAC meetings was not made firm, due in part to conflicting vacation and availability schedules among Groundwater Authority staff. **As of the date of this letter, there are no further scheduled PAC meetings,**

Board of Directors and Associate Members of
Indian Wells Valley Groundwater Authority

Re: *Urgent Agenda Item for July 20, 2017, Board Meeting to Timely Secure Millions of Dollars in
Grant Funding for SGMA Implementation in the Indian Wells Valley*

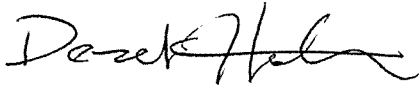
July 11, 2017

Page 4

which is of great concern among a majority of the PAC members who wish to ensure that the Groundwater Authority will successfully position itself to secure competitive grant funding under the rapidly-approaching deadlines. In addition to establishing a regular meeting schedule, the PAC needs to meet frequently enough over the next several months to achieve the objectives established by the Board.

Thank you for considering this time-sensitive and important matter. We ask the Board to engage the PAC, consistent with the Groundwater Authority's bylaws and organizational structure and as requested in this letter, to help lead the shared objective of all Basin stakeholders to obtain as much outside funding as possible as an important early step toward improving long-term Basin and regional water sustainability.

Sincerely,

A handwritten signature in black ink, appearing to read "Derek Hoffman", with a stylized flourish at the end.

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

DRH:dms

Enclosure

cc: L. Duffy, A. Christensen, D. Zdeba, T. Parker, L. Oviatt, K. Lemieux, P. Hall, J.
Worth, M. Ostoich, M. Davis, Client

Indian Wells Valley Groundwater Authority – GSA Lead Agency
Preliminary Schedule: Recommended Actions To Secure Grant Funding For Regional Activities
(Part 1 – Prop. 1 SGWP Grants; Part 2 – GSA PAC Funding Activities).

Milestones	July				Aug				Sept				Oct			
	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4
Part 1 – SGWP Grants																
GSA PAC: Funding Needs & Opportunities Assessment	x	x														
GSA Board PAC Funding Plan Approval-authorizations			x													
Prop. 1 SGWP Funding Services Agreement Process							x									
DWR Opens Prop. 1 SGWP Funding Solicitation – Round 1																
SGWP Funding Application Preparation and Submittal									x	x	x	x	x	x	x	
DWR SGWP Application Review/Awards – 3 months																>
PAC GSA Board Check-in			x				x				x				x	
Part 2 – GSA PAC Funding Activities																
GSA PAC – Funding Plan																
+ Develop and Maintain Funding Priority List	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	>
+ Track other Prop.1 funding	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	>
+ Plan for IRWM Coordination																>
+ Tap DAC Funding Options	x	x	x	x	x	x	x	x	x	x	x	>				
+ Coordination with TAC																>
+ GSA Board Updates				x			x				x				x	
+ Implementation Schedule					M				M				M			>
+ Budget/Business Plan					M				M				M			
+ Other duties as assigned																>

Notes: Assumes GSA Board governance structure with PAC serving as lead on funding efforts for FY17-18.

Assumes GSA Board approves PAC recommended funding actions at the July 20 Board Meeting.

PAC would be directed and authorized to secure funding services support to execute 2017 SGWP grant funding request for GSA GSP development and preparation.

PAC would be responsible for preparation and submittal of the SGWP funding application to DWR during Round 1 SGWP funding solicitation window (expected to be from Aug. 25-Oct. 25, 2017).

PAC funding focus would be consistent with items listed above, plus any additional items added by the Board.

PAC would coordinate activities with the TAC once fully established and operational (expected in July 2017).

PAC would advise the Board on project priorities, stage of development and interagency coordination that may enhance funding success for the region.

The GSA Board would receive regular updates from the PAC regarding funding actions and progress.

Symbols: x-continual effort; >-activity continues into the future; M-update monthly.

EXHIBIT 23

October 17, 2017

VIA ELECTRONIC MAIL

**Indian Wells Valley Groundwater Authority
Board of Directors and Associate Members
c/o Clerk of the Board**

Re: *IWVGA October 19, 2017 Board Meeting Agenda Item 9.a.
Comments Regarding Draft Proposition 1 Grant Funding Application*

Dear IWVGA Board of Directors:

On behalf of Mr. Edward Imsand, a member of the Indian Wells Valley Groundwater Authority's ("Groundwater Authority") Policy Advisory Committee ("PAC"), and also Mr. Eddy Teasdale of Kennedy/Jenks Consultants, a member of the Groundwater Authority's Technical Advisory Committee ("TAC"), this letter responds to the Water Resources Manager's request for comments regarding the draft Proposition 1 grant funding application that was presented to the PAC and TAC on October 12, 2017 ("Draft Application"). This letter and enclosure are submitted to your Board for Item 9.a. of the October 19th IWVGA Board meeting agenda, and we request that they be included in the record.

Enclosed is a brief analysis prepared by Kennedy/Jenks Consultants containing comments regarding the Draft Application. We recognize and appreciate the efforts made by the Water Resources Manager in expeditiously preparing the Draft Application. However, as reflected in the enclosed comments, we believe much additional work is required in order to maximize chances for success in obtaining competitive grant funding from DWR.

As was indicated at the October 12th PAC/TAC meeting, *all* Basin stakeholders share the priority of successfully securing grant funding from all available sources for the benefit of this Basin. We continue to support this objective, and therefore respectfully request this Board and the Water Resources manager to:

Indian Wells Valley Groundwater Authority

Re: IWVGA October 19, 2017 Board Meeting Agenda Item 9.a.

Comments Regarding Draft Proposition 1 Grant Funding Application

October 17, 2017

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- (1) carefully review, consider and incorporate the enclosed comments into the funding application;
- 2) prepare a revised application for the TAC and PAC to review and provide final comments as part of their November 2, 2017 scheduled meetings; and
- (3) schedule a special meeting of the IWVGA Board to occur after the TAC/PAC November meetings and prior to the application submission deadline, for the Board to approve and submit a revised, final grant funding application to DWR.

We recognize that time is of the essence, and we appreciate your consideration of the enclosed comments and the scheduling proposal outlined above for final approval and submission to DWR.

Sincerely,



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

DRH:dms

Enclosure

cc: L. Duffy, A. Christensen, D. Zdeba, T. Parker, L. Oviatt, K. Lemieux, P. Hall, J. Worth, M. Ostoich, M. Davis, Client

The Indian Wells Valley Groundwater Authority (IWVGA) is the Groundwater Sustainability Agency (GSA) for the Indian Wells Valley Groundwater Basin (Basin), which has been deemed a critically over-drafted groundwater basin per DWR and SGMA guidelines and requirements. Critically over-drafted groundwater basins must prepare a Groundwater Sustainability Plan (GSP) by January 2020. Maximizing outside grant funding opportunities is a high priority for all stakeholders in this Basin.

The IWVGA Water Resources Manager has prepared a draft Proposition 1 grant funding application, which was presented to the IWVGA Policy and Technical Advisory Committees on October 12, 2017 (Draft Application). The comments below regarding the Draft Application are provided by Kennedy/Jenks Consultants who has extensive experience with State and Federal funding programs and securing grant funds for clients. The comments are submitted for consideration by the IWVGA Board to be incorporated into a final grant funding application that will be submitted to DWR.

Our comments focus on two elements of the IWVGA Draft Application: the Work Plan (attachment 4) and Budget (attachment 5).

Draft Application - Work Plan Comments

1. Suggest adding a table of contents for the Work Plan, as this is a dense (and important) section of the grant application.
2. The Work Plan structure should consider what constitutes a compliant GSP. As currently written, it is not clear that the final GSP product will comply with DWR and SGMA requirements pertaining to a compliant GSP work product. There should be a reference to the applicable GSP requirements being met through the Work Plan for identified activities such as the Salt and Nutrient Management Plan, Recycled Water Study, etc.
3. The Work Plan mixes both GSP development and Project elements. The Work Plan should instead be structured around what is required for a compliant GSP. This could mean that some of the Project oriented content gets tucked under major elements of the GSP Work Plan (e.g. Tasks/sub tasks for field work to inform the various sections of Plan Area and Basin Setting).

The Work Plan includes references to both GSP and Project elements seeking grant funding under the Prop. 1 SGWP funding program. If the IWVGA direction is to pursue both GSP and Project grant funding under the application, the structure of the Work Plan needs to be delineated to show separate yet complimentary elements for GSP development and Project funding, respectively, which are available through separate funding categories with different requirements.

4. The Work Plan needs to include a more concise discussion and incorporation of existing technical documents and reports into the Work Plan. What existing technical resources will be leveraged, added to, and/or help to address data and resource gaps? This aspect of the Draft Application is confusing as written and could influence the Work Plan

content (see also related budget comment). The unique abundance of existing technical studies performed for this Basin should be referenced.

5. Discussion of disadvantaged communities (DACs) is plentiful; however, there is no reference as to how DACs factor into the funding application calculus (i.e. is a funding match waiver being requested?). The IWVGA should determine whether or not it plans to leverage their DAC status to increase eligibility for grant funding under the SGWP funding program. That needs to be made clear in the funding application.
6. Both the PAC and TAC should have the opportunity to review the Work Plan (including Budget and Schedule) and provide written feedback during the application development process for what is to be included in the final version of the Work Plan. These are the primary stakeholders in the process and should have direct input into what is being promised or proposed through the grant funding application.
7. Meetings are discussed in a general way in Task 12h; however, many more and better-coordinated meetings will likely be required to incorporate the information that exists and that is being developed in order to meaningfully engage the TAC/PAC/stakeholders to arrive at the objectives, thresholds, and undesirable results and other metrics. If the meetings are embedded in the tasks, this should be indicated as such with an estimate of meetings per task.

Draft Application – Budget Comments

1. The funding application budget includes both the grant funding request amount and local cost share amount (a 50/50 proposition). Applicants are required to specify how the local share is to be handled. How much of the local cost share will be comprised of existing related work or investments completed since Jan. 2015? This needs to be calculated and justified in accordance with the DWR funding program guidelines and requirements. The remaining local cost share (cash) must be identified.
2. Regarding local cost share, any cash contributions being applied to meet the local share target for the funding application that are not mitigated by eligible local cost share credits (see point above) must be specified by amount and source. Any local cost sharing arrangements agreed to by the stakeholders should be approved by the IWVGA Board and included in the final funding application. This is a major oversight in the Draft Application. If the IWVGA plans accordingly, the Work Plan should include provision of grant funds to help carry operating costs of the GSA during the GSP development process.
3. The funding application budget should also address the question of whether proposed grant funding application monies will be applied toward the governance of the IWVGA during the GSP development process. Early on, Kennedy/Jenks recommended that this grant funding request should include GSP coordination and administrative costs associated with developing the GSP by January 2020. If not, this would mean that the IWVGA would need to allocate budget resources for this purpose. It is not clear in the Draft Application how this issue is being addressed.

4. The Work Plan needs to further specify the Stakeholder Outreach Plan and how it will be implemented and blended with key GSP development milestones and decisions. DWR is expecting some clarity on the Stakeholder Outreach component (beyond the PAC and TAC meetings). This should also be more clearly delineated in the funding application Budget.
5. The Work Plan includes reference to both GSP development and Project elements seeking grant funding under the Prop. 1 SGWP funding program. If the IWVGA direction is to pursue both GSP development and Project grant funding under this application, then the structure of the Work Plan needs to be delineated to show separate yet complimentary elements for GSP development and Project funding, respectively, which are available through separate funding categories under the SGWP program with different requirements.
6. The Work Plan needs to include a more concise discussion and incorporation of existing technical documents and reports into the Work Plan. What existing technical resources will be leveraged, added to, and/or help to address data and resource gaps? This aspect of the Draft Application is confusing as currently written and could influence the Work Plan content and Budget. The unique abundance of existing technical studies performed for this Basin should be referenced.
7. Discussion of disadvantaged communities (DACs) is plentiful; however, there is no reference as to how DACs factor into the funding application calculus. The Project funds portion of the SGWP funding application allows for SDAC Project submittals. The overall funding application budget could be impacted significantly depending on how the DAC topic is incorporated into the final application.
8. Both the PAC and TAC should have the opportunity to review the Work Plan Budget and provide written feedback during the application development process for what is to be included in the final version of the Work Plan. The grant and local cost share pieces need to be clearly understood and represented in the final funding application.

Other Application Comments

1. Be mindful of number of page limitations on Att 3 – Project Justification (text vs figures) and that the specific topics requested in the PSP are addressed.
2. Providing the TAC and PAC with an opportunity to review and comment on a revised draft application that incorporates the comments above and comments made by others, before the IWVGA Board approves the application, will significantly improve chances for successfully securing grant funding.

EXHIBIT 24

January 16, 2018

VIA ELECTRONIC MAIL

Indian Wells Valley Groundwater Authority
Board of Directors, Associate Members and
Water Resources Manager
c/o Clerk of the Board

Re: *Indian Wells Valley Technical Advisory Committee Potential Action Schedule
January 18, 2018 IWVGA Board Meeting – Agenda Item 8*

Dear Board Members and Water Resources Manager:

On behalf of Meadowbrook Dairy ("Meadowbrook Dairy"), this letter responds to the Indian Wells Valley Groundwater Authority (Groundwater Authority) Water Resources Manager's ("WRM") request for feedback regarding the Technical Advisory Committee ("TAC") Potential Action Schedule dated December 1, 2017 ("TAC PAS"). Please consider and include this letter in the record as part of Agenda Item 8 for the January 18, 2018 Groundwater Authority Board Meeting.

We appreciate the WRM's effort to forecast TAC assignments through the TAC PAS and through the November 30, 2017 Draft Plan of Action and Milestones ("POAM") that were presented for discussion at the January TAC meeting. As the TAC, WRM and Groundwater Authority Board have discussed now on many occasions, the TAC PAS and POAM are important tools that must be effectively used in order to ensure proper TAC engagement and overall timely development of the Groundwater Sustainability Plan ("GSP") for the groundwater basin.

In order to serve its intended purpose, the TAC PAS should be expanded to provide a *timeframe number of months* within which the TAC will be expected to introduce, discuss, and ultimately make recommendations on each of the tasks and topic items assigned to the TAC and listed on the TAC PAS. Currently, the TAC PAS contains a single "Tentative Date" for each item, which suggests that the TAC will have only *one* opportunity to address a particular topic. The cross-referenced POAM items confirm this issue in most instances.

Indian Wells Valley Groundwater Authority

Re: *IWV Technical Advisory Committee Potential Action Schedule*
January 18, 2018 IWVGA Board Meeting – Agenda Item 8

January 16, 2018

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For example, TAC PAS Schedule Number 9 (which corresponds to POAM Line Number 24) entitled, “Conceptual Hydrogeologic Model and Water Balance” is described only as “Discussion” and only for the month of May 2018. As another example, TAC PAS Schedule Number 16 (POAM Line Number 32) entitled, “Sustainability Goals and Sustainability Management Criteria” is also described only as “Discussion” and only for the month of August 2018 (until nearly one year later when the TAC is scheduled to review an already-prepared draft GSP chapter on that subject in July 2019.)

One meeting is not enough time for the TAC to accomplish its work on most topics, particularly on critical GSP issues. We appreciate Mr. Johnson’s telephonic comments at the January TAC meeting when he recognized this reality and indicated that it is *not* the WRM’s intent to limit the TAC to tackling listed topics in just one meeting.

Accordingly, we request that the TAC PAS be modified to provide for clear and reasonable *timeframes* for the TAC to accomplish its objectives. Specifically, we request that the TAC PAS be expanded and modified to incorporate a *timeframe* in which each topic will be addressed, including changing the “Tentative Date” column to “Beginning Date” and adding an “Anticipated Timeframe (Months) to Complete Topic” column. The enclosed TAC PAS includes these changes with a recommended number of months for each topic.

Once timeframes are established within the TAC PAS, the monthly TAC meeting agendas should reflect those timeframes and include on each given month all of the items that fall within that present timeframe. For example, on the “Beginning Date” the TAC meeting agenda should include an item in which the WRM would *introduce* the topic and provide supporting materials and information for the TAC to consider. The item would then be included on the agenda for each subsequent TAC meeting within the anticipated timeframe as an item for discussion and possible recommendations.

These requested modifications to the TAC PAS are vital to affording the TAC the proper engagement and time needed to accomplish its work. It is also critical to ensure a smooth, organized and efficient monthly TAC meeting agenda-setting process. With only 24 months remaining until the GSP deadline, it is critically important and urgent that the TAC (and the PAC for that matter) be provided a clear roadmap of their anticipated assignments.

Indian Wells Valley Groundwater Authority

Re: *IWV Technical Advisory Committee Potential Action Schedule*
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The requested modifications are also necessary in order to comply with the Groundwater Authority's Bylaws, including:

- Section 5.4: "The Board shall assign tasks to its standing committees, *the expected duration for completion of a particular task*, and a summary of the resources, including staff or consultant support available to the standing committee in performing the task."
- Section 5.13 [relevant part]: "The Water Resources Manager shall attend and set the agenda of each TAC meeting so that each technical element of the GSP is presented to the TAC, in draft, to *afford the TAC a reasonable opportunity to review and conduct a thorough evaluation* prior to finalization of that technical element. In the course of evaluating each draft technical element of the GSP, the TAC shall strive for consensus in preparing written recommendations to the Water Resources Manager ("TAC Proposals"). The TAC shall submit its TAC Proposals to the Water Resources Manager, as well as written summaries of the range of TAC comments reflecting any areas of disagreement for consideration in the final preparation of any GSP Element."

Both the TAC and the PAC comprise uniquely knowledgeable, skilled and credentialed stakeholder representatives who are eager to meaningfully participate in the GSP development process. We request that the Groundwater Authority Board and WRM take the necessary steps now to clearly plan ahead for TAC and PAC engagement, including specifically mapping out and appropriately timing these committees' anticipated assignments.

Sincerely,



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

DRH:dms

Enclosure: TAC PAS with proposed revisions

cc: TAC Members, R. Strand, K. Lemieux, Client

DRAFT**PROPOSED REVISIONS****Indian Wells Valley Groundwater Authority****Technical Advisory Committee (TAC) Potential Action Schedule December 1, 2017**

<u>Schedule Number</u>	<u>POAM Line Number</u>	<u>Topic</u>	<u>Description</u>	<u>Beginning Date</u>	<u>Anticipated Timeframe (Months) to Complete Topic</u>
1	8, 27	Evaluation of Groundwater Model and Data Management System	Discussion	December 2017	3 to 6
2	112	Salt and Nutrient Management Plan	Review Draft Report	December 2017	2 to 3
3	108	Well Database Groundwater Truthing Study	Review Draft Report	January 2018	2 to 3
4	--	Initial Groundwater Levels / Water Budget Elements	Discussion	February 2018	3 to 4
5	--	Imported Water Opportunities/Constraints	Discussion	March 2018	2 to 3
6	40	Data Gaps and Prioritization	Discussion	April 2018	2 to 3
7	104	USGS Recharge Study	Review Draft Report	April 2018	3 to 4
8	107	Aerial Electro-Magnetic Geophysics Survey (SkyTEM)	Review Draft Report	April 2018	3 to 6
9	24	Conceptual Hydrogeologic Model and Water Balance	Discussion	May 2018	2 to 3
10	77	Recycled Water Feasibility	Discussion	May 2018	2 to 3
11	78	Recycled Water Feasibility	Review Draft Technical Memorandum	June 2018	2 to 3
12	29	Numerical Groundwater Model Updates / Baseline Model Run	Discussion	June 2018	4 to 6
13	68	Imported Water Options	Discussion	June 2018	2 to 3
14	19	(GSP) Introduction Chapter	Review Draft GSP Chapter	July 2018	1 to 2
15	105	Brackish Groundwater Resources Feasibility Study	Review Draft Report	July 2018	2 to 4
16	32	Sustainability Goals and Sustainability Management Criteria	Discussion	August 2018	4 to 6
17	79	Projects and Management Activities to Achieve Sustainability Goals (Scenarios)	Discussion	August 2018	4 to 6
18	72	Imported Water Options	Review Draft Technical Memorandum	October 2018	2 to 3
19	82	Groundwater Modeling Results	Discussion	February 2019	3 to 4
20	30	(GSP) Plan Area and Basin Setting Chapter	Review Draft GSP Chapter	February 2019	2 to 3
21	84	Transport Modeling and Alternative Effects of Land Subsidence	Discussion	June 2019	3 to 4
22	34	(GSP) Sustainable Management Criteria Chapter	Review Draft GSP Chapter	July 2019	2 to 3
23	85	(GSP) Projects and Management Actions to Achieve Sustainability Goal Chapter	Review Draft GSP Chapter	July 2019	2 to 3
24	86	Plan Implementation	Discussion	July 2019	3 to 4
25	86	(GSP) Plan Implementation Chapter	Review Draft GSP Chapter	August 2019	2 to 3
26	91	(GSP) Draft Report	Review Draft GSP Report	August - September 2019	3 to 5

EXHIBIT 25

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.

Indian Wells Valley Groundwater Authority

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

March 14, 2018

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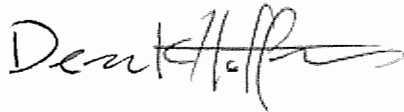
These are some of the variety of issues should be considered and evaluated, including through the committees as described above.

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,



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

EXHIBIT 26

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.

Indian Wells Valley Groundwater Authority

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

April 4, 2018

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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).

Indian Wells Valley Groundwater Authority

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

April 4, 2018

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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

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 XIIIIC 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 XIIIIC, which are primarily as follows:

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

- 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 Pumpers—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.

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

Indian Wells Valley Groundwater Authority

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

April 4, 2018

Page 11

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

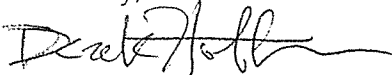
We respectfully reserve and restate our objection to the IWVGA’s preliminary determination to entirely exempt “de minimis” extractors from participating in the payment of fees or other funding mechanisms. Notably, even the State Water Board’s intervention fees structure includes a “de minimis fee” of \$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.

Indian Wells Valley Groundwater Authority

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

March 14, 2018

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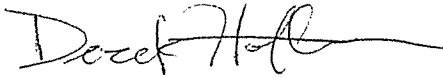
These are some of the variety of issues should be considered and evaluated, including through the committees as described above.

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

EXHIBIT 27

May 16, 2018

VIA ELECTRONIC MAIL

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

Re: *IWVGA May 17, 2018 Board Meeting – Meadowbrook Dairy Comment Letter on
Agenda Item 7 Regarding Proposed Groundwater Fee Ordinance and Resolution*

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") regarding Item 7 of the agenda¹ for the May 17, 2018 IWVGA Board meeting, pertaining to: (1) proposed "*Ordinance No. 2-18 – Establishing the Rules, Regulations And Procedures For the Imposition And Collection Of Groundwater Fees*" ("Proposed Ordinance") and the accompanying proposed "*Resolution Establishing a Groundwater Extraction Fee*" ("Proposed Fee Resolution"). Please include this letter in the record and file it with the minutes of the May 17, 2018 Board meeting.

The Proposed Ordinance and Proposed Fee Resolution represent the IWVGA's most recent iteration of a proposed *Water Code* Section 10730 fee that would be charged to certain (but not all) groundwater producers on a volumetric basis to fund the IWVGA, the development of the Groundwater Sustainability Plan ("GSP") for the Indian Wells Valley Groundwater Basin ("Basin") and other IWVGA processes, functions and projects. Each iteration of the proposed fee has raised significant legal, equitable and practical issues among groundwater producers and members of the public. Please see

¹ We note that that a lengthy, detailed "Supplemental Agenda" package containing multiple substantive changes and materials was distributed by the IWVGA Clerk of the Board at 3:02 p.m. on May 16th – less than 24 hours before the May 17th IWVGA Board meeting. This followed another late circulation at 1:22 p.m. the same day that include extensive missing agenda packet materials, including the "Data Package" for the Proposed Fee Resolution and the supporting attachments to the proposed DRI contract for Item 8. These late distributions on the eve of IWVGA Board meetings is burdensome and unfair to the public, and deprives the already-short timeframe for the public to review and evaluate Board meeting materials.

Indian Wells Valley Groundwater Authority

Re: IWVGA May 17, 2018 Board Meeting – Meadowbrook Dairy Comment Letter on
Agenda Item 7 Regarding Proposed Groundwater Fee Ordinance and Resolution

May 16, 2018

Page 2

Meadowbrook's comment letters to the IWVGA dated April 4th and March 14th, which we incorporate here by reference.

The Proposed Ordinance and Proposed Fee Resolution fail to remedy the previously stated issues. Instead, the Proposed Ordinance and Proposed Fee Resolution perpetuate most of those same issues and include additional legal flaws in violation of SGMA and the California Constitution that must be resolved before the IWVGA adopts these items or any version of them.

Meadowbrook recognizes the need for the IWVGA to conduct investigations and to obtain sufficient and reliable data to support the GSP. Meadowbrook is also not opposed to paying a fair, reasonable and legally-complaint groundwater fee for SGMA implementation purposes. The Proposed Ordinance and Proposed Fee Resolution, however, fall short in each of those respects and are primarily designed to enforce compliance rather than achieve data collection.

The Proposed Ordinance and Proposed Fee Resolution Do Not Comply with SGMA's Provisions Regarding Reporting Groundwater Use.

The Proposed Ordinance and Proposed Fee Resolution require, among other things that *effective August 1, 2018*, all groundwater extractions from the Basin must be measured according to a method approved by the Water Resources Manager and reported *monthly* by the Groundwater Extractor to the Authority in accordance with the Proposed Fee Resolution.

These requirements violate SGMA because they can only be imposed through an adopted GSP (which has not occurred in this Basin) and because SGMA does not authorize GSAs to impose monthly reporting requirements. The provisions in SGMA providing for registration of groundwater extraction facilities and methods of groundwater extraction measurement and reporting are set forth in Chapter 5 of Part 2.74 of the *Water Code*. Relevant provisions within this chapter provide:

- "A [GSA] may exercise any of the powers described in this chapter in implementing this part, in addition to, and not as a limitation on, any existing authority, if the [GSA] adopts and submits to [DWR] a [GSP] or prescribed alternative documentation in accordance with Section 10733.6." [Section 10725(a).]

- “A [GSA] may require, through its [GSP], that the owner or operator of a groundwater extraction facility within the GSA file an annual statement with the GSA setting forth the total extraction in acre-feet of groundwater from the facility during the previous water year.” [Section 10725.8(c).]

The Proposed Ordinance and Proposed Fee Resolution cannot require monthly reporting of groundwater extraction under SGMA. Consequently, the provisions in the Proposed Ordinance and Proposed Fee Resolution regarding the imposition penalties, interest, charges and other actions arising from non-compliance with monthly reporting requirements cannot legally be enforced. Also, from a practical standpoint, monthly reporting would impose unreasonable accounting burdens on groundwater producers and would substantially increase accounting efforts and costs for the IWVGA (which would likely result in even higher fees for groundwater producers).

The Proposed Ordinance and Proposed Fee Resolution Contain Inconsistencies and Gaps that Would Make Compliance Difficult for Groundwater Extractors

As just a few (non-exhaustive) examples:

- Rules and regulations must be sufficiently detailed to enable compliance. The title of the Proposed Ordinance indicates that it establishes “*The Rules, Regulations and Procedures For the Imposition and Collection of Groundwater Extractions (sic) Fees*”. The Proposed Ordinance, however, leaves out most details and thereby makes compliance difficult if not impossible for groundwater extractors.
- The Proposed Ordinance affords significant discretion to the Water Resources Manager, the General Manager (and in one instance, an unspecified “Manager”), which creates uncertainty and difficulty for persons seeking to achieve compliance. For example, these items provide that the Water Resources Manager and in some instances, the General Manager, would review and approve Groundwater Extraction Facility registrations and methods of measurement based upon “any other information that the Authority’s General Manager deems to be prudent and necessary” and with authority to deny registrations that “do not meet the Manager’s² approval.”

² It is not clear which “Manager” this refers to.

- The Proposed Ordinance states in Section 9 that Groundwater Extraction Facilities constructed after the effective date of the Proposed Ordinance must comply with “the Authority’s Groundwater Extraction Resolution” prior to the extraction of groundwater from the Basin, but does not define or reference a “Groundwater Extraction Resolution.” The Proposed Ordinance refers to an “Extraction Fee Resolution,” but Section 9 is not clear whether it is intended to refer to the Extraction Fee Resolution or some other “Groundwater Extraction Resolution”.
- Adopting “rules and regulations” by ordinance would require, under the equal dignities rule, that any necessary amendments to this ordinance must also be adopted by ordinance. This makes the amendment process more burdensome and time consuming.

Clarity and consistency are critical in any rules and regulations regarding the imposition and collection of groundwater extraction fees. The Proposed Ordinance and Proposed Fee Resolution require additional clarity and detail.

The Proposed Fee Resolution Perpetuates the Same Legal Deficiencies Contained in the Prior Proposed Fee Iterations

Meadowbrook’s prior comment letters identified many legal, equitable and practical issues with prior iterations of the IWVGA’s proposed *Water Code* Section 10730 fees. Unfortunately, it appears that many of those issues are not addressed or acknowledged in the Proposed Ordinance the Proposed Fee Resolution. Without restating all of the issues contained in the prior letters (which are instead incorporated by reference and we urge this Board to review), some examples of critical issues that remain unresolved are:

- The Proposed Fee Resolution imposes a local tax that fails to comply with California’s Constitutional requirements generally known as Propositions 26 and 218.
- The Proposed Fee Resolution fails to provide legal justification for the proposed fee under Propositions 26 or 218 (or even mention these Constitutional requirements). The Propose Fee Resolution does not, for example, identify which if any exemption applies that would allow the proposed fee to evade its status as a local tax that must comply with Proposition 26’s majority voter approval requirements. If the IWVGA

considers the proposed fee to meet one of the exemptions, we request that the IWVGA specifically identify that exemption now.³

- The Proposed Fee Resolution and the proposed volumetric fee of \$3.50 per tenth of an acre-foot (or in other words, \$35 per acre-foot) over a 24-month period is again based upon a “Data Package” that contains extensive and fundamental data gaps and extremely high estimated costs. Data gaps include identifying pumpers and total pumping in the Basin, and accurately projecting and allocating costs. The lack of transparent, reliable data upon which any proposed volumetric or other type of fee is based is a significant legal and fairness concern that has been extensively raised and repeated by groundwater pumpers and members of the public. The “Indian Wells Valley Groundwater Basin Well/System Listing” that was provided as part of the IWVGA “Supplemental Agenda” for this meeting identifies hundreds of groundwater wells for which no data is provided regarding groundwater production data and other information.
- Neither the Proposed Ordinance nor the Proposed Fee Resolution (or their content) was presented to or vetted by the TAC or the IWVGA Policy Advisory Committee (“PAC”). Instead, the TAC and the PAC, along with the public, were given less than 24-hours’ notice of the Proposed Ordinance and the Proposed Fee Resolution through the May 16th late-afternoon circulation of the “Supplemental Agenda” packet for the May 17th IWVGA board meeting. This is certainly not meaningful participation.
- The Proposed Ordinance and Proposed Fee Resolution are premature and fail to account for ways to most effectively utilize the over \$2.1 million awarded in Proposition 1 grant funding.

Like many other groundwater producers in the Basin, Meadowbrook is not opposed to paying a fair, reasonable and legally-complaint groundwater fee for SGMA implementation purposes. Meadowbrook also recognizes the need for sufficient and reliable data to support the GSP. We are, however, truly disappointed with the

³ During the April 5, 2018 IWVGA Board Workshop, IWVGA’s General Counsel acknowledged that any fee proposed by the IWVGA must comply with the Constitutional requirements for local fees and taxes, but then stated that our concerns regarding the lack of any reference to those requirements in the April 5th Workshop Data Package and accompanying staff reports were “premature”. Given the IWVGA’s rapidly approaching August 1, 2018 target effective date for the currently proposed fee, these concerns are certainly not premature, nor were they premature on April 5th.

Indian Wells Valley Groundwater Authority

Re: IWVGA May 17, 2018 Board Meeting – Meadowbrook Dairy Comment Letter on
Agenda Item 7 Regarding Proposed Groundwater Fee Ordinance and Resolution

May 16, 2018

Page 6

manner in which this Proposed Ordinance and Proposed Fee Resolution are being presented to groundwater producers and the public in the Indian Wells Valley.

Meadowbrook urges the IWVGA Board not to adopt the Proposed Ordinance or the Proposed Fee Resolution until the issues detailed in Meadowbrook's prior comment letters (April 4th, March 14th) and in this letter are addressed and resolved. We also reserve the right to raise additional concerns and objections to the Proposed Ordinance and the Proposed Fee Resolution.

Finally, we request that the IWVGA Board consider incorporating a concept that would "credit" back to groundwater extractors all overpayments of volumetric fees that are determined to have occurred as groundwater production data, and cost information, are refined and actualized. In other words, as additional data becomes available that impacts the amount of a volumetric fee that would have been charged had the data been previously available, then fees previously paid based upon prior data should be adjusted and overpayments credited or refunded.

Thank you for your consideration.

Sincerely,



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,
PAC Members, TAC Members, Client

EXHIBIT 28

May 30, 2018

VIA ELECTRONIC MAIL

IWVGA Policy Advisory Committee and Technical Advisory Committee
c/o Clerk of the IWVGA Board and PAC/TAC Chairpersons

Re: *IWVGA PAC and TAC May 31, 2018 Meetings – Proposed PAC/TAC Procedures*

Dear PAC and TAC Members:

Both this Policy Advisory Committee ("PAC") and Technical Advisory Committee ("TAC") are standing committees of the Indian Wells Valley Groundwater Authority ("IWVGA"). The PAC and TAC were established over one year ago, and their respective memberships have been updated from time to time.

Since their formation, the PAC and perhaps more noticeably the TAC have, through no fault of their own, been forced to grapple with procedural and administrative issues that have hindered their ability to focus on their primary objectives. These committees (as well as the public) have often received extensive, substantive meeting agenda materials from the Water Resources Manager and IWVGA Staff less than 24 hours before PAC and TAC meetings, which deprives all interested parties of the ability to meaningfully participate in discussions of the agenda items at those meetings.

With many critical and substantive issues pertaining to sustainable management of the Indian Wells Valley Groundwater Basin to be addressed in the coming months, the PAC and TAC need to be able to adhere to clear and consistently followed generally accepted administrative policies and procedures.

On October 12, 2017, IWVGA General Counsel Phill Hall provided the PAC and TAC (as they were walking into their combined PAC/TAC meeting that day), through the Water Resources Manager, a document entitled, "Draft Indian Wells Valley Groundwater Authority PAC/TAC Meeting Procedures." As stated by General Counsel Hall, the "Supporting Bylaws" for those draft procedures include the following recitations:

- “Purpose of Standing Committees (Article 5.1): The Board may establish **standing committees** for the purpose of making recommendations to the Board on the various activities of the Authority.”
- “Quorum (Article 5.2): A **quorum** of a committee shall be a majority of the appointed committee members **that hold a vote**. No meeting of a standing committee shall occur without the attendance of a quorum of its committee members.”
- “Rules of Order (Article 5.2): All rules of order, not otherwise provided for in the Bylaws, shall be determined in accordance with ‘Robert’s Rules of Order’”
- “**Minutes/Voting (Article 5.2): The voting on all matters of standing committees shall be reported on the minutes and accomplished in a manner that readily signifies the action taken and the vote or abstention on that action of each member present for the action.**”
- “Website Policy (Article 8.6): The Authority shall establish a public website where **all pertinent documentation**, not specifically protected by law, may be openly inspected by the public including **all agendas, minutes, resolutions, and ordinances of the Board and its standing committees; all public written briefings, presentations, and correspondence of the Board and its standing committees; and all public financial and technical reports that are not protected by law.**”

At the April 2018 TAC meeting, many TAC members were understandably surprised when they were told by the Water Resources Manager that they were *not allowed to vote to approve their own meeting minutes*. After being pressed for the reasoning behind that position, the Water Resources Manager indicated that he was relaying General Counsel Hall’s view that TAC Members “do not vote on anything” and instead “strive for consensus.” This position, however, is totally inconsistent with: (1) the Bylaws quoted by General Counsel Hall in the list above; (2) the fact that the PAC and TAC both have voting and non-voting members as evidenced in the several IWVGA Board Resolutions establishing and updating TAC and PAC membership that delineate between voting and non-voting members¹; and (3) the fact that the PAC and TAC can still strive to act by consensus pursuant to Bylaws Sections 5.9 and 5.13 on issues not requiring a vote.

¹ Notably, IWVGA Resolution 01-18 (which was drafted by General Counsel Hall and distributed to the public less than 24 hours before the March IWVGA Board Meeting and included as a “Consent Agenda” item for that meeting) does not resolve these issues. In fact, that resolution expressly states that it “does not in any way modify the Bylaws”.

Indian Wells Valley Groundwater Authority

Re: *IWVGA PAC and TAC May 31, 2018 Meetings – Proposed PAC/TAC Procedures*

May 30, 2018

Page 3

Enclosed for the consideration of the PAC and TAC Members, is a redline document showing proposed substantive changes to General Counsel Hall's October 12, 2017 draft Proposed PAC/TAC Procedures.²

We request your support for the suggested changes to General Counsel Hall's Proposed PAC/TAC Procedures and ask you to direct your PAC and TAC Chairpersons to request that the IWVGA Board approve the Proposed PAC/TAC Procedures at the next (or soonest possible) IWVGA Board meeting.

It is my sincere hope that these Proposed PAC/TAC Procedures with the suggested modifications will allow the PAC and TAC to accomplish their primary objectives, without further hindrance on administrative and procedural matters.

Sincerely,

A handwritten signature in blue ink, appearing to read "Derek Hoffman", with a stylized flourish at the end.

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

DRH:mdd

Enclosure: Proposed PAC/TAC Procedures (redline)

cc: Water Resources Manager
Client

² For simplicity, changes to formatting (e.g. spacing) are not shown in redline.

DRAFT

INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

PAC/TAC MEETING PROCEDURES

General

1. All meetings are "Brown Act" meetings
2. Key Brown Act requirements include:
 - a. All meetings shall be open/public and allow for public comment
 - b. Reasonable regulations can be adopted (i.e. time limits for particular issues and/or individual speakers)
 - c. Regular Meeting Notices and Agendas released/posted to public at least 72 hours in advance of meeting. Supporting materials for Meeting Agenda items released/posted to public as soon as reasonably practicable prior to Meeting.
 - d. Quorum is required to take any Action (defined as collective decision/promise/commitment/vote made by a majority of the members)
 - e. Action may only be taken on Agenda items clearly identified for "Action" unless:
 - i. 2/3 vote that a need for Action came to the attention of the agency subsequent to the Agenda being posted
 - ii. Majority vote that an emergency situation exists
 - iii. The Action item was previously posted on an Agenda for a meeting not more than five (5) calendar days prior to the date of Action and the prior meeting item was continued to the meeting at which Action is taken
 - f. Meeting minutes must be prepared and released/posted to the public. Meeting minutes shall include all written correspondence directed to standing committees regarding matters on standing committee meeting Agendas.
 - g. Meeting Notices for Special Meeting Notices and Agendas released/posted to public at least 24 hours in advance of meeting. Supporting materials for Special Meeting Agenda items released/posted to public as soon as reasonably practicable prior to Meeting.
 - a. Notices for Special Meetings during an emergency situation released/posted one hour prior to the emergency meeting (or at the time that the legislative body is notified in the case of a verifiable dire emergency)

General Policies Consistent with both PAC/TAC Agendas

1. The PAC/TAC Chairperson and Vice Chairperson shall be responsible for preparing the "First Draft" of each Agenda, using appropriate IWVGA PAC/TAC letterhead, with "Draft" clearly shown.
2. The PAC/TAC Chairperson and Vice Chairperson may consult with the Water Resources Manager (WRM) before preparing the "First Draft".

3. The "First Draft" shall be prepared and forwarded to WRM not less than ~~ten fourteen (1410)~~ calendar days before a regularly scheduled meeting.
4. The WRM shall review and revise Draft Agendas as appropriate, and forward the "Draft Final" Agenda(s) to the Authority staff (Board Chairperson and Vice Chairperson, General Manager, and appropriate legal counsels) and to the PAC/TAC Chairperson and Vice Chairperson for final review.
5. The WRM shall forward the "Draft Final" Agenda(s) to the PAC/TAC within ~~ten-seven (710)~~ calendar days of a scheduled PAC/TAC meeting.
6. All comments to the PAC/TAC "Draft Final" Agenda(s) shall be provided to the PAC/TAC Chairperson and Vice Chairperson within ~~six-five (65)~~ calendar days of a scheduled PAC/TAC meeting.
7. The PAC/TAC Chairperson shall release/post the Final Agenda(s) as soon as possible, and within the Brown Act requirements.

General Policies Consistent with both PAC/TAC Minutes

1. The PAC/TAC Draft Minutes shall be prepared by the PAC/TAC Chairperson (or appropriate appointee) within five (5) calendar days ~~following of~~ each PAC/TAC meeting and distributed for review and comment to the Authority staff (Board Chairperson and Vice Chairperson, General Manager and legal counsels) and to the WRM and PAC/TAC Vice Chairperson.
2. Any and all comments to Draft Minutes shall be provided to the PAC/TAC Chairperson and Vice Chairperson within three (3) calendar days of receipt.
3. ~~PAC/TAC Draft Minutes shall be The PAC/TAC Chairperson shall finalize the Minutes and released/posted Final Minutes~~ in the same manner as the Agendas, and presented to the PAC/TAC for approval as an Action item at the following PAC/TAC Meeting. If changes to the PAC/TAC Draft Minutes are requested, the Draft Minutes shall be revised and presented for approval at the next PAC/TAC meeting in accordance with these procedures.
4. Once PAC/TAC Draft Minutes are approved, The the PAC/TAC Chairperson shall ~~endeavor to~~ release and post Final Minutes within ~~ten-three (103)~~ calendar days ~~following a PAC/TAC meeting~~.

Supporting Bylaws

1. Purpose of Standing Committees (Article 5.1): The Board may establish standing committees for the purpose of making recommendations to the Board on the various activities of the Authority.
2. Regular Meetings (Article 5.2): The Board shall, in consultation with the committee members, establish a time and provide a place for regular meetings of any standing committee.
3. Special Meetings (Article 5.2) The Board Chairperson may call a special meeting of a standing committee as the need arises. The Standing Committee's chairperson, vice chairperson, or three members may make the request to the Board for calling a special meeting.
4. Quorum (Article 5.2): A quorum of a committee shall be a majority of the appointed committee members that hold a vote. No meeting of a standing committee shall occur without the attendance of a quorum of its committee members.
5. Rules of Order (Article 5.2): All rules of order, not otherwise provided for in the

Bylaws, shall be determined in accordance with "Robert's Rules of Order"

6. PAC (Article 5.5): The PAC is the primary advisory body to the Board on all policy-related matters of the Board that are appropriate for the PAC input. The Board shall provide tasks to the PAC and the PAC shall report directly to the Board.
7. TAC (Article 5.11): The TAC is established to assist the Water Resources Manager in the preparation of the GSP and will work collaboratively with other committees of the Board.
8. Minutes/Voting (Article 5.2): The voting on all matters of standing committees shall be reported on the minutes and accomplished in a manner that readily signifies the action taken and the vote or abstention on that action of each member present for the action.
9. Website Policy (Article 8.6): The Authority shall establish a public website where all pertinent documentation, not specifically protected by law, may be openly inspected by the public including all agendas, minutes, resolutions, and ordinances of the Board and its standing committees; all public written briefings, presentations, and correspondence of the Board and its standing committees; and all public financial and technical reports that are not protected by law.

EXHIBIT 29

June 20, 2018

VIA ELECTRONIC MAIL

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

Re: *IWVGA June 21, 2018 Board Meeting – Meadowbrook Dairy Comment Letter on
Agenda Items 10 and 11 Regarding PAC/TAC Procedures and TAC Report*

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") regarding Item 10 ["Review of Protocol for TAC Meetings"] and Item 11 ["Report from Technical Advisory Committee (TAC)"] of the agenda for the June 21, 2018 IWVGA Board meeting.

Specifically:

- We object to the TAC Report Item 11 because it fails to accurately and adequately report to the Board regarding discussions, actions and outcomes of the May 31, 2018 TAC meeting. The TAC Report fails to report to the Board that the TAC **unanimously** approved the "Proposed PAC/TAC Procedures" that were attached to my letter dated May 30th, and directed that those Proposed PAC/TAC Procedures be presented to the Board. The TAC Report fails even to mention those Proposed PAC/TAC Procedures or my May 30th letter. Consequently, enclosed is a copy of my May 30th letter and the Proposed PAC/TAC Procedures, which we request be included in the record.
- As stated in the May 30th letter, the TAC and PAC have been forced to grapple with procedural and administrative issues for well over one year now that have hindered their ability to focus on their primary objectives. The Proposed PAC/TAC Procedures contain minor revisions to a version **drafted by IWVGA's General Counsel**, and are **intended to remove and resolve those procedural and administrative obstacles**.

Indian Wells Valley Groundwater Authority

Re: IWVGA June 21, 2018 Board Meeting – Meadowbrook Dairy Comment Letter on
Agenda Items 10 and 11 Regarding PAC/TAC Procedures and TAC Report

June 20, 2018

Page 2

- The Staff Memorandum (“Staff Memo”) prepared for Item 10 regarding “Protocol for TAC Meetings” does not resolve or remove those obstacles. Instead, the Staff Memo advances an increasingly apparent objective to minimize the TAC and its role as a Standing Advisory Committee to the Board. The Staff Memo contains a strained analysis of the IWVGA Bylaws in order to erroneously conclude that the TAC does not keep minutes or vote on action items. These erroneous conclusions directly contradict the Bylaws, which clearly provide in Section 5.2. that **the voting on all matters of standing committees shall be reported on the minutes and accomplished in a manner that readily signifies the action taken and the vote or abstention on that action of each member present for the action.**
- The Staff Memo erroneously concludes that instead of **voting on matters of standing committees** and reporting that voting in the minutes as written in the Bylaws, the TAC instead should “act through ‘consensus.’” But by this logic, the PAC would not vote either, because Section 5.9 also states that “[t]he PAC shall *strive for consensus* in all of its decision-making, particularly when crafting PAC Proposals.” In fact, the same language is included in Section 5.13 regarding the TAC, which states “[i]n the course of evaluating each draft technical element of the GSP, the TAC shall *strive for consensus* in preparing written recommendations to the Water Resources Manager.” **Surely, it cannot be the policy of this IWVGA that its only standing technical advisory committee, the TAC, does not vote or keep minutes of its meetings.** We also question why IWVGA’s General Counsel has suddenly taken this unusual position, after months of TAC meetings (and after many sets of TAC minutes that were approved unanimously by motion).
- At the May 2018 TAC Meeting, the TAC directed its chair to request that the Board provide personnel or resources to prepare written TAC meeting minutes. The TAC has already unanimously carried a motion that all comment letters to the TAC and WRM, and other TAC meeting materials, are to be included with TAC meeting minutes.

Indian Wells Valley Groundwater Authority

Re: IWVGA June 21, 2018 Board Meeting – Meadowbrook Dairy Comment Letter on
Agenda Items 10 and 11 Regarding PAC/TAC Procedures and TAC Report

June 20, 2018

Page 3

We therefore respectfully request that the Board:

1. Review and approve the Proposed PAC/TAC Meeting Procedures attached to my May 30th letter;
2. Confirm, with forceful clarity, that it is the policy of the IWVGA Board as stated in the Bylaws that both the PAC and the TAC may vote on action items and that written PAC/TAC meeting minutes shall be kept; and
3. Provide IWVGA resources and/or personnel to prepare written PAC and TAC meeting minutes in accordance with the Proposed PAC/TAC Procedures.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Derek Hoffman", with a stylized flourish at the end.

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

DRH:mdd

Encl: May 30, 2018 Letter to IWVGA Board, with Proposed PAC/TAC Procedures

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

Enclosure – May 30, 2018 Letter with Proposed
PAC/TAC Procedures

May 30, 2018

VIA ELECTRONIC MAIL

IWVGA Policy Advisory Committee and Technical Advisory Committee
c/o Clerk of the IWVGA Board and PAC/TAC Chairpersons

Re: *IWVGA PAC and TAC May 31, 2018 Meetings – Proposed PAC/TAC Procedures*

Dear PAC and TAC Members:

Both this Policy Advisory Committee ("PAC") and Technical Advisory Committee ("TAC") are standing committees of the Indian Wells Valley Groundwater Authority ("IWVGA"). The PAC and TAC were established over one year ago, and their respective memberships have been updated from time to time.

Since their formation, the PAC and perhaps more noticeably the TAC have, through no fault of their own, been forced to grapple with procedural and administrative issues that have hindered their ability to focus on their primary objectives. These committees (as well as the public) have often received extensive, substantive meeting agenda materials from the Water Resources Manager and IWVGA Staff less than 24 hours before PAC and TAC meetings, which deprives all interested parties of the ability to meaningfully participate in discussions of the agenda items at those meetings.

With many critical and substantive issues pertaining to sustainable management of the Indian Wells Valley Groundwater Basin to be addressed in the coming months, the PAC and TAC need to be able to adhere to clear and consistently followed generally accepted administrative policies and procedures.

On October 12, 2017, IWVGA General Counsel Phill Hall provided the PAC and TAC (as they were walking into their combined PAC/TAC meeting that day), through the Water Resources Manager, a document entitled, "Draft Indian Wells Valley Groundwater Authority PAC/TAC Meeting Procedures." As stated by General Counsel Hall, the "Supporting Bylaws" for those draft procedures include the following recitations:

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At the April 2018 TAC meeting, many TAC members were understandably surprised when they were told by the Water Resources Manager that they were *not allowed to vote to approve their own meeting minutes*. After being pressed for the reasoning behind that position, the Water Resources Manager indicated that he was relaying General Counsel Hall’s view that TAC Members “do not vote on anything” and instead “strive for consensus.” This position, however, is totally inconsistent with: (1) the Bylaws quoted by General Counsel Hall in the list above; (2) the fact that the PAC and TAC both have voting and non-voting members as evidenced in the several IWVGA Board Resolutions establishing and updating TAC and PAC membership that delineate between voting and non-voting members¹; and (3) the fact that the PAC and TAC can still strive to act by consensus pursuant to Bylaws Sections 5.9 and 5.13 on issues not requiring a vote.

¹ Notably, IWVGA Resolution 01-18 (which was drafted by General Counsel Hall and distributed to the public less than 24 hours before the March IWVGA Board Meeting and included as a “Consent Agenda” item for that meeting) does not resolve these issues. In fact, that resolution expressly states that it “does not in any way modify the Bylaws”.

Indian Wells Valley Groundwater Authority

Re: IWVGA PAC and TAC May 31, 2018 Meetings – Proposed PAC/TAC Procedures

May 30, 2018

Page 3

Enclosed for the consideration of the PAC and TAC Members, is a redline document showing proposed substantive changes to General Counsel Hall's October 12, 2017 draft Proposed PAC/TAC Procedures.²

We request your support for the suggested changes to General Counsel Hall's Proposed PAC/TAC Procedures and ask you to direct your PAC and TAC Chairpersons to request that the IWVGA Board approve the Proposed PAC/TAC Procedures at the next (or soonest possible) IWVGA Board meeting.

It is my sincere hope that these Proposed PAC/TAC Procedures with the suggested modifications will allow the PAC and TAC to accomplish their primary objectives, without further hindrance on administrative and procedural matters.

Sincerely,

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

DRH:mdd

Enclosure: Proposed PAC/TAC Procedures (redline)

cc: Water Resources Manager
Client

² For simplicity, changes to formatting (e.g. spacing) are not shown in redline.

DRAFT

INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

PAC/TAC MEETING PROCEDURES

General

1. All meetings are "Brown Act" meetings
2. Key Brown Act requirements include:
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 - a. ~~Notices for Special Meetings~~ during an emergency situation released/posted one hour prior to the emergency meeting (or at the time that the legislative body is notified in the case of a verifiable dire emergency)

General Policies Consistent with both PAC/TAC Agendas

1. The PAC/TAC Chairperson and Vice Chairperson shall be responsible for preparing the "First Draft" of each Agenda, using appropriate IWVGA PAC/TAC letterhead, with "Draft" clearly shown.
2. The PAC/TAC Chairperson and Vice Chairperson may consult with the Water Resources Manager (WRM) before preparing the "First Draft".

3. The "First Draft" shall be prepared and forwarded to WRM not less than ~~ten~~ fourteen (14) calendar days before a regularly scheduled meeting.
4. The WRM shall review and revise Draft Agendas as appropriate, and forward the "Draft Final" Agenda(s) to the Authority staff (Board Chairperson and Vice Chairperson, General Manager, and appropriate legal counsels) and to the PAC/TAC Chairperson and Vice Chairperson for final review.
5. The WRM shall forward the "Draft Final" Agenda(s) to the PAC/TAC within ~~ten-seven~~ (7) calendar days of a scheduled PAC/TAC meeting.
6. All comments to the PAC/TAC "Draft Final" Agenda(s) shall be provided to the PAC/TAC Chairperson and Vice Chairperson within ~~six-five~~ (6) calendar days of a scheduled PAC/TAC meeting.
7. The PAC/TAC Chairperson shall release/post the Final Agenda(s) as soon as possible, and within the Brown Act requirements.

General Policies Consistent with both PAC/TAC Minutes

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2. Any and all comments to Draft Minutes shall be provided to the PAC/TAC Chairperson and Vice Chairperson within three (3) calendar days of receipt.
3. ~~PAC/TAC Draft Minutes shall be The PAC/TAC Chairperson shall finalize the Minutes and released/posted Final Minutes~~ in the same manner as the Agendas, and presented to the PAC/TAC for approval as an Action item at the following PAC/TAC Meeting. If changes to the PAC/TAC Draft Minutes are requested, the Draft Minutes shall be revised and presented for approval at the next PAC/TAC meeting in accordance with these procedures.
4. Once PAC/TAC Draft Minutes are approved, The the PAC/TAC Chairperson shall ~~endeavor to~~ release and post Final Minutes within ~~ten-three~~ (10) calendar days ~~following a PAC/TAC meeting.~~

Supporting Bylaws

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3. Special Meetings (Article 5.2) The Board Chairperson may call a special meeting of a standing committee as the need arises. The Standing Committee's chairperson, vice chairperson, or three members may make the request to the Board for calling a special meeting.
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6. PAC (Article 5.5): The PAC is the primary advisory body to the Board on all policy-related matters of the Board that are appropriate for the PAC input. The Board shall provide tasks to the PAC and the PAC shall report directly to the Board.
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EXHIBIT 30

August 6, 2019

VIA ELECTRONIC MAIL

IWVGA Policy Advisory Committee
c/o Clerk of the IWVGA Board
500 W Ridgecrest Blvd, Ridgecrest, CA 93555

Re: Meadowbrook Dairy Comments on PAC Task
Questions for August 7, 2019 Special PAC Meeting

Dear IWVGA PAC Members:

This letter is being written on behalf of our firm's client, Meadowbrook Dairy ("Meadowbrook"). The purpose of the letter is to provide comments on the "IWVGA Board Tasked Policy Questions, Discussion and Issues Regarding Management Action Modeling Scenario 6, Continued from August 1st PAC Agenda Item 5," which is agenda Item 3 of the August 7, 2019 Special Meeting of the Indian Wells Valley Groundwater Authority ("IWVGA") Policy Advisory Committee ("PAC").

Meadowbrook appreciates the opportunity to comment on Model Scenario 6, to the extent presented (i.e., without the underlying assumptions). To briefly summarize this letter, we first offer several concerns and questions regarding Model Scenario 6 and request that responses be provided promptly by the IWVGA. We also offer constructive suggestions to improve Model Scenario 6 that, if incorporated, could potentially make Model Scenario 6 acceptable to Meadowbrook, subject to further evaluation and discussion, and while reserving all rights and privileges.

Meadowbrook Background

Meadowbrook has produced groundwater for reasonable and beneficial purposes on its properties overlying the Indian Wells Valley Groundwater Basin ("Basin") for decades. The combination of Meadowbrook's history of continuous production, the magnitude of its production, and its business plans to continue operating into the

IWVGA PAC

Re: *Meadowbrook Dairy Comments on PAC Task Questions for
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future, distinguish Meadowbrook from other agricultural and most other water users in the Basin. SGMA requires a GSA to consider the interests of all beneficial uses and users of groundwater, specifically holders of overlying groundwater rights such as agricultural users including farmers, ranchers and dairy professionals. (Water Code § 10723.2.) SGMA expressly does not authorize a GSA to determine or alter water rights. (Water Code § 10720.5)

Meadowbrook long evidenced its desire to participate in achieving long-term Basin sustainability. To that end, Meadowbrook has provided technical expertise to the TAC through its hydrogeologist, has participated for several years through the PAC, TAC and IWVGA Board meetings, and has provided data and information for the GSP through the Water Resources Manager. Meadowbrook has also verbally commented and submitted many letters into the public record.

Meadowbrook remains willing to consider a reasonable and substantial reduction in its groundwater production to help achieve sustainability as long-term participant in the Basin; provided, that such reduction is premised upon a fair, equitable, and legally- and technically-supportable GSP. Meadowbrook is already testing alternative crops that will require less water than alfalfa.

The IWVGA's objective should be to achieve Basin sustainability through projects and management actions that are designed to avoid undesirable results based on best available science and information, and not to simply eradicate Meadowbrook. SGMA requires achieving sustainability within a 20-year timeframe. The GSP must first clearly understand and identify the Basin's needs; and then, work to address them within that timeframe.

PAC Task Questions

This letter addresses PAC Task Questions "A" and "B" which read as follows:

PAC Task Question "A": "How much water should be allocated to the Ag/Industrial Pool? Is 63,836 AF the right volume? In essence, how much 'mining' of the basin should the IWVGA allow by non-M&I pumpers? Recall that more water 'mined' from the basin results in additional potential impacts to shallow wells that will need to be addressed. Should a portion of the Ag/Industrial Pool be 'ear marked' for dust mitigation?

PAC Task Question “B”: “How should the Ag/Industrial Pool be allocated to eligible pumpers? On the basis of each producer’s lowest water use during the 2010 through 2014 calculation period or by the percentage of acreage farmed by each producer during the calculation period? Using acreage is an equitable way of correlating water among overlying users. Allocations based on pumping during the calculation period based on the concept of self-help during a prescriptive period. Other thoughts on factors the Authority Board should consider?”

Meadowbrook Comments Responsive to PAC Task Questions

Comment No. 1: Incorporating Comments from August 1, 2019 PAC and TAC Meetings.

Meadowbrook received the PAC Task Questions just moments after the August 1 PAC meeting began. Meadowbrook representatives made several comments on the record at that meeting, which are incorporated again here by reference.

Comment No. 2: Meadowbrook Is Entitled to and Should Hold a Permanent Allocation of Groundwater Production in Any Allocation Framework Considered by the IWVGA.

As detailed further below, Modeling Scenario 6 appears to be based on primary assumptions that Meadowbrook will cease operating in the Basin, and that the Indian Wells Valley Water District will then produce the same or a similar quantity of groundwater that Meadowbrook has been producing, using Meadowbrook’s wells. Put simply, Model Scenario 6 appears to reveal a plan to first take Meadowbrook’s water rights by capping Meadowbrook’s production and requiring it to cease operating, and then “take” its groundwater wells. Enclosed as Attachment “A” is a copy of the May 29, 2019 invoice of Appraiser Lynne Rickard that the IWVGA approved for payment at the June 20, 2019 IWVGA Board Meeting, which is described as “Restricted Appraisal Report, 1,554.69 Acres, Irrigated & Unirrigated Land, Kern County, CA.” Meadowbrook objects to any taking of its water rights, land, wells and other property.

As an overlying user with historic, continuous groundwater production, Meadowbrook is entitled to and should hold a permanent allocation of groundwater in any allocation framework considered by the IWVGA. Both SGMA and California groundwater rights law militate against the proposed allocation scheme that protects

the “Domestic Group” while simultaneously eliminating agricultural and industrial producers.

Comment No. 3: The PAC Task Questions Are Predicated Upon Improper and Unexplained Premises.

The PAC Task Questions are written in a way that assumes, without explanation, that “Ag/Industrial” aka “Non-Domestic” groundwater producers (that are also confusingly referenced as “Non-M&I”) should be deprioritized in the proposed groundwater allocation scheme. For example, the “Domestic Group” members are not required to reduce groundwater pumping (with the exception of the City of Ridgecrest that would use recycled water when available), whereas the Non-Domestic Group is required to cease production altogether at some point in the future. Similarly, the PAC Task Questions implicitly describe the Domestic Group as producers of groundwater whereas the Non-Domestic Group is pejoratively labeled as “mining” the basin.

If the IWVGA’s primary concern is “loss of storage,” then it seems that all producers should be required to reduce production, not just a targeted group of pumpers. If the IWVGA is concerned with impacts to shallow wells, then the IWVGA should explain why it assumes only Non-Domestic Group production threatens those wells and why Domestic Group production does not. The data and evidence presented to date negates those assumptions. SGMA and groundwater rights law also militate against these assumptions.

Comment No. 4: The IWVGA Should List, Describe and Explain All Assumptions Used for Model Scenario 6.

The PAC cannot provide meaningful input on any modeling scenario that was developed, directed, discussed, and deployed exclusively in closed session meetings of the IWVGA Board. The PAC must be informed of and must clearly understand the detail of the assumptions on which Modeling Scenario 6 is based. At the August 1, 2019 TAC and PAC meetings, Meadowbrook requested that all assumptions for Modeling Scenario 6 be provided to the PAC prior to the August 7 Special PAC meeting. No such assumptions were provided with the agenda packet for the August 7 Special Meeting. Meadowbrook again requests that the assumptions for Modeling Scenario 6 be detailed and provided promptly to the PAC, the TAC and the public.

The need for transparency was acutely demonstrated at the August 1 PAC meeting. At that meeting, the Water Resources Manager representative revealed—when directly

asked— that the “pumping location optimization” component of Model Scenario 6 is based on the assumptions that the Meadowbrook will “use up” its storage allocation, cease operating in the Basin, and that the IWVWD will begin pumping at least 3,000 AFY, and then more in the future, from existing groundwater wells in the North Brown Road area, including Meadowbrook’s existing groundwater wells. In other words, Modeling Scenario 6 is premised upon an assumption that Meadowbrook’s water rights, and then its wells and land, will be taken without just compensation and due process. The IWVGA has not indicated the means by which that taking will occur. This is a critical and obviously controversial and objectionable assumption.

The IWVGA and Water Resources Manager must answer many other questions regarding the Model Scenario 6 assumptions, including but not limited to:

- Which groundwater wells the Water District or any other entity plans to utilize in the North Brown Road area in Modeling Scenario 6?
- Which wells cease operating, and when, under Modeling Scenario 6?
- Which wells continue operating, and at what levels of groundwater production, under Modeling Scenario 6?
- How much groundwater is in storage in the Basin? Preliminary estimates stated by the Water Resources Manager have ranged from approximately 1 million to nearly 2.5 million acre feet. Establishing a clear statement of total available groundwater in storage based upon best available science and information is essential to establishing a numerical minimum threshold for loss of storage as a sustainability indicator under SGMA and the DWR Regulations and Best Management Practices. In any event, the total proposed 63,836 acre-feet assigned to the Non-Domestic “pool” represents a mere fraction of the total groundwater in storage, and is unacceptably low.
- How much usable groundwater is in storage in the Basin? Does the Water Resources Manager and the IWVGA deem all usable water usable for all purposes, or does it consider that some water will be usable for some purposes (e.g. industrial) and not others (e.g. domestic)?
- Does the IWVGA seek to *raise* water levels and storage over time, or does it seek to maintain certain levels in manner that reasonably considers all relevant factors,

including economic factors. This issue pertains to establishing appropriate Sustainable Management Criteria.

- What are the cost, quantity and timing assumptions for bringing supplemental water into the Basin? Capitol Core was scheduled to produce a technical memorandum to the Board by July 31, 2019. Capitol Core's directives were, we understand, also developed, directed, discussed, and deployed in closed session meetings of the IWVGA Board. Meadowbrook requests again that the Capitol Core technical memorandum be promptly provided to the PAC, the TAC and the public.
- Will the "Non-Domestic Group" be required to pay pumping fees to fund bringing supplemental water supplies into the Basin, including infrastructure costs?

Additionally, the TAC has not been given an opportunity to review and vet the technical assumptions underlying Model Scenario 6 or the concerns raised at the August 1 TAC meeting. This is not consistent with the IWVGA Bylaws which state that the TAC "will assist the Water Resources Manager in the preparation of the GSP and will work collaboratively with other committees of the Board." (Bylaws, Section 5.11.) The Bylaws also require that "The Water Resources Manager shall attend and set the agenda of each TAC meeting so that each technical element of the GSP is presented to the TAC, in draft, to afford the TAC a reasonable opportunity to review and conduct a thorough evaluation prior to finalization of that technical element." Model Scenario 6 (as well as 3, 4 and 5) were not developed in accordance with the IWVGA Bylaws.

The assumptions for Modeling Scenario 6 should be set forth in detail and promptly provided to the TAC, PAC and the public. Meadowbrook reserves the right to comment further on Modeling Scenario 6 once those assumptions have been presented and Meadowbrook has been afforded an adequate opportunity for review and consideration.

Comment No. 5: The PAC Task Questions Are Not Appropriate Policy Questions—They Are Technical and Legal Questions.

As indicated above, evaluating Modeling Scenario 6 first requires transparency and understanding of the technical assumptions on which it is based. The PAC Task Questions also require an understanding of water rights law and principles. Asking the PAC members, none of whom are attorneys, to opine for example on whether

allocations should be based upon principles of correlative rights, prescriptive rights and self-help, or some other legal premise, invites comments and positions from members who may not have a sufficient legal understanding of those principles.

Additionally, the IWVGA should explain the legal assumptions upon which other aspects of Modeling Scenario 6 is based, including:

- Why are all Domestic Group producers exempt from reducing production? Why aren't the Domestic Group producers considered to be "mining" the basin?
- Is Modeling Scenario 6 based upon the same untested theory of an "extended federal reserved water right" that Model Scenario 4 was tenuously based upon? If so, what is the legal basis for extending federal reserved water rights to production located outside of the Navy base? What is the legal basis for extending federal reserved water rights to producers other than the Navy, such as in the form of limiting ramp down for other producers? What is the legal basis for asserting an expanded federal reserved water right if the Navy "expands the base" as has been described by the Water Resources Manager and members of the IWVGA Board? What does the IWVGA consider the Navy's "primary purpose" and "secondary purpose(s)" to be in the context of United States Supreme Court case law and other appellate authorities regarding federal reserved water rights? Is not the Navy's primary purpose with respect to NAWs the development and testing of weapons, and a secondary purpose (which would be subject to state law including SGMA) the training for the use of such weapons? What is the legal basis or document that the IWVGA deems supporting a Navy primary purpose that would include providing domestic water supply into perpetuity both on and off the base for an unlimited and undefined population?
- As stated at both the June 27 PAC Meeting and the August 1 PAC and TAC meetings, Meadowbrook was not a signatory to the 2014 "Farmer's Letter". Someone other than Meadowbrook inscribed an acreage estimate onto the annotated letter that was presented to the PAC. Meadowbrook's acreage under cultivation is higher than the 890 acres that was handwritten onto that document and included in the Table 1 summary for Model Scenario 6.
- Regarding PAC Task Question "B" regarding legal principles for allocation methodologies, the IWVGA lacks important production information for several of the listed entities, which information may be provided through the pending Groundwater Well Registration Ordinance. It would be helpful to consider this

question once that information is available for consideration. In either view, Meadowbrook is entitled to and should receive a permanent allocation.

Comment No. 6: Sustainable Management Criteria Must Be Meaningfully Discussed and Considered as Required by SGMA.

SGMA requires achieving Basin sustainability, which means avoiding statutorily defined, significant and unreasonable undesirable results through implementation of projects and management actions. SGMA defines undesirable results as one or more of the following effects caused by groundwater conditions occurring throughout the basin:

- (1) Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon. Overdraft during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and groundwater recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.
- (2) Significant and unreasonable reduction of groundwater storage.
- (3) Significant and unreasonable seawater intrusion.
- (4) Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.
- (5) Significant and unreasonable land subsidence that substantially interferes with surface land uses.
- (6) Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.

(Water Code § 10721(x).)

For each of these undesirable results (except seawater intrusion), the IWVGA is legally required to evaluate and establish appropriate numerical sustainable management criteria based upon best available science and information.

The IWVGA's GSP development approach thus far has apparently focused on ways to eliminate private groundwater producers from the Basin, rather than evaluating and considering appropriate sustainable management criteria and identifying appropriate projects and management actions to avoid specific undesirable results and to achieve

specific interim milestones, measure objectives and a well-defined sustainability goal. By failing to meet SGMA's mandates, a GSP based upon Model Scenario 6 risks placing the Basin on a path to State Water Board intervention.

The California Department of Water Resources has issued a Best Management Practices ("BMP") specifically for establishing sustainable management criteria. Section 3 of that BMP identifies "Preliminary Activities" that must be completed before a GSA begins the process of developing sustainable management criteria. Those include, at a minimum:

- **"Understanding the Basin Setting.** A thorough understanding of the historical and current state of the basin is necessary before sustainable management criteria can be set. Much of this understanding is gained in the development of a hydrogeologic conceptual model, water budget, and description of groundwater conditions. For more information, see the Hydrogeologic Conceptual Model BMP, Water Budget BMP, and Modeling BMP." Currently, only a draft GSP Chapter 1, and partial draft GSP Chapter 3 have been presented to the PAC, TAC and public. TAC members submitted comments letters on partial draft Chapter 3 that were not circulated to the TAC, not discussed at the TAC meetings and not responded to by the WRM.
- **"Inventory Existing Monitoring Programs.** Minimum thresholds and measurable objectives are set at individual representative monitoring sites. GSAs should compile information from existing monitoring programs (e.g., number of wells and their construction details, which aquifers they monitor). As sustainable management criteria are set, monitoring networks may need to be expanded and updated beyond those used for existing, pre-SGMA monitoring programs. Additional information on monitoring networks is included in the Monitoring Networks and Identification of Data Gaps BMP." Currently, draft GSP Chapter 3 contains no content regarding the existing monitoring network.
- **"Engage Interested Parties within the Basin.** When setting sustainable management criteria, GSAs must consider the beneficial uses and users of groundwater in their basin. Consideration of the potential effects on beneficial uses and users underpin the minimum thresholds. GSAs must explain their decision-making processes and how public input was used in the development of their GSPs. There are specific SGMA requirements for GSAs to engage with interested parties within a basin. For more information about requirements of engagement,

refer to the Stakeholder Communication and Engagement Guidance Document.” The IWVGA’s development of modeling scenarios exclusively through closed session meetings contravenes SGMA’s requirements.

SGMA, the DWR GSP Regulations and Sustainable Management Criteria BMP include many other requirements for establishing sustainable management criteria.

Suggested Modifications to Model Scenario 6 for Consideration

Notwithstanding Meadowbrook’s serious concerns with Model Scenario 6, most of which are outlined above, it acknowledges and appreciates the efforts of the Water Resources Manager and the IWVGA’s Special Counsel in developing and considering creative management solutions for this particularly challenging Basin.

On behalf of Meadowbrook, we offer the following suggested modifications for the Board’s consideration in refining Modeling Scenario 6, and we remain willing to negotiate potential solutions toward achieving a consensus-based GSP:

- Eliminate the requirement that all Non-Domestic Group production of assigned pool volume cease by 2040.
- Incorporate permanent allocations to most Non-Domestic Group members, specifically including Meadowbrook. Such Non-Domestic Group members would hold both permanent allocations and also an assigned portion of the pool.
- Require reductions in Domestic Group production to occur over the sustainability timeframe. Imposing reductions to the Domestic Group increases the likelihood of a successful marketing of Non-Domestic Group water allocations.
- To the extent that Non-Domestic Group production is tied to a definable, limited amount of allowable loss of groundwater in storage, the Non-Domestic Group should also be entitled to priority use of demonstrable increases in groundwater in storage over time, such as for example, increases in actual annual natural recharge and increases in the *determination* of annual natural recharge derived through Basin monitoring and improved data and study.

On behalf of Meadowbrook, we appreciate the opportunity to comment on Model Scenario 6. We look forward to receiving input from the Board in response to the comments and questions raised in this letter and at the PAC and TAC meetings, and

IWVGA PAC

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we also look forward to achieving a collaboratively-established groundwater sustainability plan for the Basin.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Derek Hoffman", with a stylized flourish at the end.

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

DRH:mdd:mao

Enclosure

cc: Client
E. Teasdale

IWVGA PAC

Re: *Meadowbrook Dairy Comments on PAC Task Questions for
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ATTACHMENT "A"

LYNN E. RICKARD, ARA
P.O. Box 2234
BAKERSFIELD, CA 93303
(661) 328-9950
Fax: (661) 328-9950

May 29, 2019

Mr. James A. Worth
McMurtrey, Hartsock & Worth
2001 22nd Street, Suite 100
Bakersfield, CA 93301

RE: Meadowbrook Ranch

APPRAISAL

File 19-1580

Restricted Appraisal Report, 1,554.69 Acres, Irrigated & Unirrigated Land, Kern County, CA

Appraisal Fee

\$2,000.00

Tax I.D. #545-68-8747

THANK YOU

Terms: Due Upon Receipt

EXHIBIT 31

October 15, 2019

VIA ELECTRONIC MAIL

IWVGA Board, PAC and TAC Members
IWVGA Water Resources Manager
c/o Clerk of the IWVGA Board

Re: *Meadowbrook Comments – GSP Draft Sustainability Goal Language*

Dear Mr. Johnson, Board and PAC/TAC Members:

On behalf of our client, Meadowbrook Dairy, we offer the following preliminary comments on the document that was distributed at the October 3, 2019 PAC and TAC meetings, entitled, "Draft GSP Text Section 4.2 Sustainability Goal" ("Draft Sustainability Goal"). Because only partial and incomplete portions of GSP-related materials have been provided to the PAC, TAC and public to date, we reserve the right to comment further as the Groundwater Authority releases more complete information.

California Water Code Section 10723.2 requires Groundwater Sustainability Agencies to consider the interests of all beneficial uses and users of groundwater, specifically including "holders of overlying groundwater rights including agricultural users, including farmers, ranchers and dairy professionals." The federal government, including the military and managers of federal lands, is also included in that list. The Draft Sustainability Goal, however, centers almost exclusively on the Navy's interests, and fails to consider the interests of other beneficial users and uses of groundwater. Not a single reference is made to agricultural users.

Instead, the Draft Sustainability Goal and related Groundwater Authority staff materials suggest an intention to eliminate agricultural users entirely from the basin. At the October 3rd PAC and TAC meetings, a document was distributed to the PAC and TAC entitled, "Introduction to Sustainable Yield Allocation Chart." Strangely, the identity of the author was not revealed at that meeting. The document, without citation to any supporting legal authority, proposes to allocate nearly the entire Groundwater Authority estimated annual basin recharge to the Navy, and relegate all agricultural water users including Meadowbrook to an unidentified and unquantified

IWVGA Board, PAC and TAC Members

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“Pool” that would require them to cease pumping once depleted. The allocation chart is based upon other unrevealed though highly questionable and untenable legal theories and factual assumptions. See Meadowbrook’s August 6, 2019 letter addressing similar issues in Model Scenario 6, and related concerns.

We emphasize that while Water Code Section 10726.2 authorizes a GSA to acquire real and personal property rights by grant, purchase, lease, contract, etc., or to provide for a program of *voluntary* fallowing of agricultural lands, it does *not* authorize a GSA to force agricultural fallowing or to take property rights without due process and just compensation.

Meadowbrook reiterates its longstanding objection to a Sustainability Goal and a GSP that proposes eradicating Meadowbrook from the Indian Wells Valley.

The Draft Sustainability Goal is also inconsistent with SGMA, DWR Regulations and DWR’s Sustainable Management Criteria Draft Best Management Practices document (“SMC BMP”). California Code of Regulations, Title 23 (“DWR Regulations”) Section 354.24, provides:

“Each Agency shall establish in its Plan a sustainability goal for the basin that culminates in the absence of undesirable results within 20 years of the applicable statutory deadline. The Plan shall include a description of the sustainability goal, including information from the basin setting used to establish the sustainability goal, a discussion of the measures that will be implemented to ensure that the basin will be operated within its sustainable yield, and an explanation of how the sustainability goal is likely to be achieved within 20 years of Plan implementation and is likely to be maintained through the planning and implementation horizon.”

A basin’s “sustainable yield” is intrinsically tied to avoiding specifically defined undesirable results. (Water Code § 10721(w) and (x).) Undesirable results must be established based upon specific, numerically defined sustainable management criteria. (DWR Regulations, §§ 354.22 to 354.30.) In a section entitled, “Role of Sustainable Yield Estimates in SGMA” in DWR’s SMC BMP, it states: “SGMA does not incorporate sustainable yield estimates directly into sustainable management criteria. *Basin-wide pumping within the sustainable yield estimate is neither a measure of, nor proof of, sustainability. Sustainability under SGMA is only demonstrated by avoiding undesirable results for the six sustainability indicators.*” (Emphasis added.)

The SMC BMP continues to state that “most of the sustainability goal can only be finalized after minimum thresholds and undesirable results have been defined, projects and management actions have been identified, and projected impact of those projects and management actions on groundwater conditions have been evaluated. Therefore, completion of the sustainability goal will likely be one of the final components of the GSP development.”

The development of the GSP for the Indian Wells Valley is inconsistent with these statutory, regulatory and best management practices provisions. The sustainable management criteria have not yet been established, or substantively discussed or vetted publicly by the TAC, PAC or the Board. Instead, the recently proposed minimum thresholds, interim milestones, and measurable objectives for many of the sustainability indicators presented by the Water Resources Manager at the October 3, 2019 PAC and TAC meetings generally reflect plotted points on a Model Scenario 6.2 model run that:

(1) is based upon numerous modeling assumptions that have never been released to the public despite many PAC-, TAC- and public member requests for that information;

(2) includes predetermined, hard-wired, vague and objectionable projects and management actions that have not been publicly approved by the Groundwater Authority and are based upon unsubstantiated legal theories (see Meadowbrook’s August 6, 2019 letter);

(3) is not based upon best available information and science; and

(4) does not address whether or how a set of defined projects and management actions will result in avoiding specifically defined undesirable results.

The development of sustainable management criteria for the Indian Wells Valley GSP requires significantly greater transparency, detail and data. DWR “may independently evaluate the appropriateness of model results relied upon by the Agency, and use that evaluation in the Department’s assessment of the Plan.” (Cal. Code Regs., tit. 23, § 352.4.) As indicated in this and prior letters, Meadowbrook objects to a GSP based principally upon Model Scenario 6, which proposes eradicating Meadowbrook.

IWVGA Board, PAC and TAC Members

Re: *Meadowbrook Comments – GSP Draft Sustainability Goal*

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Meadowbrook appreciates the opportunity to provide comments on the Draft Sustainability Goal. We look forward to receiving more complete GSP materials for review and evaluation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Derek Hoffman", is written over a light gray rectangular background.

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

DRH

cc: E. Teasdale
Client

EXHIBIT 32

MEADOWBROOK DAIRY

P.O. Box 1627, Inyokern, CA 93527

November 15, 2019

Mr. Steve Johnson
Indian Wells Valley Groundwater Authority Water Resources Manager
Mr. David Janiec, PAC Chair
PAC Members, c/o WRM

Re: Meadowbrook PAC Member Comments on November 4, 2019 Draft GSP

Dear Water Resources Manager, PAC Chair and Fellow PAC Members:

As a member of the IWVGA Policy Advisory Committee (“PAC”) representing Large Agriculture including Meadowbrook Dairy (“Meadowbrook”), please accept these preliminary comments on the November 4, 2019 Draft GSP (“Draft GSP”) prepared by the Water Resources Manager team (“WRM”). While we appreciate the opportunity to review the Draft GSP, we do wish to note that two weeks’ time is not sufficient for meaningful PAC and TAC review on a document that the WRM has taken many months to prepare. It is also not in keeping with the IWVGA’s commitment to provide PAC and TAC members meaningful participation in the development of the GSP.

General Comments

Several themes emerge in the Draft GSP: protect the Navy, eliminate agriculture, move pumping to force-fallowed areas, and impose incredible fees along the way. In many ways, the Draft GSP appears written to achieve pre-determined outcomes without sufficient regard to the technical, legal and practical considerations required by SGMA, the GSP Regulations and DWR’s Best Management Practices (“BMPs”) and Guidelines.

The PAC and TAC are supposed to work together as Advisory Committees to the Board. Policy and technical aspects of the GSP must be aligned. Many “policy” problems in the Draft GSP arise from severe technical issues, gaps and questions. For the benefit of PAC and TAC coordination in reviewing this letter, please also refer to the TAC Member comment letter on the Draft GSP that has been submitted by Eddy Teasdale of LSCE on behalf of Meadowbrook, and ensure that a copy of that letter is provided to the PAC Members.

Many of the Draft GSP Sections cross-reference or repeat information contained in other sections. Meadowbrook’s comments on individual sections apply to the Draft GSP as a whole. Meadowbrook reserves the right to comment further on the Draft GSP and subsequent drafts, and in response to comments offered by other PAC and TAC Members, the public, the IWVGA and its staff.

Section 1 – Introduction

- The Draft GSP does not indicate whether it intends to follow DWR's Best Management Practices. If it deviates from those BMPs, it should justify and explain the deviations.
- The opening paragraphs should be re-worded to avoid using conclusive language on issues that are based on currently incomplete data and information.
- The opening paragraphs emphasize Navy and domestic water users, and make no mention of agricultural interests.
- This section does not explain the IWVGA's decision to exclude mutual water companies from the Joint Powers Authority.
- This section does not detail how the IWVGA sought to comply with its Community and Engagement Plan.

Section 2 – Plan Area

- Meadowbrook Dairy became a member of the Cooperative Group, which is not reflected in this text.
- The GSP identifies the Salt and Nutrient Management Plan but fails to detail of the findings, data and analysis of the SNMP.
- Discussion regarding "federal reserved water rights" is not necessary or relevant in this section. Why include it?
- The section on IWVGA fees should note that the \$30/acre fee is among the highest, if not the highest, GSP-development fee in California, notwithstanding the receipt of over \$1 million in grant funding. It should also note that the fee was imposed over the strenuous objection of many parties who submitted extensive comment letters into the record.
- Please see the LSCE Comment Letter for additional comments.

Section 3 – Basin Setting

- This section refers to the "GSP Guide" and many old studies, but provides very few if any citations to SGMA law or the GSP Regulations. The Section does not support compliance with those regulatory requirements.
- This section provides an interesting history of the Valley and cites several sources, but fails to state why those sources are deemed the best available science and information.
- SGMA does not require the basin to return to pre-development conditions. What is the intended purpose of describing history and water conditions dating back to the 1800s? What is the justification for describing "water budgets" dating back to the 1920s and how does that fit within the GSP regulatory requirements?
- What is the source of data for the text regarding SVM and the Navy? No citation is provided.
- What are the USGS and USBR records that have documented "water use in the IWV over the past 70 years"? When and to whom was that data provided?
- The Cooperative Group data for groundwater production beginning in 1970s is mostly estimates. Meadowbrook has submitted multiple comment letters seeking clarification on much of that data, which has not been adequately addressed. The use of such estimates for water budgets and other aspects of the GSP must be appropriately qualified.

- The emphasis on the Todd Report must be explained, since the Todd Report was generated for Kern County land use purposes, not SGMA planning purposes.
- The information on geology and hydrogeology is based primarily on reports dating back to 1960. As the GSP must be based upon the best available science and information, the Draft GSP should be revised utilizing the most sophisticated data, such as the SkyTEM project.
- The summary of only selected prior recharge studies does not explain the basis for that selection. All prior recharge studies should be listed and explained, including the USGS.
- Data for domestic groundwater well production is very limited as the text acknowledges, and WRM recently reports that only a handful of domestic well owners have registered their wells. The GSP must emphasize this important data gap, especially if the GSP uses “impacts on shallow wells” as a primary basis for establishing sustainable management criteria.
- No mention is made of Meadowbrook’s conservation efforts and reduced groundwater production in recent years as compared to its historical production. Rather, the GSP paints “Agricultural” groundwater use collectively as having recently expanded and that it is expected to expand further “unless restricted”.
- Groundwater production by the IWVWD for Navy staff that live off of the base is not any more relevant than IWVWD production for all of its customers. The only apparent purpose for including this language seems to be an attempt to support the IWVGA’s theory of an “extended” off-reservation federal reserved water right for the Navy. Meadowbrook and others have submitted multiple letters outlining the legal flaws in that theory.
- The “current water budget” inappropriately singles out trends in “agricultural water demands” and then, without explanation, describes a “current water budget” based on years 2011 to 2015. Those include some of the driest years on record in California. The Draft GSP does not explain why it deems that time period to be an appropriate “current water budget” or how it complies with GSP regulatory requirements.
- The Draft GSP frequently refers broadly to “pumping centers”, areas of “depression”, and areas of “declining water levels”. Using broad references fails to recognize unique subarea conditions, which can mislead the reader.
- The Draft GSP fails to consider and incorporate information and comments provided by Meadowbrook that indicate water levels and water quality at its production wells have shown stabilizing trends over recent years.
- The Draft GSP places extreme emphasis on avoiding “loss of storage” as a primary objective, but offers no current analysis of the amount of water in storage. Rather, it refers only to old studies and admittedly limited data. This is major flaw in the Draft GSP, especially where it intends to force agriculture into a “pool” of “temporary storage loss”. The GSP must use best available science and information.
- The Draft GSP’s use of the terms: “sustainable yield,” “Current Sustainable Yield,” and “Future Sustainable Yield” are confusing and are inconsistent with SGMA, the GSP Regulations and the GSP Best Management Practices. The Draft GSP conflates an “estimated long-term average natural recharge to the IWVGB” with “sustainable yield” and frequently refers to an objective of making “pumping equal to sustainable yield”. It estimates a “Future Sustainable Yield” which is not a defined term under SGMA or the GSP Regulations. The primary problem is that using a basin-wide average recharge estimate fails to meet the definitional requirement of “operating within the sustainable yield” which inherently requires avoiding specifically and locally defined, quantified, technically- and legally-supportable *undesirable results*. Meadowbrook has submitted

multiple letters to the IWVGA citing GSP regulatory requirements and DWR BMPs highlighting these and related issues, which have not been addressed.

- Where does the “Artificial Recharge” figure of 3,500AF come from? Who determined that would be an appropriate amount for the Basin?
- Why doesn’t the Draft GSP address PFOS/PFOA groundwater contamination on NAWS China Lake, which was recently reported as one of the highest contamination areas among all DOD facilities globally by orders of magnitude?
- As reflected in the Draft GSP Appendix, Model Scenario 6.2 was developed by the IWVGA Attorneys, the WRM and DRI in multiple iterations, all without any meaningful prior input from the PAC, TAC or the public. Model Scenario 6 results comprise the *foundation* for the Draft GSP’s sustainability goal, sustainable management criteria and projects and management actions. Detailed Model Scenario 6.2 assumptions have never been revealed to the PAC, TAC or the public. Meadowbrook has submitted multiple comments letters detailing the legal, technical, procedural and practical flaws in Model Scenario 6.2, which remain unresolved.
- Please see the LSCE Comment Letter for additional comments.

Section 4 – Sustainable Management Criteria

- Meadowbrook previously submitted written comments on the draft “Sustainability Goal” language, which comments have apparently been ignored. In short, California Water Code Section 10723.2 requires Groundwater Sustainability Agencies to consider the interests of all beneficial uses and users of groundwater, specifically including “holders of overlying groundwater rights including agricultural users, including farmers, ranchers and dairy professionals.” The federal government, including the military and managers of federal lands, is also included in that list. The Sustainability Goal, however, centers almost exclusively on the Navy’s interests, and fails to consider the interests of other beneficial users and uses of groundwater. Not a single reference is made to agricultural users. Instead, the Draft Sustainability Goal and related Groundwater Authority staff materials suggest an intention to eliminate agricultural users entirely from the basin.
- As detailed in prior Meadowbrook comment letters, the development process and substance of the draft Sustainable Management Criteria are fundamentally flawed. The Draft GSP compared a “baseline scenario” (that appears to not comply with DWR Regulations) against Model Scenario 6.2 results (based on admittedly incomplete data and pre-determined, baked-in projects and management actions designed to benefit selected groundwater users) and then identified “minimum thresholds,” “interim milestones” and “measurable objectives” as mere plotted points on the Modeling Scenario 6.2 results. Notably, Section 4 outlines the projects and management actions (in Model Scenario 6.2) that the IWVGA intends to pursue before establishing or describing the specific undesirable results are that those projects and managements are intended to avoid. DWR’s BMP and the GSP Regulations and SGMA require extensive public engagement and technical and policy considerations in developing sustainable management criteria. The Draft GSP falls short of those requirements.
- The Draft GSP fails to explain or justify, for example, how the proposed minimum threshold and measurable objective for loss of groundwater storage satisfies GSP regulatory requirements, where for example: (1) the Draft GSP admittedly relies on old and limited information on total storage; (2) current information and data indicates much more groundwater in storage than the figures listed in the Draft GSP; (3) the “potential shallow well impacts” are modeled estimates only and admittedly provide no information on specifically where in the Basin those impacts are, were or may occur; (4)

the Draft GSP and Model Scenario 6.2 do not include other potentially significant projects and storage supplies (e.g. El Paso); and (5) the sustainable management criteria are not justified according to specific monitoring sites.

- Assuming some shallow wells will be impacted and require mitigation, has the IWVGA considered that the cost of mitigating qualifying shallow well impacts might well be far less than the costs associated with the proposed projects and management actions that would attempt to eradicate tens if not hundreds of millions of dollars of agricultural property interests from the valley?
- The Draft GSP states that impacts to groundwater pumpers, land uses, and other interests within the IWVGB were considered when developing Minimum Thresholds. How so? By whom? How were Meadowbrook's interests considered, and other agricultural interests?
- How will the sustainable management criteria factor in the reports and analysis of other regulating agencies, such the Regional Water Quality Control Board's recently adopted Salt and Nutrient Management Plan?
- Model Scenario 6.2. results project that some sustainability indicators would not just stabilize but would increasing over time *beyond* the measurable objectives. This is an indication of unnecessarily aggressive restrictions under SGMA, considering the punitive impact on many private groundwater producers.
- One theme of the Draft GSP appears to be a desire to eradicate agriculture in order to accommodate potential, future expansion of Navy interests. What potential Navy expansion does the IWVGA contemplate? Under what timeline? Will the Navy agree to pay for the groundwater and water- and property-rights impacts of such an expansion?
- Please see the LSCE Comment Letter for additional comments.

Section 5 – Projects and Management Actions

- The projects and management actions described in this section follow Model Scenario 6.2, with minor changes. See the comments above regarding Meadowbrook's prior comment letters addressing Model Scenario 6.2 issues.
- The Draft GSP does not explain how imposition of an allocation framework will satisfy SGMA's requirements to avoid undesirable results.
- The "Sustainable Yield Allocation Chart" that the WRM presented to the PAC and TAC in October rendered Meadowbrook a "0" allocation to produce groundwater from the native yield and would force Meadowbrook into a temporary pool and eventually force Meadowbrook from the Basin entirely—without due process or just compensation. The allocation ordinance process described in this section indicates that the IWVGA will assign allocations based upon its evaluation of water rights, priorities and other factors. IWVGA attorneys have already indicated in the October "Sustainable Yield Allocation Chart" their position that the Navy has a federal reserved water right that could exceed the entire average basin recharge, citing the June 2019 letter from the Navy as a basis for that assertion. IWVGA counsel recently acknowledged that the claimed "extended" federal reserved water right concept is not based on established case law. How then, can any producer, especially Meadowbrook, expect to receive a fair, factual and legally-supported process and determination of an allocation for Meadowbrook when that determination will be based on recommendations made by the WRM and those attorneys who produced the October allocation chart?

- The discussion in this section regarding a Navy federal reserved water right and other water right priorities and interests is clearly a legal argument, and highlights the concern identified in the prior comment above.
- How would IWVGA member agencies that produce groundwater participate in the allocation ordinance process? Would it not be a conflict of interest for those agencies to make a determination of their own allocations?
- Does the IWVGA intend to recognize an allocation for the Navy in the amount of 2,041 AF? What is the justification for doing so when the June 2019 letter indicates a much lower current Navy demand on the base? Has the IWVGA ever questioned or objectively evaluated the merit of using that particular figure, or does the IWVGA intend to accept that figure without reservation?
- In any allocation process, Meadowbrook is entitled to and must receive a permanent allocation. Meadowbrook has already indicated many times a willingness to “ramp down”—even significantly—in order to achieve sustainability. Sustainability must be in accordance with SGMA, however, and not based upon politically or emotionally-driven decision making devoid of best available science and information.
- Where does the 51,000 AF figure for the “Transient Pool” come from? Who determined that figure? How does that figure fit within SGMA’s requirements to avoid undesirable results? Why was the figure reduced from prior “Transient Pool” numbers? What is the technical and legal basis for Kern County Counsel’s recent public comment that, if adjusted from Model Scenario 6.2., the Transient Pool figure would “only go lower”? If the Transient Pool is based upon an IWVGA evaluation of water rights principles, how can the IWVGA justify pre-determining a total amount of any party or group of party’s production allocation?
- The anticipation that imposing this management action will result in “rising groundwater levels” in certain areas, particularly North Brown Road, is evidence that the management action overreaches, especially where the cost of that action is the unlawful taking of extensive agricultural property and water rights.
- The Draft GSP should address CEQA implications.
- The Draft GSP should address how applications for new groundwater production will be addressed.
- Where does the figure \$9 million come from for the “Fallowing Program”? Is that figure in any way based upon the IWVGA’s prior appraisal of Meadowbrook property which was performed without prior notice to Meadowbrook (as stated in our prior letters)?
- Is \$9 million based on stripping Agriculture of production rights before “taking” the properties? Who has determined that \$9 million is adequate?
- Where does the figure \$19 million come from for “Dust Mitigation”? Why is dust mitigation more important and funded than fallowing?
- This Section cites repeatedly a SGMA provision authorizing a GSA to “perform any act necessary or proper” to implement SGMA and the GSP Regulations. That provision does not authorize a GSA to perform acts in violation of SGMA or the GSP Regulations. The Draft GSP cites very little legal support for many of the actions it intends to take, including imposing the allocation action.
- The Draft GSP identifies potential project capital costs in excess of \$320 million, and potential annual costs in excess of \$14 million. The Draft GSP provides very little detail on how those costs will be funded, including how they might impact the various beneficial users of groundwater.
- The Draft GSP indicates the IWVGA would pay for feasibility studies and infrastructure to fund SVM retrofitting to use recycled or brackish water. Where would those funds come from? Would the IWVGA use fees generated by private pumpers it seeks to eradicate from the Basin to fund

studies and projects specifically to benefit other private pumpers that it determines should not be eradicated? Would that not be a gift of public funds?

- Why doesn't the Draft GSP indicate a similar willingness on the part of the IWVGA to reach out to other private pumpers, like Meadowbrook, to discuss potential conservation measures, feasibility studies, and the use of potential alternative supplies?
- As Meadowbrook has previously indicated, the IWVGA should develop a shallow well mitigation plan based upon best available science and information, before considering imposing any significant pumping limitations. How, specifically, has or will Meadowbrook's groundwater production impair specific shallow wells, and when? The IWVGA has not and cannot answer this question. Yet, the IWVGA still proposes forcing Meadowbrook into a temporary pool and ultimately forcing it out of business, while requiring no conservation from the very well owners it intends to "protect" only to then move other large producers to the very place that Meadowbrook has operated for decades!
- The reference to "financial hardships" fails to acknowledge the economic impacts to agricultural users who stand to face tens if not hundreds of millions of dollars in impact that would result from the projects and management actions.
- Where does the figure \$23 million come from for "Pumping Optimization"?
- What is the estimated range of "Augmentation Fees"?
- Please see the LSCE Comment Letter for additional comments.

Section 6 – Implementation Plan

- The aggressive, prescriptive nature of the Draft GSP leaves little room for adaptive management as required by SGMA. How, for example, would the "allocation" action be adjusted when the IWVGA recognizes new and more accurate data that indicates long-term groundwater production by Meadowbrook does not cause undesirable results? How will the IWVGA adapt its projects and management actions if DWR does not approve the GSP on the basis that, for example, the sustainable management criteria are not technically supportable?
- Considering that the IWVGA has not responded in writing to any of Meadowbrook's prior comment letters, how will the IWVGA respond to this comment letter and subsequent letters on the Draft GSP?
- Please see the LSCE Comment Letter for additional comments.

Appendix

- The Appendix includes two comment letters previously submitted by the Navy. The Appendix contains none of the many detailed comment letters submitted by Meadowbrook and other parties.
- Please see the LSCE Comment Letter for additional comments.

Thank you for the opportunity to provide comments on the Draft GSP. We look forward to receiving, reviewing and providing comments on further drafts of the GSP.

Sincerely,

Ed Imsand
PAC Member – Large Agriculture

EXHIBIT 33

Department of the Navy

Summary of DoD Testing of Groundwater Monitoring Wells and Actions Taken where Results were above the EPA LHAs for PFOS/PFOA

Navy/USMC Installations where DoD Sampled Groundwater Monitoring Wells and Actions Taken where Results were Above the EPA LHAs ¹										
DoD Component ²	Installation	State/Territory	On-base Groundwater Monitoring Wells			Off-base Groundwater Monitoring Wells			Actions Taken as of August 31, 2017 ³	Key Actions Planned for FY 2018 and Beyond
			Total Number Sampled	Number that Tested above the EPA LHAs ¹	Range of Results above EPA LHAs (ppt)	Total Number Sampled	Number that Tested above the EPA LHAs ¹	Range of Results above EPA LHAs (ppt)		
Navy - BRAC	Agana	Guam	5	2	272 - 314	0	N/A	N/A	Sampling Performed	Notification of sampling results to property owner and/or regulatory stakeholders
Navy - BRAC	Alameda	California	30	16	112 - 336,000	0	N/A	N/A	Sampling Performed	Notification of sampling results to property owner and/or regulatory stakeholders
Navy - Active	Amchitka Alaska	Alaska	1	1	144	0	N/A	N/A	Sampling Performed	Continue CERCLA process
Navy - BRAC	Annapolis	Maryland	68	54	70 - 70,000	0	N/A	N/A	Sampling Performed	Continue CERCLA process
Navy - Active	Barrow	Alaska	5* (surface water)	5* (surface water)	143.6 -262.3	0	N/A	N/A	Sampling performed	Continue CERCLA process
Navy - Active	Bedford Massachusetts Naval Weapons Industrial Reserve Plant	Massachusetts	8	1	167	0	N/A	N/A	Initiated PA/SI	Continue CERCLA process
Navy - BRAC	Brunswick	Maine	139	70	71 - 24,000	0	N/A	N/A	Sampling to support basewide RI	Continue CERCLA process
Navy - Active	Calverton	New York	13	7	89 - 2700	0	N/A	N/A	Initiated PA/SI	Continue CERCLA process
Navy - Active	Chesapeake Beach	Maryland	18	Shallow GW: 9 Deep GW: 0	190 - 241,110	0	N/A	N/A	Initiated PA/SI	Continue CERCLA process
Navy - Active	China Lake	California	11	7	3,800 - 8,000,000	0	N/A	N/A	Initiated PA/SI	Continue CERCLA process
Navy - Active	Corpus Christi Texas Naval Air Station	Texas	14	4	229 - 510	0	N/A	N/A	Initiated PA/SI	Continue CERCLA process
Navy - Active	Cutler	Maine	19	4	161 - 350	0	N/A	N/A	Initiated PA/SI	Continue CERCLA process
Navy - BRAC	Dallas	Texas	22	16	70 - 1,247,000	0	N/A	N/A	Sampling Performed	Conduct Affected Property Assessment Report (APAR)

EXHIBIT 34



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MEMORANDUM

VIA ELECTRONIC MAIL

TO: David Janiec (david.janiec@chinalakealliance.org)
CC: Steve Johnson (stevej@stetsonengineers.com)
FROM: James L. Markman *JLM*
DATE: April 1, 2019
SUBJECT: Report from March 8 and March 29, 2019 Meetings on IWVGWA Allocation Plan

Again, this Report is intended to roughly reflect the subject matter of the meetings. All specific statements made at the meetings are understood to be privileged pursuant to California Evidence Code section 1152. No statement made was intended to constitute a final position to which a client may be ultimately tied. **Following is a list of concepts and issues raised which could be presented to the Authority Board for consideration.**

March 8 meeting

The meeting began with a description of feedback from various participants in the process, including PAC, TAC, Authority Board Members and interested members of the public, including the following:

1. **There were proposed bases which have been presented which would deprioritize agricultural production, including the purported priority of "Health and Safety" water, which presumably would include some amount of gallons per person per day which the District could serve with a first priority, the statutory priority of municipal and industrial water over agricultural water and the assertion that agricultural use of water in the Basin under present circumstances should not be considered a reasonable use of water.**
2. **The City of Ridgecrest has become established to perform the core role of facilitating the Navy Mission at the China Lake base, so that preserving a water priority for the District and others serving Navy employees for base operations should constitute the priority goal for the allocation plan.**

There then occurred discussion of the structures previously presented which assumed approximately 15,000 acre feet per year of supplemental water would be imported, that rampdown of production should seek to reach a level which includes that amount of water and fees would be charged on water production to cover the project costs and, ultimately, the imported water. Following are concerns raised about that structure:

1. Inyo County concerns about the derivation of LADWP water.
 2. The speculative nature of making the sustainability plan dependent on the arrival of the supplemental water.
 3. The question of who could afford the costs of the proposed assessments, particularly certain agriculture.
 4. The impact of the assessments on district ratepayers.
 5. Whether the level of certainty of the cash flow from assessments would be high enough to attract capital funds.
 6. The institutional question of which entity would be responsible, financially and physically to produce an imported water project.
3. There was discussion about the rampdown and transferability. Potential purchasers of water rights to maintain levels of pumping during rampdown included the District, Pistachio operations and Searles.

All parties were requested to reassess their positions on future production based on the issues identified above. The common law application of a prescriptive rights period then was discussed and Steve Johnson presented a rough calculation of what the parties' beginning production amounts would be. This discussion assumed a prescriptive period concluding with 2014. This was meant to very roughly describe an allocation based on assumed prescription and the exercise of self-help if litigation were to ensue.

The meeting then resumed prior considerations of a delay to commencement of rampdown of production (5 to 10 years was the period suggested). Steve Johnson indicated that one or more model runs would be needed to assess the potential damage to small wells which could be generated by this further mining of the Basin.

The following six general points were identified as a potential starting list of ultimate deal points:

1. Navy uses, inclusive of a proportion of a supplier's total service going to Base personnel would not be ramped down.
2. There would be a negotiated cap on increases to municipal water rates resulting from the implementation plan.
3. Rampdown would be deferred provided that there only would be near term impacts, which would be mitigated.
4. There would be a voluntary means for ag to transfer off of native groundwater by a specified end date.
5. Subject to 3., rampdown would get to Native Safe Yield and imported water would be paid for by the project beneficiary.
6. Administrative and mitigation fees would be assessed upon plan adoption and would be ongoing on each acre foot produced.

A written draft of these points will be circulated and refined.

March 29 meeting

Following are the discussions as reflected in my notes:

It was stated that the Authority Board desires options presented for its consideration of an allocation plan. One option will be calculation of base water rights (a starting point for most production) generated during a prescriptive period ending with 2014 which would establish prescriptive and self-help rights, excepting the application of other legal principals such as the priority of federal reserved rights, the application of those rights and, possibly, other legal concepts such as the statutory priority of Municipal and Industrial use and Agricultural use and the concept of which constitutes a reasonable beneficial use of the subject basin under present circumstances. Those concepts might be applied to protect water production by the district and others in proportion to the connections of ratepayers which include a person who works at the Naval Base. It was noted that agricultural uses would be very likely to be terminated by application of those principles relatively quickly, be bought out or be ramped down over an agreed period of time. There was a request made to agricultural producers to present an option with the most acceptable requests for delay in cutback and a following rampdown period to limit basin mining and harm to shallow wells. There was then a discussion over the concept of what constitutes an undesirable effect under the sustainability legislation. One question was whether more mining of the basin creates an undesirable result due to lost water

reserves or whether there needs to be an additional physical impact such as the need to repair or replace wells. This discussion consumed a significant amount of the meeting. The point was raised that if the damage to shallow wells could be mitigated by a reasonable amount compared to the economic damages to agricultural interests which would occur by a short period to reach a sustainable level, litigation might occur which would generate costs and the loss of time.

It was pointed out that the sustainability statutes allow reliance on an imported water supply and require that supply or its potential to be specified in the Implementation Plan. One response stated that the problem is presently identifying a viable project and a viable source of funding for the project and the purchase and the imported water.

There then occurred discussions concerning the financial feasibility of different operations generating different crops surviving in the basin and bearing either the rampdown or the costs of supplemental water. The agricultural representatives were encouraged to discuss this privately. It was emphasized that the group needs to generate the best possible option, particularly in asking for a delay in cutting production and in specifying the total rampdown period to reach sustainability. The agricultural representative agreed to engage in that discussion.

It was noted that even at the conclusion of a rampdown, with only the District, the City, the Navy and Searles pumping, approximately 4,000 acre feet of supplemental water would be needed to balance supply and production. Steve Johnson suggested a banking program might be achieved working with LADWP. He also stated that the parameters of the next model runs need to be done and are being delayed. It was suggested that following the discussion between the agricultural interests, the Model Ad Hoc group needs to take input and decide on model run parameters.

The next meeting is set to occur at Keith's office at 10:00 a.m. on April 11, 2019.

EXHIBIT 35



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

MAY 23 2014

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (INSTALLATIONS,
ENERGY AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE NAVY (ENERGY,
INSTALLATIONS AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE AIR FORCE
(INSTALLATIONS, ENVIRONMENT AND LOGISTICS)

SUBJECT: Water Rights and Water Resources Management on Department of Defense
Installations and Ranges in the United States and Territories

This policy seeks to ensure that the Department of Defense (DoD) has taken adequate measures to plan, prepare, and provide for an adequate water supply to meet mission needs. Increasing demand for water places stress on the same finite supplies of water that DoD installations depend on to fulfill their missions. In addition, the effects of a changing climate as well as near-term weather variability may exacerbate water shortages and make the management of water resources in the future more challenging. DoD must have a thorough understanding of its current and future water needs for each military installation. It is imperative that each installation and range collect and maintain information associated with its water rights, and that DoD plan and manage its water resources to ensure the sustainment of our mission and enhance our water security.

It is the policy of the DoD that each installation and range shall:

1. Locate and retain existing documentation of its water resources and rights;
2. Be prepared to assert and preserve its water rights under Federal and State law as is necessary to support the mission requirements; and
3. Identify, as needed, additional water quantities required to meet reasonably foreseeable mission requirements and water resources that may be available to fulfill the requirements.

To ensure consistent implementation of the above stated policy, I am directing that:

- a) Within six months of the issuance of this policy, Military Departments shall ensure that each installation has compiled a permanent record containing all existing documentation establishing its water rights.
- b) Within six months of the issuance of this policy, in those jurisdictions where water is officially allocated by a legal authority, Military Departments shall determine the amount of water used at each installation and range.
- c) Within one year of the issuance of this policy, Military Departments shall require each installation and range to identify its water sources (including both (1) water produced on-site from surface, ground, or alternative sources; and (2) water procured

from a third party, including the governmental entities and/or utilities that regulate or manage the water resources for the installation, as well as how those governmental entities and/or utilities define the water resources that they regulate or manage).

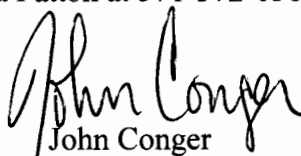
- d) Within two years of the issuance of this policy, Military Departments shall:
 - (1) identify what processes or procedures are in place to resolve conflicts between water requirements and availability, and
 - (2) identify the processes or procedures for prioritizing water usage at each installation and range during periods of scarcity.
- e) Within two years of the issuance of this policy, in those jurisdictions where water is officially allocated by a legal authority, Military Departments shall identify how much water is available to support the projected water usage at each installation and range.

Military Departments will submit a report to this office on the current state of their water rights and water resources annually, beginning one year after the issuance of this policy. This report should address the following topics: an assessment of the sufficiency of existing access to water to meet mission requirements; the state of documentation and efforts to assert and maintain their rights; and a current summary of all water rights and water resources conflicts and the basis of the conflicts. Military Departments should use this opportunity to identify gaps or discrepancies in information and establish requirements to fill those gaps.

Water rights involve the legal authority a facility or installation may have to use a type or category of water resource. Water resources may include both potable and non-potable water drawn from surface water, ground water, water purchased from a third party, and alternative water. Alternative water includes rainwater harvested on site, sump pump water harvesting, greywater, air cooling condensate, reject water from water purification systems, water reclaimed on site, and water derived from other water reuse strategies. Depending on the jurisdiction, some or all of these water resources may be subject to Federal or State agency control.

DoD installations and ranges are defined as a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the DoD, including military land withdrawals and Government Owned Contractor Operated facilities. This policy applies only to installations and ranges located within any of the continental States, Alaska, Hawaii, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. Such term does not include any leased facility or a facility used primarily for civil works, rivers and harbors projects, or flood control projects.

Thank you in advance for your support. If your staffs require more information regarding this policy, please contact Ms. Rebecca Patton at 571-372-6382 or elsa.r.patton.civ@mail.mil.

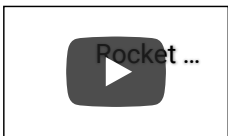


John Conger
Acting Deputy Under Secretary of Defense
(Installations & Environment)

EXHIBIT 36



- [Home](#)
- [City](#)
- [Education](#)
- [Community](#)
- [Economic Development](#)
- [Politics](#)
- [Arts & Culture](#)
- [China Lake](#)
- [Police & Crime](#)
- [Opinion](#)
- [Obituary](#)



Attorney: GA ‘crossed the line’

Groundwater committee addresses Brown Act violation



Ridgecrest City Attorney Keith Lemieux confers with Mayor Peggy Breeden during last week's meeting of the Groundwater Authority. — Photo by Laura Austin

By BRIAN COSNER, News Review Staff Writer

City Attorney Keith Lemieux addressed an ongoing Ralph M. Brown Act compliance issue with the Indian Wells Valley Groundwater Authority board last Thursday during the agency's monthly meeting. Lemieux is acting legal counsel for the Authority while Mayor Peggy Breeden sits as board chair.

The Brown Act was passed more than 60 years ago in an effort to prevent government agencies, boards and councils within the state of California from privately meeting to discuss matters under their purview.

News of Authority "pre meetings" was brought up during last week's Ridgecrest City Council meeting, when council directed Breeden to vote against the Authority's proposed pumping fee amid numerous concerns – one of which was a lack of transparency.

"It is a set meeting and it's been going on for quite a while," said Policy Advisory Committee Chair Donna Thomas during the Thursday meeting.

“There’s no agenda, no notification, no posting of the meeting ... there are some concerns about the attendance of two of the boardmembers of this ongoing meeting.”

The two members in question are the Authority chair and vice-chair, currently Breeden and IWV Water District Director Peter Brown. Other members of the Authority board include Kern County 1st District Supervisor Mick Gleason, Inyo County 5th District Supervisor Matt Kingsley and Bob Page from the administrative office of San Bernardino County.

While Breeden and Brown don’t constitute a traditional quorum of the five-member board, they are two of the “big three” voting members – the third being Gleason. Any action item requires support from at least two of the big three. Conversely, any two big three voters can prevent an item from passing.

County Counsel Phil Hall was rather explicit during the Authority’s May meeting that having two of the big three members on one committee would present a transparency problem. The discussion came up when the public was asking for a finance committee of the Authority board.

“The city, [Kern] County and the water district cannot have two of its members on that finance committee,” said Hall. “That would create a Brown Act problem.”

Lemieux said that any meeting regardless of the presence of a quorum that meets on a regular basis constitutes a standing committee, so is a Brown Act meeting and must adhere to transparency guidelines.

“We have a meeting that started informally that included the chairs from [the Policy Advisory and Technical Advisory] Committees, some staff and, over time, some of the board members,” said Lemieux. “It was never formalized in any way, shape or form, but they were attending and it was thought to be ad hoc.”

The Brown Act differentiates between standing committees and ad hoc committees, which are temporary committees composed of less than a quorum of the members of a legislative body to accomplish solely a temporary task. These advisory committees are exempt from Brown Act rules.

“But it’s been going on a while now,” continued Lemieux. “It looked to me like we had crossed the line into a standing committee.”

Lemieux said he recommended that the practice cease immediately, and the two boardmembers reportedly removed themselves from that morning’s pre-meeting.

“Those events will not continue in that form,” he said. “If we have a regular meeting with committee chairs, it will be staff only so it can’t be construed as a standing committee of the board.”

Gleason admitted that he was partly to blame for the practice.

“When I was chair, I wanted to have a pre-meeting with the TAC and PAC chairs and vital staff with the express purpose of trying to create an efficient meeting and to get in and out of items quickly,” he said.

He recalled that he eventually invited Breeden to attend the meetings. Since then, at least two boardmembers have been regularly attending.

“I started the problem,” Gleason said. “I thought we fixed it, but I guess we didn’t. It worked really good for the chair to be there because it irons out a lot of things to help the meetings go quickly.”

But Lemieux was clear that boardmembers shouldn’t be attending at all.

“We have to be sensitive to the fact that this kind of ‘meeting before the meeting’ is exactly why they adopted the Brown Act,” he said. “We can make sure that vital information gets to the chair before the meeting starts if something comes up.”

The News Review reached out to the Kern County District Attorney’s office for clarification on the repercussions of Brown Act violations.

“As a general manner, we would send a ‘cure and correct letter’ asking them to cease the violation, which it sounds like they’ve already done,” said Deputy District Attorney Christopher Dominguez,

He said criminal action is rarely taken, and that no one to his knowledge has been successfully prosecuted under the Brown Act.

“The criminal standard is very hard to meet and very hard to prove,” he said. “They can always just say they didn’t intend to withhold information.

“But elected officials shouldn’t be able to reach consensus beforehand. Meetings like this are exactly what the Brown Act is supposed to prevent.”

Dominguez added that citizens or an office like the district attorney’s are able to take civil action to invalidate any actions taken as a result of meetings in violation of the Brown Act, but such action is “rarely effective” as an agency can just bring an item back to the board for another vote.

Story updated 07-30-18.

Story First Published: 2018-07-30

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EXHIBIT 37

INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

City of Ridgecrest, Indian Wells Valley Water District, Inyo County, Kern County, San Bernardino County

BOARD OF DIRECTORS MEETING MINUTES

Thursday, June 20, 2019; 10:00 a.m.

IWVGA Members Present:

Chairman Ron Kicinski, IWVWD	Don Zdeba, IWVGA General Manager
John Vallejo, Inyo County	James Worth, Legal Counsel
Mick Gleason, Kern County	Jeff Helsley, Stetson Engineers
Scott Hayman, City of Ridgecrest	Commander Peter Benson, US Navy, DoD Liaison
Thomas Bickauskas, Bureau of Land Management	Lauren Duffy, Clerk of the Board

Attending via teleconference is Bob Page, San Bernardino County

Meeting recording and public comment letters submitted are made available at:

<https://iwvga.org/iwvga-meetings/>

1. CALL TO ORDER:

The meeting is called to order by Chairman Kicinski at 9:58 a.m.

- a. The Pledge of Allegiance is led by Larry Mead.
- b. Lauren Duffy calls the following roll call:

Director Vallejo	Present
Director Hayman	Present
Chairman Kicinski	Present
Director Page	<i>*Via Teleconference</i>
Vice Chair Gleason	Present

2. PUBLIC COMMENTS:

Lorry Wagner submits a comment letter regarding Board compliance with the Sustainable Groundwater Management Act (SGMA) and the need to lift the current mandated filing date of January 20, 2020. (Available online)

Judie Decker asks if the City of Ridgecrest is currently paying their groundwater authority water fees.

Nick Panzer submits a comment letter addressing two material aspects which the draft Groundwater Sustainability Plan, section 3, comes up short. (Available online)

3. PRESENTATIONS:

a. WellIntel Well Monitoring Pilot Project

Lee Knudtson, of WellIntel, provides a brief report on the results of the 60-day trial which demonstrated their well monitoring program of 10 wells within the basin. (Slide available online)

Jeff Helsley comments that Stetson Engineers find this data very useful and believes it would be very beneficial after the Groundwater Sustainability Plan (GSP) is developed. However, at this time it isn't essential for the development of the GSP.

Vice-chair Gleason asks for a recommendation from Stetson Engineers on how they would like to proceed and when they would like to have WellIntel continue this program after the development of the GSP.

The Board hears public comments from Tim Carrol, Early Wilson, Peggy Breeden, Larry Mead, Stan Rajtora, West Katzenstein, and Judie Decker.

Mr. Helsley comments that albeit valuable, they wouldn't necessarily choose using funds towards this project versus another.

4. **CONSENT AGENDA:**

- a. Approve Minutes of Board Meeting May 16, 2019 and Special Meeting May 30, 2019
- b. Approval of Resolution No. 02-19: Appointing Thomas Bickauskas as PAC representative for Bureau of Land Management (BLM)
- c. Approval of Resolution No. 03-19: Appointing Mallory John Boyd as TAC representative for Business Interests
- d. Approve Expenditures
 - i. \$12,137.36 – RWG Law
 - ii. \$26,717.19 and \$10,777.02 – DRI
 - iii. \$89,203.59, \$92,542.40, \$101,799.45, \$104,714.33 – Stetson Engineers
 - iv. \$747.00 – City of Ridgecrest
 - v. \$1,309.24 – Reimbursement to IWWVD or Postcard Mailer
 - vi. \$2,000.00 – Lynn Rickard, Appraisal Fee
 - vii. \$21,859.99 – Capitol Core Group

Motion made by Mick Gleason and seconded by Scott Hayman to approve Resolution No. 02-19: Appointing Thomas Bickauskas as PAC Representative for BLM. Motion carries unanimously by the following roll call vote:

Director Vallejo	Aye
Director Hayman	Aye
Chairman Kicinski	Aye
Director Page	Aye
Vice Chair Gleason	Aye

Vice-chair Gleason discloses that he has recently taken on a financial relationship with Mallory John Boyd. The relationship is a part-time employee for Mr. Gleason through Kern County. Mr. Boyd's total scope and responsibilities will consist of understanding and forming independent opinions and reporting back to Kern council.

The Board hears public comments from Derek Hoffman regarding Resolution No. 03-19.

Motion made by Scott Hayman and seconded by John Vallejo to approve Resolution No. 03-19: Appointing Mallory John Boyd as TAC Representative. Motion carries by the following roll call vote:

Director Vallejo	Aye
Director Hayman	Aye
Chairman Kicinski	Aye
Director Page	Aye
Vice Chair Gleason	Abstain

Motion made by Mick Gleason and seconded by Scott Hayman to approve Minutes of Board Meeting May 16, 2019 and Special Meeting May 30, 2019, and the following expenditures in the amount of \$12,137.36 to RWG Law, \$26,717.19 and \$10,777.02 to DRI, \$89,203.59, \$92,542.40, \$101,799.45, and \$104,714.33 to Stetson Engineers, \$747.00 to City of Ridgecrest, \$1,309.24 Reimbursement to IWWVD for postcard mailer, \$2,000.00 to Lynn Rickard, and \$21,859.99 to Capitol Core Group. Motion carries by the following roll call vote:

Director Vallejo	Abstain
Director Hayman	Aye

Chairman Kicinski	Aye
Director Page	Aye
Vice Chair Gleason	Aye

Don Zdeba clarifies the invoices for Stetson Engineers will be paid once the Proposition 1 Grant reimbursement arrives, which is expected either this week or the following.

5. PRESENTATIONS ON REQUEST FOR PROPOSALS (RFP) FOR SEVERELY DISADVANTAGED COMMUNITIES (SDAC) WATER AUDIT, LEAK DETECTION AND REPAIR PROGRAM:

Xylem, M.E. Simpson, and California Rural Water Association provide presentations to the Board in response to the RFP that was distributed by Staff after Board approval. Responses were due by May 23, 2019. All presentations are made available online.

6. PRESENTATIONS ON REQUEST FOR PROPOSALS (RFP) FOR SEVERELY DISADVANTAGED COMMUNITIES (SDAC) RESIDENTIAL AND COMMERCIAL REBATE PROGRAM:

WaterWise Consulting President, Ajay Dhawan, provides a presentation in response to the SDAC Program RFP. Responses were due by May 16, 2019; 3:00 p.m.

Mr. Helsley reiterates that the programs are not critical to the development of the GSP, instead the programs are a grant opportunity.

Mr. Page asks that Stetson Engineers find out the eligibility period for the grant monies and if it can be extended.

The previously established Ad-Hoc Committee for Imported Water is to review the proposals and provide a recommendation on which firm to proceed with for both programs at the July 18th Regular Board Meeting.

7. DISCUSSION AND BOARD APPROVAL OF AMENDMENT TO IWVGA/DESERT RESEARCH INSTITUTE CONTRACT:

Mr. Helsley reviews the amendment to the contract between IWVGA and DRI. The amendment was made available as a handout for the public and Board Members, as well as posted online.

Director Vallejo asks if all tasks are unbudgeted amounts, to which Mr. Helsley answers yes. However, the first task will be reimbursed by the Brackish Water Group in the amount of \$8,235.

Derek Hoffman states for the record that model scenarios 3, 4, 5, and 6 on the flow runs have not been vetted by the TAC or the TAC Ad-Hoc committee prior to presenting to the Board.

The Board hears public comments from Don Decker.

Motion made by Mick Gleason and seconded by Scott Hayman to approve the amendment to the contract between Desert Research Institute and IWVGA. Motion carries unanimously by the following roll call vote:

Director Vallejo	Aye
Director Hayman	Aye
Chairman Kicinski	Aye
Director Page	Aye
Vice Chair Gleason	Aye

8. WATER RESOURCES MANAGER REPORT:

- a. Report/Discussion on Plan of Action and Milestones (POAM):

No update is available.

b. Report on Proposition 1 Grant Status:

Mr. Helsley comments the first invoice was approved on May 9, 2019. The first reimbursement is expected by this week or next; the total payment received will be \$335,566.69. The second invoice was submitted on June 13, 2019 and is currently being reviewed by DWR; the total payment to be received is \$352,087.42.

c. Report on Pump fee Status/Schedule:

As of June 19, 2019, 52 accounts have been registered and total payment received to date is \$315,900.

Stetson Engineers is currently reviewing specific criteria for individual properties to determine if they are de-minimis or non-de-minimis. IWVWD staff will then use the developed checklist to conduct field inspections.

9. UPDATE ON IWVGA FINANCES

Mr. Zdeba provides an update on the IWVGA finances.

The Board discusses the costs involved with the WellIntel program, which is \$12,000 for the initial costs and \$2,000 per year for the upkeep and continued monitoring of the wells.

The Board directs staff to provide a more in-depth, long-term, financial projection at the next IWVGA Meeting.

The Board hears public comments from Don Decker.

Director Page requests that, going forward, any new contracts or proposed work be accompanied by a staff report stating if the item was originally budgeted for and if not, the financial impact of approving the item.

10. UPDATE ON OUTREACH EFFORTS

Mr. Zdeba comments on the recent IWVGA mailer that was sent out roughly three weeks ago. The mailer was geared toward urging de-minimis users to register their wells within the IWV basin, specifically Domestic Well Owners. The mailing list staff used was a drastically reduced mailing list previously used for mailers sent to impacted parcel owners within the basin, including San Bernardino, Inyo, and Kern counties. It has since been noted some private well owners with addresses within the service area of the Water District had been removed from the mailing list as a result of filtering the original master list. Since the release of the mailer, no voluntary registration forms have been submitted.

Vice-chair Gleason asks that an item be added to the July meeting agenda addressing mandatory well registration for all, including de-minimis users.

The Board hears public comments from Don and Judie Decker.

11. BOARD QUESTIONS REGARDING POLICY ADVISORY COMMITTEE (PAC) AND TECHNICAL ADVISORY COMMITTEE (TAC) REPORTS:

The Board asks PAC and TAC chairs questions with respect to their reports included in the Board Packet.

The Board hears public comments from Judie Decker.

12. GENERAL MANAGER'S REPORT:

a. Report on IWVGA's Water Marketer (Capitol Core Group)

Mr. Zdeba reads the project update memorandum provided by Capitol Core Group (CCG) and made available in the Board Packet, distributed to the Public and available online.

~~— b. Discussion and Board Direction regarding Bureau of Reclamation WaterSMART Grant Opportunity~~

Jeff Simonetti, of CCG, comments this specific grant opportunity is a program which would provide 50% matching funds to an eligible agency, which the IWVGA would be, and would match approximately \$130,000 of what the IWVGA has already committed to water marketing strategies.

Mr. Simonetti provides the following example: The IWVGA has already committed funds toward the contract with CCG to research water marketing services, the grant would be able to match everything except the funding sources and direct lobbying; specifically, tasks 1, 2, and 4 would be eligible to be matched.

Mr. Simonetti, on behalf of CCG, believes this grant would be pertinent because it's not just a "move-forward program", it allows you to build on work that has already been completed to-date. He further provides details of the grant.

Due to the deadline to submit an application is July 31, 2019, CCG needs direction from the Board today on how to proceed. Stetson Engineers would need to work with CCG to provide assistance with the grant application. Additionally, if the Board directs CCG to pursue this grant, CCG would need approval to divert approximately 30 hours of work that has already been budgeted from their initial scope of work to focus on applying for this grant.

The Board discusses the additional costs associated with pursuing this grant which roughly estimates as: \$2,000 - \$3,000 for Stetson Engineers and \$6,000 for CCG.

The Board hears public comments from Judie Decker, Renee Westa-Lusk, and West Katzenstein.

Motion made by Scott Hayman and seconded by Ron Kicinski to authorize Capitol Core Group to pursue the WaterSMART grant and authorize staff to do all things necessary in that regard. Motion carries by the following roll call vote:

Director Vallejo	Abstain
Director Hayman	Aye
Chairman Kicinski	Aye
Director Page	Aye
Vice Chair Gleason	Aye

13. CLOSING COMMENTS:

Commander Peter Benson provides a letter to the Board regarding the Navy's personnel and historic water use, which was previously requested by the Board, Policy Advisory Committee, and Technical Advisory Committee. The letter and supporting document are available online.

Director Vallejo reiterates the benefit of having a staff report for each agenda item that includes a recommendation from staff on any action items.

14. DATE AND TIME OF NEXT MEETING – July 18, 2019; 10:00 a.m.

With no further Board or Public comments, Chairman Kicinski recessed the meeting at 1:44 p.m. for a short break.

The meeting is reconvened into Closed Session at 1:54 p.m.

15. CLOSED SESSION:

- CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION (Government Code Section 54956.9(d)(2)(e)(1)) Number of cases: Two (2) Significant exposure to litigation in the opinion of the Board of Directors on the advice of legal counsel, based on: Facts and

_____ circumstances that might result in litigation against the IWVGA but which are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

- CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATIONS
(Government Code Section 54956.8) IWVGA Negotiator: Capitol Core Group
Negotiating with: Representatives of Antelope Valley-East Kern Water Agency, Mojave Water Agency, City of Napa and Semitropic Water Storage District Real Property: Miscellaneous Imported Water Supplies

The meeting is called back into Open Session at 3:32 p.m.

No action is taken which would require disclosure under the Brown Act.

16. ADJOURN:

Chairman Kicinski adjourns the meeting at 3:34 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lauren Duffy', is written over the printed name.

Lauren Duffy
Clerk of the Board of Directors
Indian Wells Valley Groundwater Authority

EXHIBIT 38



DEPARTMENT OF THE NAVY
NAVAL AIR WEAPONS STATION
1 ADMINISTRATION CIRCLE
CHINA LAKE CA 93555-6100

IN REPLY REFER TO:

11011

Ser PR2/594

7 Nov 18

From: Commanding officer, Naval Air Weapons Station China Lake
To: Indian Wells Valley Groundwater Authority

Subj: INDIAN WELLS VALLEY GROUNDWATER MODEL

Ref: (a) NAWCWD-TP-8811.

1. The Navy contracted with Desert Research Institute (DRI) to develop a digital model of the Indian Wells Valley (IWV) groundwater aquifer, as initially documented in Ref(a). This model has become the basis for the IWV Groundwater Authority's (IWV GA) efforts to develop a Groundwater Sustainability Plan (GSP) pursuant to California State law, the Sustainable Groundwater Management Act of 2014. The Naval Air Weapons Station (NAWS) is an ex-officio, non-voting member of the IWV GA.
2. The Navy supports the transfer of the basin model's maintenance, further development, and configuration management to the IWV GA with a condition of this transfer that the Navy shall be a participant of the model's configuration management process that oversees, recommends, and dispositions any changes to the model's capability and functionality. The Navy will retain its unlimited use license of the basin model to support studies specific and unique to Navy interests and needs. Consequently, there shall be no condition in the relationship between DRI and the IWV GA that prohibits DRI from using the basin model to these ends. Upon the IWV GA's acceptance of these conditions, the Navy will act immediately to inform DRI of the IWV GA's authority to manage the maintenance, development, and configuration management of the basin model.
3. The IWV GA will develop a model management plan, to include configuration management, to ensure proper maintenance and vetting of future requirements requiring change to the model. The Navy shall be a participant of the model's configuration management process that oversees, recommends, and dispositions any changes to the model's capability and functionality.
4. Any questions regarding this letter should be directed to NAWS China Lake Public Works Officer, CDR Peter R. Benson at 760-939-2382.

P. R. BENSON

By direction

EXHIBIT 39

From: (b)(6)
To: (b)(6) USN NAVAIRWARCENWPNDIV (US); (b)(6) (b)(6)
NAWS China Lake (b)(6)
Cc: (b)(6) (b)(6) (b)(6)
Subject: FRWR Request
Date: Thursday, March 07, 2019 17:15:15

(b)(6),

After the TAC meeting, I was approached by (b)(6), the IWVGA chair, and he is also requesting that the Navy provide the FRWR. He is also claiming that it needs to be the main right on which all other allocations are based. With two board members now calling for the FRWR, I further expect that the request for that number will be made public at the next IWVGA board meeting.

(b)(6) and I will make sure to prepare a reply in advance of the meeting.

Additionally, after today's TAC meeting I was informed that a new proposal will be presented during the IWV attorney meeting scheduled for tomorrow. In addition to examining the water rights subject, someone will also be proposing examining the economic impacts that each major stakeholder has on the community to determine allocation rights. This is very much predicated on the China Lake EIA brochures that show we are the largest economic driver in the basin. I have

(b)(5)

V/r

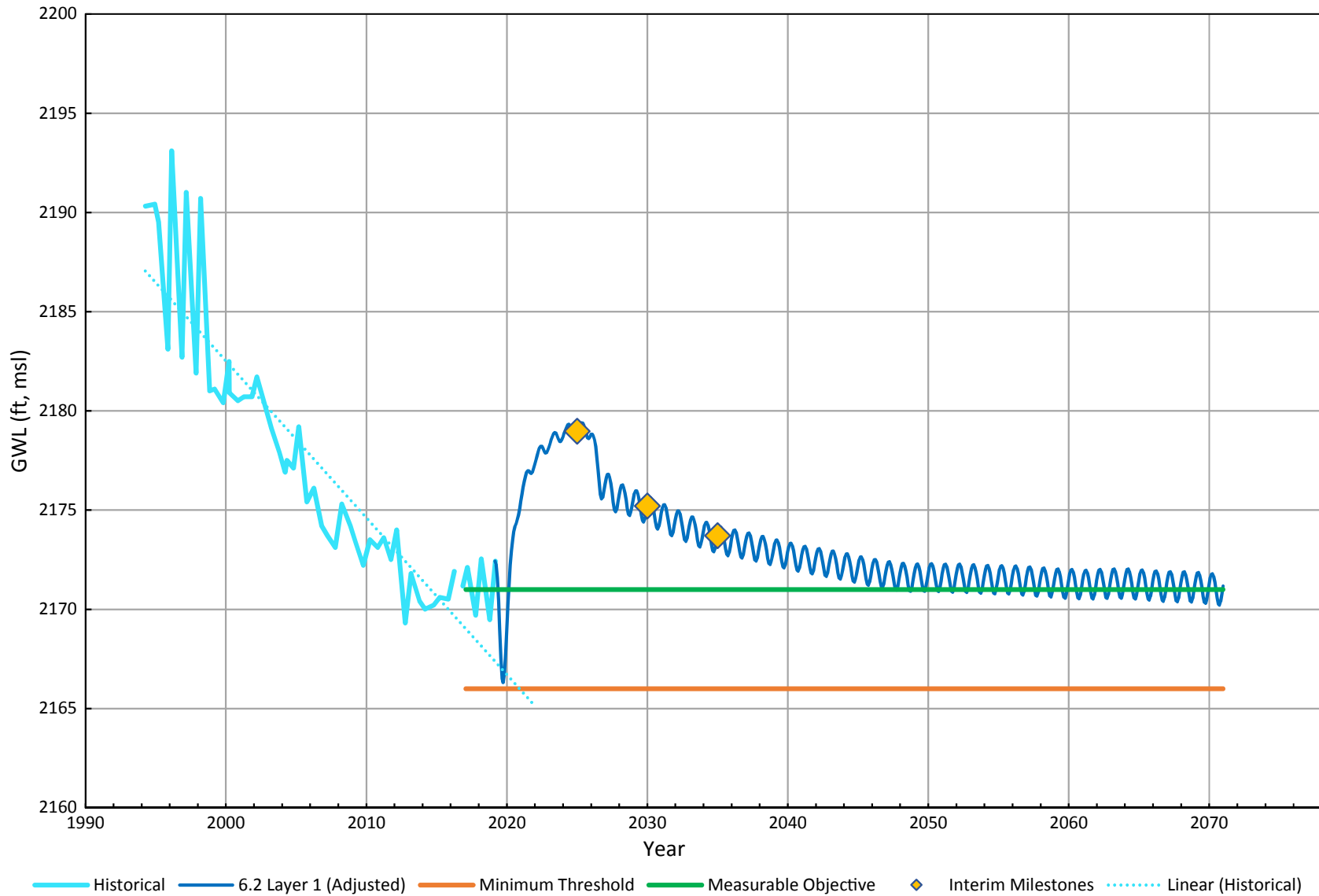
(b)(6)

(b)(6)

Naval Air Weapons Station

EXHIBIT 40

USBR -06 (2353 ft, msl)



Sustainable Management Criteria: Chronic Lowering of Groundwater Levels

EXHIBIT 41

Table 4-5. Sustainable Management Criteria Summary: Degraded Water Quality.

Representative Monitoring Site	Minimum Threshold (mg/l)	2025 Interim Milestone (mg/l)	2030 Interim Milestone (mg/l)	2035 Interim Milestone (mg/l)	Measurable Objective (mg/l)
USBR-01	ND	ND	ND	ND	ND
IWVWD Well 33	500	310	310	310	310
Owens Peak South Well 01	500	300	300	300	300
IWVWD Well 30	500	341	341	341	240
Hometown Water Association Well 01	500	448	448	448	370
IWVWD Well 11	600	546	546	546	530
Sandquist Spa	ND	ND	ND	ND	ND
22B	ND	ND	ND	ND	ND
West Valley Mutual 01	600	511	511	511	500
USBR-06	ND	ND	ND	ND	ND
NR-2	ND	ND	ND	ND	ND

ND = not determined at this time. As baseline TDS sampling data is gathered, these criteria will be established.

4.6.4 Land Subsidence Summary

Table 4-6 below shows the numerical sustainable management criteria established for land subsidence.

Table 4-6. Sustainable Management Criteria Summary: Land Subsidence.

Sustainable Management Criteria	Value at SNORT Alignment (inches/year)
Minimum Threshold	0.09 inches/year

EXHIBIT 42

Introduction to Sustainable Yield Allocation Chart

The Groundwater Authority's (GA) responsibilities are set forth in the Sustainable Groundwater Management Act (SGMA). At its core, SGMA requires that the GA bring the Basin into sustainability through the regulation of groundwater pumping in a manner that is consistent with existing California water rights law. DWR has expressly stated that "SGMA requires local agencies to develop and implement GSPs that achieve sustainable groundwater management by implementing projects and management actions . . ." Consequently, the GA's actual power to achieve sustainability is fundamentally linked to the GA's ability to develop augmentation projects and require that the users of those projects pay their fair share of those augmentation costs.

Accordingly, the attached chart does not reflect a legal determination of anyone's water rights, nor does it prohibit anyone from actually pumping groundwater. This chart merely reflects an analysis of California Water Law to determine the use priorities of the Basin's sustainable yield, which is then used to determine how much, if any, augmentation supply is needed to sustain someone's pumping.

Counsel for the GA have determined that existing water rights law provides the Navy with a Federal Reserve Water Right (Reserve Right) that is superior to all other water rights in the Basin, with the exception of those rights that were in existence at the time at the Base was founded. This water right extends not only to the Base's current pumping, but to all the water that is necessary for the Base to carry out its mission.

Given the Reserve Right's superiority, the GA requested a Navy estimation of its Reserve Right. On June 17, 2019, the Navy formally responded with a response that declined to set forth an express estimation of the Reserve Right. However, the response did expressly provide that the Reserve Right is not limited to the 2,041afy figured provided, in November of 2018, "as the amount of water the installation could agree to use under a GSP."

The response provided the GA with data demonstrating that the Navy's historic water consumption peaked in 1970 at a maximum annual Navy production of 7,988af. The response also provided data demonstrating that the 6,530af was the quantity of water needed to sustain the Navy's current and future mission, including the Navy workforce (military, civilian, contractors and dependents) at the Base.

The Navy's response also expressly provides that, because of the movement of Navy staff and dependents off-Station, "the water requirements of the Navy cannot be determined solely by the Navy's recent direct production amounts". The response further provides that "[s]ince the Navy mission at China Lake requires its workforce, the full Navy water requirements are the combination of the on-Station requirements and those of the Navy workforce and their dependents off-Station."

While Counsel for the GA believe that the provided data could lead to an adjudicated Federal Reserve Water Right of 7,988af, or more, the lower figure of 6,530af in Section 6.0 has been chosen for the purposes of the attached chart.

Next in order of priority are overlying domestic water users that fit the SGMA definition of a de minimus user because their use cannot be limited or reduced under state law. In addition, the GA must recognize the pumping rights of the City of Ridgecrest and Kern County as those rights are superior to all of other overlying owners because public entity rights may not be prescribed against.

Searles Valley Minerals has asserted a claim that it has a water right superior to the Navy's Reserve Right. Given the Navy's sovereign immunity, the GA lacks the authority to conclusively determine the merits of that dispute and as a result 217af for the domestic use in Trona and 2,413af for Searles Valley Minerals operations were chosen for the purposes of the attached chart.

At this point, the sustainable yield of the Basin has been completely allocated and there is no native water left for inferior rights holders. Recognizing that the water used by these inferior rights holders is put to significant and important economic use and to ease the transition from current pumping levels to sustainable pumping levels, the GA proposes to establish a pool of water that will allow the mining of the Basin in the amount of yet to be determined.

Sustainable Yield Allocation

Pumping Group	Current Est Pumping ¹	Current Rpt Pumping ²	Sustainable Yield Allocation	Carry Over ³	Allocation w/ Carry Over	Allowed GSP Pumping	Augment Supply Need
Navy	1,450	1,450	6,530	—	1,450 ⁴	1,450	—
De minimis Wells ⁵	800	—	800	0	800	800	0
City of Ridgecrest	373	115.4	339	0	339	339	0
Kern County	18	16.3	18	0	18	18	0
IWVWD	6,507	6,204.9	0	4,461	4,461	6,507	2,046
Inyokern CSD	102	133.3	0	102	102	102	0
Small Mutuals	300	243.6	0	300	300	300	0
Trona DM	217	N/A ⁶	0	217	217	217	0
SVM	2,413	2,703.3	0	0	0	2,413 ⁷	2,413
Meadowbrook Dairy	6,387	4,478.9	0	0	0	Pool ⁸	0
Mojave Pistachio	6,400	4,292.2	0	0	0	Pool	0
Quist Farms	693	619.6	0	0	0	Pool	0
Sierra Shadows	765	74.4	0	0	0	Pool	0
Amberglow	62	86.2	0	0	0	Pool	0
Terese Farms (Hovaten)	310	266.8	0	0	0	Pool	0
Hickle	85	5.9	0	0	0	Pool	0
Bellino	50	FTR	0	0	0	Pool	0
Simmons Ranch	918	100.6/FTR ⁹	0	0	0	Pool	0
Blubaugh	1	1.8	0	0	0	Pool	0
McGee	400	FTR	0	0	0	Pool	0
Shacklett	1	FTR ¹⁰	0	0	0	Pool	0
Total	28,252	—	7,687	5,080	7,687	12,146	4,459

¹ Current estimated pumping reflects the most current/recent available data and does not represent a single reporting year. Sources of data include 1) Production reported by the Cooperative Group for 2016 (and 2017 when available); 2) Production reported to the WRM directly by pumpers; and 3) Production estimates developed during the development of the Baseline model scenario

² This Column reflects pumping reported through the GSP Pumping Fee. Those marked FTR have Failed to Report. What if any impacts the FTR will have on pool allocations has yet to be determined.

³ In accordance with the priorities and principles of California Water law and communications with the Navy, this column reflects the distribution of the unused portion of the GA estimated Navy Federal Reserve Water Right to the Domestic water providers.

Currently, it is estimated that the Navy is directly using 1,450af on the installation which leads to a total Carry Over of 5,080af (6,530 – 1,450 = 5,080). The Navy has reported a potential future need of 2,041af for direct use on the Base. If and when this increase occurs, the Carry Over of 5,080af will be reduced in direct proportion to the increase on the base (6,530 – 2,041 = 4,498).

⁴ For the purposes of this chart, the current estimated on Base use 1,450af is used, rather than, the Navy's reported potential future on Base need of 2,041af.

⁵ See Water Code Section 10721(e).

⁶ SVM does not break their reporting down to this level for the purposes of the IWVGA pump fee. Trona use is included in the SVM reported value.

⁷ This reflects the industrial use by SVM and it's listed as a GSP allowed pumping because there is a presumption that SVM can afford the augment costs.

⁸ Pool water is listed because there is an educated presumption that Fee for Augmented Supplies will exceed the rate of return for the water.

⁹ Failed to Report since May 2019.

¹⁰ In partial compliance with Well Registration.

EXHIBIT 43

Public Comments Made by IWVGA Board Members

Date	Source	Comment
October 1, 2019	Supervisor Mick Gleason, Kern County Board of Supervisors	"I think we are on the very edge of getting that [IWVGA Groundwater Sustainability Plan] done. We need to get it done and get it moving. The satisfaction I will get from that will be significant because we give it to the Navy and say 'you have no worries, we don't have a threat to our base because we have a sustainment plan.'"
March 29, 2019	Chairman Ron Kicinski, Indian Wells Valley Water District	"I don't believe this board can say to the community, 'Don't grow,' ...I don't believe we can or would want to. We're always taking about modest growth—it's tied to the requirement for personnel on the base. We need to be prepared to sustain that."
March 21, 2019	Supervisor Mick Gleason	Mick Gleason said he is "totally supportive" of President Trump's Space Force. "Research and development, weaponization, testing facilities...we would certainly advocate for components of the Space Force to come here. "...whatever [President Trump] thinks would be best served we would be willing able and ready to work with him to satisfy his needs."
March 8, 2019	Supervisor Mick Gleason	"All I know is from my perspective, it's [Navy encroachment letter] a game-changer. Because the strategic imperative is now changed. We need to preserve the Navy's mission in the Indian Wells Valley. And that has implications that dwarf other decisions...now that the letter has been released in my mind, it changes the over-arching strategy of what we are trying to do. Now the strategy is emphatically and clearly and empirically that our job is to preserve the Navy base and to preserve the Navy mission because it is being encroached upon. The way I read it [the letter], their federal reserve right will not just include the water that they are using on the base today but will include all the water required by all their employees and their families."
March 8, 2019	Supervisor Mick Gleason	"We have the infrastructure, the environment, the people and the experience—this is exactly what we do here. Our letter indicates why East Kern is the best place, with all the key pieces, to support the Space Force Initiative and the Space Development Agency."
March 4, 2019	Supervisor Mick Gleason	"...I want the Navy and this community to understand that Kern County, all five supervisors, stand behind you. We will support the Navy and we will support this community in any vote that I make."
February 22, 2019	Chairman Ron Kicinski, Indian Wells Valley Water District	"When the Navy came out formally and said they are considering groundwater an encroachment issue that is something we've got to solve, otherwise they are going

		to say it's encroachment on the mission of the base. And them being the major economic driver of the area, that means a lot...they are the major economic driver and they are in the driver's seat. When they say encroachment, you are encroaching on our mission, who knows what can happen...it means a lot to what we are going to do, how we are going to do it and how fast we need to do it. The point is we can't fail."
April 6, 2018	Supervisor Mick Gleason	"I think the agricultural community has seen its heyday. With SGMA (Sustainable Groundwater Management Act) and recent decisions in water allocations, and politics in Sacramento, agriculture has seen better days."

Gleason reflects on time in office, cites reason for not running

By Jack Barnwell

Staff Writer

RidgecrestDI

Posted Oct 1, 2019 at 2:56 PM

Kern County First District Supervisor Mick Gleason won't be seeking another term in office. The retired Navy captain and China Lake commanding officer said Tuesday that after years of public service, it was time to spend more time with his family.

"I think it's just time to go," Gleason said. "I've done two terms, eight years, and I'm satisfied that I had a positive impact on Kern County."

He noted that after talking with his wife, Robynn Gleason, the decision was hard but clear.

"Our family is growing and we have grandkids coming along, so there were other things we want to focus on," Gleason said. He added that between his time in the Navy and as a county supervisor, he's spent 35 years of service.

Gleason took office following the 2012 November election after a long campaign that saw eight candidates vie for the position.

In the November election, he defeated former state senator Roy Ashburn, taking nearly 60 percent of the vote. He took over from Jon McQuiston, who stepped down after a long career.

Prior to that, Gleason served 27 years in the U.S. Navy as a fighter pilot and eventually commanding officer of Naval Air Weapons Station China Lake, from which he retired as a captain. Following retirement, he took senior program manager with General Dynamics and helped launch the China Lake Alliance.

Gleason noted that he had no experience in campaigning back in 2012.

"It was a tough deal, an interesting campaign and I did very well and was fortunate enough to carry the day in a tough campaign against Roy," he said. "Roy was a really good campaigner."

Gleason entered office at a time when Kern County's economy was still riding the boom of high oil prices, but he would also face challenges with budgetary issues like the Kern Medical Center's deficit.

He's also helped preside over the implementation of the Indian Wells Valley Groundwater Authority following the passage of the Sustainable Groundwater Management Act in 2014.

The IWVGA is a joint powers agreement between Kern County, the Indian Wells Valley Water District, the City of Ridgecrest, and San Bernardino and Inyo counties. The former three agencies serve as the core leadership and rotating leadership of the board. The Navy and the Bureau of Land Management serve as non-voting associate members on the board.

SGMA mandates that critically overdraft groundwater basins like the IWV form a groundwater sustainability agency and hammer out a plan that will achieve a sustainable safe yield in the basin by 2040. That plan is due to be submitted to the Department of Water Resources by Jan. 31, 2020.

Remaining goals

Gleason said he has two primary goals in the year he has remaining in office: finish the IWVGA's sustainability plan and drive home the vision of better relations between West and East Kern.

The sustainability plan has been gaining momentum, he said, with draft sections coming out for review by both the IWVGA board and by policy and technical advisory committees.

"I think we are on the very edge of getting that done," Gleason said. "We need to get it done and get it moving. The satisfaction I will get from that will be significant because we give it to the Navy and say 'you have no worries, we don't have a threat to our base because we have a sustainment plan.'"

The Navy has consistently noted that the water issue in the IWV is considered an encroachment issue for NAWS China Lake's mission as a center for weapons systems research, development, acquisition, testing and evaluation. The Navy has also stated it intends to fully participate in SGMA's effort mandated by the state.

Gleason said the IWV plan will require three phases: develop the plan, implement checks and balances within that plan and augmenting the water supply.

"Those checks and balances will have to accommodate changes in climates, water supply, economies, and technology," Gleason said.

Gleason noted augmenting the water supply will take time to develop. Options could include anything from treating the basin's brackish water supply to importing water from outside the basin. Importing water so far looks expensive.

One option involves tapping into the Los Angeles Department of Water and Power's aqueduct that carries water from Inyo County to the south. Conceptual costs for infrastructure could cost \$55 million. The other option is building infrastructure from the Antelope Valley East Kern Water Agency's connection in California City, which would upward of \$170 million.

Neither option includes the cost of water that would need to be purchased.

"How does a community of 35,000 people afford that?" he said. "We don't have the tax base to afford it."

Gleason said any option to augment water supplies will take years to develop and execute.

"Those are going to be some huge lifts to do, but we have time to do it," Gleason said. "We're going to get there, we're going to need help but I think working as a team we can make it happen."

Gleason's other goal is to bring East and West Kern together.

"A unified Kern is something that is achievable and something that is beneficial to all constituents throughout Kern County and the state of California," he said. "We could really do a lot of good stuff if we leverage the best of what we have on both sides of the mountain."

However, he said "that's going to be tough."

Gleason said the dynamics of the county economy are changing. Gov. Gavin Newsom's administration is prepared to roll out stricter regulations on the county's oil industry and agriculture as a whole may be changed by the Sustainable Groundwater Management Act.

Recently, Scott O'Neil, executive director for the Indian Wells Valley Economic Development Corporation, made a presentation to the county Board of Supervisors on the importance of East Kern's economic strength.

O'Neil said it holds potential for renewable energy in the form of solar and wind and a strong aerospace and defense industry leveraged by Mojave Air and Spaceport, China Lake, Edwards Air Force Base and NASA Neil A. Armstrong Flight Research Center.

Gleason noted the district's resiliency, pointing to the 2016 Erskine Fire that ravaged the Kern River Valley. At the time, the Erskine Fire was considered the 15th most destructive fire in the state's history. From June 23 to July 11, it burned 47,8800 acres, destroyed 309 buildings and homes and killed two people.

"It left the Kern River Valley a mess," Gleason said. "I spent days up there after the fire in the shelters with people who lost their homes. It didn't attack wealthy homes, it attacked mobile homes in Southlake."

However, he said he saw Kern County rally together to help, adding that the county's Emergency Operations Center team played the part of heroes in coordinating relief and firefighting efforts.

He said the same applies to efforts shown in Ridgecrest following the July 4-5 earthquakes. Ridgecrest, the IWV, Searles Valley in San Bernadino County and China Lake were rattled by a 6.4 magnitude earthquake July 4 and a 7.1M the following night. With the epicenters located aboard China Lake, the base sustained the most damage, along with Trona.

Dozens of homes and businesses were damaged in Ridgecrest as well, with two homes lost to fire.

"I remember sitting up in the EOC with [Mayor] Peggy [Breedon], [City Manager] Ron Strand and everybody else and watching all the fire engines going one way, the helicopters going another ... my biggest responsibility for that thing was to get out of everybody's way so they could do their job fine."

'Kern County has changed'

Gleason said looking back on his seven years, he said he could solidly say he contributed to the county's transformation.

"Kern County has changed and I think I played a role in that change," he said.

He said the start of it was the Kern Medical Center situation. KMC is the county's public hospital but was also a source of financial distress for the county.

After the troubles came to light in 2013, the board fired KMC's chief executive officer Paul Hensler and began looking at reforms.

"Kern Medical Center was a disaster," Gleason said. "What fixed that disaster was a confluence of a lot of different things .. but the kernel that started everything was that the board of supervisors realized that we are elected officials, not hospital administrators."

He called the board's then-responsibility to oversee all KMC budget decisions "dumb."

The board began implementing changes at KMC when it hired then Bakersfield Mercy Hospital CEO and president Russel Judd as the new head in November 2013. The board hired Judd through a management firm he created and brought on his own team.

Control of KMC transitioned from a county department to the semi-autonomous Kern County Hospital Authority in July 2016.

“Government can change but there has to be a step function to make that change,” Gleason said. The hospital’s budget woes created that step “that forced us to change the way we managed that hospital,” he added.

The second issue that forced change in Kern County was the collapse of oil market prices between mid-2014 and 2016. The county derived a large portion of its tax revenue from the oil industry; when a barrel of oil went from nearly \$100 to \$40, revenue also began to plummet.

“That caused a massive change in our budget that we had to solve,” Gleason said. The county implemented a four-year spending plan that promoted consolidation of services.

“We’re just now crawling out of it and it’s amazing that we’ve crawled out of it without reductions in service and we are better operation because of it,” Gleason said. “The step was the crash of the oil market and the end result was a learner, more efficient government.”

MALDEF lawsuit

Gleason has faced seeing his district changing in the wake of the lawsuit filed by the Mexican American Legal Defense and Educational Fund and the final ruling in 2018.

A lawsuit, *Luna et al v. County of Kern et al*, filed in 2016 claimed that “a redistricting plan adopted in 2011 by the Board of Supervisors violated Section 2 of the federal Voting Rights Act,” according to a 2018 MALDEF news release.

MALDEF claimed that “the boundary between District 1 and District 4 unlawfully fractured a large cohesive Latino community, submerging their votes in a larger white electorate in both districts, thereby diluting Latino voters’ ability to participate effectively in the political process.”

A federal judge sided with MALDEF in February 2018, forcing the county to re-draw the maps. As a result, Gleason’s district lost Delano, Shafter and McFarland, which were incorporated into David Couch’s District 4. The change required Couch to go through an early re-election process for his seat.

Gleason, meanwhile picked up southwest Bakersfield, including parts of Rosedale, which have very active voters.

The retired Navy captain has never shied away from his feelings on the ruling, calling the re-districting a “gerrymandering of the map” to form minority districts that reflect Kern’s significant Latino population.

“In my opinion, one person wearing a black robe made a decision that impacted all of us in Kern County,” he said, referring to U.S. District Court Judge Dale A. Drozd. “He mandated that we gerrymander these districts to satisfy the MALEF lawsuit.”

Gleason disagrees with the ruling, adding it’s “bad for the county and for the state and the average citizen in the county who just wants to raise a family in a safe environment.”

“Instead of creating a blended community where we’re all working together to be a better county, he created ethnic battlegrounds and barriers between Hispanic and non-Hispanic communities, which is just stupid,” Gleason said.

He called the people behind the MALDEF lawsuit a “thin veneer of political activists who are trying to change America.”

He noted that MALDEF misses the point and that most people, regardless of race, “just want to be Americans ... those are the people who vote, not the political activists who are trying to change things.”

Outlook on future candidates

Gleason said whoever replaces him as First District Supervisor will need to understand the entire First District, which runs from Rosedale in Bakersfield through Kern River Valley and into East Kern, including the Indian Wells Valley, Ridgecrest and Johannesburg.

“The qualities that person he or she brings to the table are going to be having an open mind and a spirit to work with people to solve problems,” Gleason said. He added the person will need to be honest and transparent and have a lot of energy.

“This job, especially for District One, just requires a lot of energy because there is a lot of traveling involved,” Gleason said. “There’s a lot of people you’ve got to get to know and a lot of different ways of thinking, cultures and economies.”

He noted that while it would be nice to have someone from East Kern take over, it was unlikely to happen.

“It would have to be a really good candidate because the math for District One just doesn’t work out,” Gleason said. “If you look at that math, District One used to be dominated by Ridgecrest voters.”

Prior to the redistricting of the supervisorial districts caused by the MALDEF lawsuit, District One included the Kern River Valley, Delano, McFarland and Shafter and parts of northern Bakersfield. While Delano is the second-largest city in the county, Gleason said Ridgecrest voters consistently turned out to vote compared to Central Valley communities.

He noted that changed with the redistricting when he lost Delano and McFarland and picked up west Rosedale and Bakersfield, where he said eligible voters turn out more.

Gleason said there are no immediate plans to relocate from Ridgecrest. He and Robynn, however, have grandchildren in both Seattle and Pheonix, Arizona and plan to spend more time with them after his term is done.

"We like Ridgecrest," he said. "We're just doing this (not running) because we just need a change in the tempo of our lives."

He added it won't be a full-time retirement.

"I've got to do something, man," he said. "It's too early too tell, but I'm sure that there are plenty of opportunities and I'm looking forward ... and anything I can do to help out Ridgecrest and the Indian Wells Valley, I'm all in."

He added with a laugh, "I think I'm going to try out for the senior PGA Tour. "



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Groundwater board hears importation cost update

Boardmembers question affordability of importing water



IWV Groundwater Authority representatives Robert Lovingood (San Bernardino County), John Vallejo (Inyo County), Ron Kicinski (IWV Water District) and Mick Gleason (Kern County) weigh costs of water importation during last week's meeting — Photo by Laura Austin

By BRIAN COSNER, News Review Staff Writer

"I just want everybody to understand the costs," said Kern County 1st District Supervisor Mick Gleason on the subject of water importation during last week's Indian Wells Valley Groundwater Authority meeting.

Jeff Helsley of Stetson Engineers delivered an update on the Authority's plan of action and milestones where one of the items was evaluating potential imported water supply sources.

"Is it feasible?" asked Gleason. "Is the water there? Is it something we can achieve ... Is it cost-efficient? What did we discover out of spending \$153,000 on that item?"

Helsley reported that Stetson, the board's water resources management firm, identified some facilities within reach such as the Antelope Valley-East Kern Water Agency. Stetson has also looked at the costs for acquiring water from the Los Angeles Department of Water and Power.

"We looked at bringing 15,000 acre-feet of water in," said Helsley. "When we started this study, the [Technical Advisory Committee] hadn't gone through a lot of discussion so it's looking nowadays like we might not need that much water, but that's what we looked at."

According to Helsley, it would cost something along the lines of \$2,000 per acre-foot of water through the LADWP, or \$30 million for 15,000 acre-feet. Bringing water in through AVEK Water Agency would be closer to \$3,000 per acre-foot he said, adding that the costs included infrastructure.

"I keep hearing that we hope we don't have to import any water," said IWV Water District Director and GA Chair Ron Kicinski. "I want to go on record saying I don't believe that's possible. The numbers haven't shown that."

Kicinski said that the needs of the water district, NAWS China Lake, Searles Valley Minerals and valley residents – even while reducing agricultural pumping to zero – still exceed the basin's natural recharge.

"I think [importation] needs to be in the discussion," said Kicinski. "Is it 15,000 acre-feet? I don't think that's the number. I think that if we work toward where we're headed, it's more in the neighborhood of 3,000-5,000 acre-feet. And yes, it will be expensive. I don't deny that."

The GA estimates our basin's recharge to be between 7,000-8,000 acre-feet per year, versus pumping between 25,000-30,000 annually. But according to consulting hydrogeologist Tim Parker's hydrogeological conceptual model presentation last week, more data is required to have a better understanding of our water availability.

According to Parker, two data gaps are in a large southwestern portion of the basin that isn't monitored and the amount of water coming in from Sierra Nevada faults.

"The numbers are the numbers. We don't maintain without importation, that's true," said Inyo County Representative John Vallejo. "I think that the purpose of this agency here is to decide what are our sustainability criteria."

"But if those sustainability criteria can't be met ... what can the local agencies and local users absorb in terms of costs?"

"I think we're getting to the point where people need to put their cards on the table – what can we absorb in terms of cost? Because if users in this basin can't absorb the costs, then we have to look at the worst-case scenario."

Vallejo stressed the importance of modeling the impact on shallow wells as if the GA has no imported water available.

"If we're not planning for that now, then we're just setting ourselves up for failure," he said. "Because our deadline is in December."

"I don't believe this board can say to the community, 'Don't grow,'" said Kicinski. "I don't believe we can or would want to. We're always talking about modest growth – it's tied to the requirement for personnel on the base. We need to be prepared to sustain that."

While concerns about importations feasibility are increasing, the board approved \$240,000 for Capital Core Group to proceed with its contract for water marketing consulting services, which includes evaluating potentially viable options for acquiring imported water.

During public comment, Judie Decker said that importation would be a necessity.

"I remember when Apple Valley, Victorville and Hesperia were tiny towns," she said. "I look at Lancaster and Palmdale ... they have all grown because of imported water."

Member of the public West Katzenstein verbalized the paradox facing the GA.

"A lot of my friends argue about it," he said. "It's impossible to import water and it's impossible to survive without importing water."

"But [the Sustainable Groundwater Management Act] says you cannot plan on imported water until you know the source of that water and how much water you're going to have in hand — and I suppose we should say if it's affordable as well. So if we put in a plan that assumes we're going to be successful in importing water, that plan might be rejected."

He suggested pursuing imported water, but drafting a plan that didn't rely on its availability.

Mallory Boyd asked if the board was looking into using more recycled water.

"Is it too early to know if the costs are comparable to importing water?" he asked.

Vallejo said recycling water was being discussed at the committee level, but that the costs and details were still in the "conceptual phase."

"This is something I'm glad we're doing," said Gleason in regard to further exploring importation.

"I think we need to wring this out whether it's real or not. We need to have sound logic to support any decision we make."

The approval of water marketing consulting services was included in the IWVGA's 2019 budget, which the board approved during the meeting.

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Supes to Trump: Look at Kern County bases for space

By Jessica Weston

City Editor

Jessica_Weston9

Posted Mar 21, 2019 at 12:01 AM

In a unanimous move, the Kern County Board of Supervisors on Tuesday voted to send a letter to President Donald Trump urging him to consider Naval Air Weapons Station China Lake, Edwards Air Force Base and Kern County in general for key roles in the development of his Space Force, including possibly the placement of an installation.

In doing so, the supervisors join a growing chorus of voices, including Congressman Kevin McCarthy, urging Trump to consider locating part or all of the Space Force facility in the Kern County area.

In a nutshell, the letter signed by all five supervisors expresses support for the establishment of Trump's Space Force while lobbying the president to consider using Kern County locations in establishing the new installation, arguing that because of existing military infrastructure and protected airspace, Kern County is uniquely positioned to offer the resources for a future Space Force installation.

The letter, which is dated March 19, was originally intended for signature by Chairman David Couch but the entire board decided to sign. The letter in its original form with one signature line is available for perusal at the Kern County website at <https://www.kerncounty.com/clerk/minutes/bosagenda/2397229/2397250/2397257/2397312/2397347/Establishment%20of%20U.S>

The letter to Trump touts Kern County's "long-standing tradition of military innovation and aerospace breakthroughs" and notes that it is home to Edwards Air Force Base and NAWS China Lake, both of which are located in the R-2508 Complex restricted military airspace. It notes that Edwards Air Force base has been serving the country since 1933 and NAWS China Lake since 1943.

It further notes that NAWS is the Navy's largest single landholding, with 85 percent of the Navy's land for Research, Development, Acquisition, Test, and Evaluation (RDAT&E) and 38 percent of the Navy's landholdings worldwide. The letter also references Edwards' crucial role in aerospace history, noting that "[n]early every U.S. Military aircraft since the 1950s has been at least partially tested at Edwards where numerous aviation records have been set and broken."

The letter continues with a respectful recommendation to Trump to "keep Kern County in mind as a home for this vital and innovative new agency." It concludes with a thank you to Trump for leadership and "commitment to securing our preeminence in this new frontier, and for your consideration of allowing Kern County to help turn your vision into a reality."

One member of the public spoke. Mary Ellen Barro described herself as a former aerospace employee and highly recommended the move as providing employment opportunities for Kern County residents among other benefits.

First District Supervisor Mick Gleason said he is "totally supportive" of Trump's Space Force. He added that bringing the Space Force to Kern County would benefit the country as a whole as well as obviously benefiting Kern County itself.

"The fact that we have two of the best military bases on the face of God's green earth here in Kern County and getting that in the forefront of our thinking can only advantage us," Gleason said.

Second District Supervisor Zack Scrivner agreed, noting "I have very little to add to" Gleason's comments.

Both supervisors emphasized the importance of making Kern County residents aware of the distinguished aerospace history of the area. Scrivner noted that there are likely kids in Kern County who don't realize they can "drive an hour east and they can build a spaceship," an apparent reference to the Mojave Air and Space Port.

Gleason: 'We think President Trump's best bet would be to come here'

Gleason spoke to the Daily Independent on Wednesday, endorsing the supervisors' decision.

He described Kern County as the place where the country can find "everything you need to conduct business in a Space Force. We think President Trump's best bet would be to come here."

Gleason said that in his opinion Kern County would be happy to help the effort in any way it can.

"I am sure there are going to be all sorts of people competing for this work," Gleason said. "Research and development, weaponization, testing facilities, the ability to achieve orbit as demonstrated at the Mojave Air and Space Port . . . we would certainly advocate for components of the Space Force to come here."

He added that the supervisors are offering Trump the opportunity "to look at here for the whole spectrum, whatever he thinks would be best served we would be willing able and ready to work with him to satisfy his needs."

Witt: 'Our tech-driven society relies on free access to space'

National Space Council Users Advisory Group member and retired Mojave Air and Space Port CEO Stu Witt said that since he read an early draft of the presidential directive that established the Space Force, he has been saying that “very wise” economic development corporations are planning on how to attract a significant stake in the future of the Space Force.

Since reading the establishment directive, he said, he noted that economic development corporations around the nation “are putting money behind great new ideas on how to attract a significant piece of the Space Force.” Witt added that this process is no different from how areas have always worked to attract other military commands and entities.

As such, Witt weighed in with agreement with the supervisors’ letter. “I agree with the Board of Supervisors,” he said. “If you don’t put your placeholder in and continue that conversation in an aggressive campaign, you are not going to get anything from this. . . . That’s going to be a regional campaign to take a long-term stake in the new Space Force.”

Witt also spoke about the Space Force in general, which he said he applauds President Trump for establishing.

“This is a new combatant command, with all of the rights and responsibilities of, let’s say, the Marine Corps or the Air Force,” Witt said.

He compared the Space Force to other branches of the military.

“Just as the Navy is chartered with protecting our free use and enjoyment of the high seas, and that of our allies . . . the Space Force will be doing the same thing in space.”

He concluded by emphasizing the importance of this mission.

“Every single banking transaction goes through space,” he said as an example of the ubiquity of space technology as controlling everyday life. He urged everyone to think about that.

“Our tech-driven society relies on free access to space. If that were denied, I cannot come to grips with how catastrophic that would be to our western society,” he said.

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Gamechanger: Gleason reacts to Navy encroachment letter

By Jessica Weston

Posted Mar 8, 2019 at 12:01 AM

Kern County First District Supervisor Mick Gleason ▲

Asked about the significance of the recent letter from the Navy to the Indian Wells Valley Groundwater Authority on groundwater encroachment issues, Kern County First District Supervisor and IWVGA board member Mick Gleason did not mince words.

"I think that letter changes the game," Gleason told the Daily Independent Wednesday.

The letter from Naval Air Weapons Station Commander Capt. Paul Dale states that the Navy deems groundwater resources as the No. 1 encroachment issue with the potential to impact missions enabled on and around Naval Air Weapons Station China Lake. It goes on to state that, "Water sustainability is critical to NAWSCL's mission accomplishment." The letter was dated Feb. 20 and delivered to the IWVGA at its most recent meeting.

Gleason spoke about the letter at the IWV Economic Outlook Conference on Feb. 28, stating publicly that he and the supervisors support the Navy.

He elaborated on his point of view during a sit-down interview with the Daily Independent at the county building on Wednesday.

"Those [letters] don't come easily. Those come out of great thought and deliberation by people not even living here. For [the Navy] to come out with a formal declaration of encroachment is a big deal and we are going to have to deal with that and understand it," he said.

"All I know is, from my perspective, it's a game-changer. Because the strategic imperative is now changed. We need to preserve the Navy's mission in the Indian Wells Valley. And that has implications that dwarf other decisions."

Gleason was quick to point out that the mission of the Navy has always been at the forefront of his awareness as both a member of the IWVGA and the Kern County Board of Supervisors, so this is not really something new. He added that the other four supervisors also understand and respect the importance of the Navy's

mission. However, the Navy letter adds even more significance to the groundwater issue. It affects

He said that "now that the letter has been released in my mind, it changes the over-arching strategy of what we are trying to do. Now the strategy is emphatically and clearly and empirically that our job is to preserve the Navy base and to preserve the Navy mission because it is being encroached upon."

"Before, when we did not have that clear articulation of encroachment, we thought it was [encroachment] but we weren't sure. The Navy had to take a position. Now they are taking a position. That means that now from my perspective that I need to take that position. So it changes my focus and puts things more clearly in perspective for me," he said.

He added that all of the Kern County supervisors are on board. Gleason explained that as the county representative to the IWVGA, he has kept the rest of the board informed and that they have always supported the mission of the Navy and understand the significance of the encroachment issue now.

Groundwater Sustainability Plan

The IWVGA's first version of the Groundwater Sustainability Plan is due to the state in less than a year, by January 2020. In a nutshell, this plan is supposed to explain how the groundwater authority intends to balance the critically over-drafted local basin.

Gleason said he fully expects the IWVGA to meet the mandated deadline, although the plan may grow and evolve as time goes on.

"The plan may not be the endgame, but it is going to be a plan that is going to get us airborne," he said. "It is going to set us initial vectors that are going to get us direction."

"I don't think the plan is going to say, 'Here is where we are going to be in 20 years.' I think the plan is going to be in five years, we are going to make this many changes in five years," he added. "It's going to have to be flexible."

The federal reserved water right

Critical to formulating the GSP is something called the federal reserved water right, Gleason said.

He explained that this is the amount of water required by the base to function. Any water rights developed after the federal reserve right was established in 1943 are secondary in nature.

Gleason said that he interprets the letter from Dale as possibly including water for residential use in the surrounding area as being part of this amount – since the base requires workers and workers require housing.

"The way I read it [the letter], their federal reserve right will not just include the water that they are using on the base today but will include all the water required by all their employees and their families," he said.

Gleason said that once the number that makes up the federal reserve water right is revealed by the Navy, it will be critical to determining the GSP.

"The federal reserve right will be the long pole in the tent that the entire GSP will be draped around," he explained – meaning presumably that the formulation of the GSP will have to take into account and be calculated around the Navy's water requirements.

Importing water?

Another hot-button issue is the topic of importing water. Again, Gleason didn't mince words.

"Importing water is going to be extremely expensive," he said. He noted that the community lacks infrastructure and means of transportation other than the Los Angeles Aqueduct, which does not seem a likely prospect for use.

"We have no infrastructure, we have no banking. We have not identified any water molecules for us to import. Nor the way to get it here. We don't understand any of that stuff. We don't understand the cost. How does a 40,000 or 35,000 person tax base pay for the millions of dollars it's going to cost just for the water itself? That means your water bill is going to [increase] dramatically."

Gleason said because of the complexity of the issue the IWVGA is zeroing in on a water marketing firm to hopefully provide expert advice.

He said the plan is for the firm to "scour the countryside and find us water, develop an importation plan of some sort that is going to help us solve our problem."

Gleason added that getting good information on all options is key.

"I think it's important we hire this guy, we spend the money up front to have a thorough analysis because I may be right and I may be wrong, but we need to know," he said.

Gleason also noted that although water augmentation strategies are obviously going to be necessary to balance the basin, he does not see importing water as the sole solution or quick fix for the issue.

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Leaders promote East Kern for base of operations in space development

Rebecca Neipp

News Review Staff Writer

A letter dated Feb. 28 to President Donald Trump, co-authored by House Minority Leader Kevin McCarthy, is prompting the administration to consider the high desert as a potential base of operations for the Space Development Agency.

“As stated in the National Security Strategy, space is a vital U.S. interest, and we appreciate that you have directed the Department of Defense to establish the Space Force to ensure that we remain the world’s preeminent space power,” states the letter, which also bears signatures of Reps. Paul Cook, Devin Nunes, Tom McClintock, Duncan Hunter and Doug LaMalfa.

The letter encourages the president to consider Edwards Air Force Base as the headquarters for the proposed Space Development Agency, and the Naval Air Weapons Station China Lake as the lead for weapons conceptualization and development for the proposed Space Development Agency. Both sit under R-2508 — the largest contiguous restricted airspace in the country.

“Because of these bases’ proud legacy of breaking barriers and their consistent track record of delivering cutting-edge solutions to our nation’s toughest problems, these men and women embody the necessary culture of innovation and have the technical expertise required to rapidly prototype and field the next generation of space capabilities for our warfighters,” continues the letter.

“Both bases provide a central location, near the core of American space industry, to unite the acquirers, contractors, scientists, testers and operators necessary to produce revolutionary space capabilities for the United States and our allies.

“Equally as important, R-2508 provides a refuge to conduct sensitive and classified work, due in large part to the landmass of these bases contained within, and the volume of the secure ‘surface-to- space’ airspace it affords.

“There is no location better poised to serve as the bedrock of the new Space Development Agency.”

Vice President Mike Pence, lead on the newly reestablished National Space Council, toured Mojave Air and Space Port in fall 2017, when he and McCarthy got an inside glimpse of the private companies leading commercial space development out of the local installation.

Other significant players in the region include NASA Armstrong Flight Research Center, the Air Force Research Laboratory’s Rocket Lab and U.S. Air Force Plant 42.

“The Space Development Agency could leverage these already existing collaborative relationships to help fulfill its mission in direct support of the National Security Strategy to ‘integrate all space sectors to support innovation and American leadership in space,’” reads the letter.

Kern County 1st District Supervisor Mick Gleason said that his office has also drafted a letter of support for the concept.

That letter was recently submitted to the Kern County Clerk of the Board.

Gleason said that he anticipates approval by the Board of Supervisors, with a subsequent draft sent to President Trump from Kern County officials.

“We have the infrastructure, the environment, the people and the experience — this is exactly what we do here,” said Gleason, who is also a former commanding officer of NAWS China Lake.

“We have access to space, and multiple agencies that work toward this mission on a weekly basis.

“Our letter articulates why East Kern is the best place, with all the key pieces, to support the Space Force initiative and the Space Development Agency.”

Scott O’Neil of the IWV Economic Development Corp. and David Janiec of the China Lake Alliance are also engaged in seeking support for the having a local base for the new agencies.

“We are excited that Congress-man McCarthy has taken the initiative and is out front in support roles for those defense elements in his district,” said O’Neil.

“This builds on a long history of space-related development, going back to 1958 when China Lake developed and demonstrated the world’s first air-launched orbital booster project, NOTSNIK, in response to the Soviet SPUTNIK satellite,” added Janiec.

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Groundwater, housing, economics and the U.S. Space Force? Conference covers city/county outlook

BY JESSICA WESTON CITY EDITOR jweston@ridgecrestca.com Daily Independent
Mar 4, 2019

Economic development, new housing and more options in healthcare: these are some of the things on the horizon for people in Ridgecrest and Kern County according to several speakers at the 2019 Indian Wells Valley Economic Outlook Conference on Thursday.

Another intriguing tip: forces at Kern County are planning to lobby President Donald Trump to consider headquartering the U.S. Space Force at NAWS China Lake or at Edwards AFB.

Kern County First District Supervisor Mick Gleason also responded to a recent letter from the Navy to the Indian Wells Valley Groundwater Authority regarding groundwater issues. The letter stated that the Navy considers groundwater resources the number one encroachment issue with the potential to impact missions on and around Naval Air Weapons Station China Lake. Gleason stated publicly that he and the supervisors support the Navy.

Economic development, housing in the city

The city of Ridgecrest may have as many as 403 new multi-family housing units, according to Councilman Michael Mower. Mower, who filled in for Mayor Peggy Breen as a speaker, said the city is currently working with two developers on bringing in three new apartment complexes.

"These are not going to be built at once. They are all going to be built in stages," he said. "So hopefully we won't get a glut on the market."

Mower said the city is also working with developers in an effort to build new single family housing tracts and working with partners to add more entertainment and fast-food casual establishments. The city is also attempting to expand hospitality services while finalizing plans to bring two national hotel chains.

Ridgecrest by the numbers

Mower gave a demographic breakdown of the city. Ridgecrest has a total population of 28,728. There are 10,669 households with an average household income of \$71,515. According to Mower, Ridgecrest has a strong projected population growth of over 10 percent for the next five-year period.

Mower said that he personally thinks the 10 percent growth rate estimate may be a little bit optimistic. He said the numbers are based on projections from the college, the base and the city itself.

He added that the top 36 retail and restaurant establishments in Ridgecrest were evaluated for performance, and 31 percent of the businesses performed above the statewide average for their respective companies and 64 percent of the restaurants are performing above the statewide average.

School options in the area include Sierra Sands Unified School District, Ridgecrest Charter School, Immanuel Christian School, Saint Ann School, Heritage Montessori School, Ridgecrest Adventist Elementary, Opportunities for Learning and, of course, Cerro Coso Community College for secondary education. Mower said that Breeden had wanted to mention the schools.

Ridgecrest has a public transit system, known as Ridgerunner Transit, which combines a traditional fixed-route service with a demand response service for functional needs qualified patients.

"We have a wonderful police department in this town," Mower said, leading to applause. He reported that the Ridgecrest Police Department benefits from volunteers: last year volunteers donated a total of 14,893 hours. RPD also raised \$6,000 for the family of five-year-old Kylea Chance to help her family as she battles a rare form of brain cancer.

He touched on the local film industry, which takes advantage of many photogenic local areas.

Mower also reported on the council's recent approval of a parks and recreation assessment district – which would require a successful balloting process to be approved.

"I think quality of life is very important to maintain in Ridgecrest so we have a good reason for people to move here," Mower said.

What's new at Ridgecrest Regional Hospital?

Ridgecrest Regional Hospital CEO Jim Suver reported on the latest updates at RRH.

"So where are we with our new emergency room project?" he asked, rhetorically. "We are now in our third year of waiting for state approval." He noted that this is typical for hospital construction. He said he is hoping things will get moving again for the next phase some time in 2019.

"In one of the more exciting developments, we actually have started discussions with USC about creating a urology clinic," he said. He added the strategy is always to link with academic medical centers that can provide state-of-the-art physicians. "We hope to do some of the more safe procedures at Ridgecrest hospital," including gynecological and prostate procedures.

The cancer program implemented with UC Davis has been very successful, he said. He added that discussions are taking place with a partnership regarding bringing radiation oncology to town.

He said a Mercy Helicopter is stationed in Ridgecrest on a full-time basis. "This is so important, seconds matter," he said.

He added the hospital is in discussions with Liberty Ambulance and the hope is that between the helicopter and the ambulance an integrated emergency medical service can be created. He reiterated that seconds matter and if the service is locally controlled the medical outcomes are expected to be much better.

Suver said the new Pain Management Clinic which was opened recently was created to help with the opiate crisis. He said the clinic is already seeing over 25 patients a day and hopes to expand.

A new emergency room physician group was created under RRH.

"I have come to the conclusion that no one knows better what Ridgecrest wants and needs than probably people who are local," he said.

A new ob/gyn has also started.

Gleason: 'We will support the Navy'

Gleason began by talking about the recent letter from the Navy to the IWVGA.

"We recently got a letter from the Navy directed to the [groundwater authority], which articulated the Navy position with regard to water in the Indian Wells Valley. The letter was clear, it was unambiguous and it was public," he said. The letter stated that the Navy considers groundwater issues as the number one encroachment issue with the potential of impacting the missions at NAWS China Lake.

"The reason I bring that up is because I want the Navy and this community to understand that Kern County, all five supervisors, stand behind you. We will support the Navy and we will support this community in any vote that I make," Gleason said.

Gleason later talked again about the Sustainable Groundwater Management Act and

the IWVGA.

"We have a plan that is due to the state in January 2020. We are getting into the crunch time where we are expecting to see a draft plan for public review in the next few months." The IWVGA meets the third Thursday of every month. He encouraged the public to provide input and get involved.

"We need you there," he said.

US Space Force at China Lake?

In a surprise move, Gleason was joined by Second District Supervisor Zack Scrivner in giving an update on the current status of Kern County. The two share representation of the eastern portion of Kern County. The two emphasized the importance of sharing forces and collaboration in representing East Kern.

In perhaps their most intriguing comment, the two mentioned plans to work together to try to persuade President Donald Trump to utilize NAWS China Lake and/or Edwards Air Force Base as headquarters for the country's Space Force/Space Development Agency.

The topic was brought up as part of a discussion of East Kern Regionalization. Other shared priorities include identifying potential for new businesses, supporting existing industries, attracting and retaining talent and properly utilizing the workforce.

The two supervisors noted that East Kern is home to many unique industries including defense, aerospace, renewables, tourism.

Economic diversification is a priority, not only for East Kern but for all of Kern County, according to the supervisors. Priorities include reducing over-reliance on limited industries and encouraging industries both sides of the mountains to work together to overcome shared challenges such as water shortages and maintaining a skilled workforce.

Gleason also touched on the county's success in its four-year plan to overcome its budget deficit and the challenges of redistricting after the MALDEF lawsuit. The two supervisors said having two votes in East Kern is a critical for good representation. Scrivner also introduced a new term, referring to "the cactus curtain" that separates the eastern and western regions of Kern County.

Gleason also talked about the county budget. After a fiscal crisis was declared in January 2015 the supervisors approved a mitigation plan beginning with fiscal year 2016-2017. Gleason reported that the deficit related to the property tax loss is planned to be resolved by fiscal year 2019-2020. He credited staff with being able to successfully redistribute funds – and bring the end of the deficit into sight – with no drop in services.

Gleason closed by emphasizing his conviction that "the future of Kern County is here."

The Daily Independent

Navy to GA: Groundwater 'No. 1 encroachment issue'

By Jessica Weston

City Editor

Jessica_Weston9

Posted Feb 22, 2019 at 5:48 PM

The Indian Wells Valley Groundwater Authority meeting Thursday ended on a surprise note, when Commander Peter Benson delivered a letter from NAWS Commander Captain Paul Dale. Benson is the non-voting member representing the Department of the Navy on the groundwater authority board.

Dated Feb. 20, 2019, and addressed to the Indian Wells Valley Ground Water Authority Board of Directors, the letter states that it is intended as a formal communication that "Commander Navy Region Southwest (CNRSW), in consultation with U.S. Navy commands located within the Indian Wells Valley, deems groundwater resources as the number one encroachment concern/issue which has the potential to impact missions enabled on and around Naval Air Weapons Station China Lake." It goes on to state that "Water sustainability is critical to NAWSCL's mission accomplishment."

The letter also thanks the Groundwater Authority for recognizing "the unique position of NAWSCL's Federal Reserve Water Rights (FRWR) dating back in time to when the base was established in 1943." It states that the Sustainable Groundwater Management Act statute recognizes that FRWRs shall be respected in full and federal law will prevail in the case of a conflict. It further states that "there is no waiver of sovereign immunity subjecting the Navy to [groundwater] regulation, pumping limitations or fee assessment."

The letter also states that the “Navy’s human capital and its ability to recruit and retain talented personnel is integral to these critical national defense missions. We must emphasize the importance of Navy civilian and military personnel’s continued access to economically viable potable water as critical to the IWVGWA’s implementation of the Sustainable Groundwater Management Act (SGMA).”

The letter gives background on the Navy’s successful efforts to reduce water consumption at the installation by 54 percent since 2007 and its cooperative posture with the groundwater authority. It goes into the history and background of SGMA, the critical overdraft status of the IWV groundwater basin and NAWSCL’s participation in the Groundwater Authority as a nonvoting liaison to the board, as well as participating in the Technical Advisory Committee and the Policy Advisory Committee, which the letter mistakenly refers to as the “Public Advisory Committee.”

The letter does contain conciliatory language, stating that “NAWSCL has a vested interest in participating in the SGMA effort with IWVGWA as lead and responsible for developing a plan for the groundwater basin to achieve a sustainable yield in 20 years.” It also states that “Despite these unique federal legal limitations [federal reserve water rights and prevailing federal law], NAWSCL intends to continue to be a good neighbor and work cooperatively with the IWVGWA.”

The letter is posted on <https://iwvga.org/iwvga-meetings>, under 02/21/19 Letter from the Navy.

Kicinski: ‘The point is we can’t fail’

Indian Wells Valley Water District board member Ron Kicinski serves as chairman of the Groundwater Authority board. Kicinski spoke about the potential implications of the Navy’s Feb. 20 letter at the luncheon meeting of the Ridgecrest Republican Women, Federated, on Friday.

Kicinski summarized the letter as stating that groundwater is becoming an encroachment issue, but that the Navy has indicated they want to work cooperatively with and be supportive of the IWVGA.

“When the Navy came out formally and said that they are considering groundwater an encroachment issue that is something we’ve got to solve, otherwise they are going to say it’s encroachment on the mission of the base. And them being the major economic driver of the area, that means a lot,” Kicinski said.

He added, “they are the major economic driver and they are in the driver’s seat. When they say encroachment, you are encroaching on our mission, who knows what can happen . . . so that was a very important letter that came out.”

“It means a lot to what we are going to do, how we are going to do it and how fast we need to do it. The point is we can’t fail,” he also noted.

Kicinski said the letter indicates the water situation in the IWV has caught the attention of Navy higher-ups at a national level.

“Absolutely,” he said in response to a question. “They are watching this very, very closely. That was the origin of this particular letter that just came out. They [Navy high-ranking officers] understand too its importance to national defense . . . it’s something that is proof they are watching closely all the way in Washington.”

Kicinski said that it is difficult to determine the exact intent of the letter.

“Like anything that comes out of the government, you try to read between the lines,” he said.

He later added, “It’s sort of like one of those things: ‘watch out we are here, in the meantime we want to help you get the problem solved,’” he said as a possible paraphrase of the letter.

“To me it’s almost scary, meaning, ‘Boy, if you don’t solve this we are going to solve it for you,’ ” he later noted. “I would rather see us work together.”

Kicinski had no specific information to address rumors that encroachment issues could allow the government to purchase land to protect the mission of the base.

Kicinski also said that the Navy and China Lake have been helpful to the water effort, including spending a lot of money on research and the Desert Research Institute.

He said that one partial solution might be a recent plan between the economic development corporation, the Navy and the government to start earmarking some of the royalties that the Navy gets from Coso Geothermal for local projects. He said there is a possibility some of these project funds may be able to be used for water issues in Ridgecrest, if the argument can be successfully made that since much of the China Lake workforce lives in Ridgecrest it could be considered a community project.

Kicinski said his talk with the Republican Women was part of a new goal involving public outreach and education on water issues. He asked that anyone who is interested in having him speak to a club or organization give him a call.

The Daily Independent

Gleason muses on MALDEF settlement

By Jack Barnwell

Staff Writer

Posted Apr 6, 2018 at 5:00 AM

'District One got mangled up pretty badly'

In the wake of a settlement agreement between Kern County and the Mexican American Legal Defense and Educational Fund (MALDEF) redrawing county district lines, supervisors are already moving.

That includes First District Supervisor Mick Gleason, who is in the process of organizing things in his Delano and McFarland offices for the eventual hand-off to Fourth District Supervisor David Couch.

"Pending final approval, we have shifted district lines and we are hopeful that the federal judge will approve it," Gleason said.

He expects at least a month before U.S. District Judge Dale Drozd of the Eastern California District signs off on the new map and becomes codified county law.

MALDEF launched a lawsuit against Kern County last year over the then-current district boundaries. The lawsuit claimed the lines — approved in 2011 — denies Latinos a second majority Latino-district and violate the U.S. Voting Rights Act.

Fifth District Supervisor Leticia Perez is the only Latino supervisor on the board.

Drozd apparently agreed in February ruling and ordered Kern County and MALDEF to reach a compromise. Or he would decide the new boundaries. The new map was released in a decision on March 28, which reshapes most of the districts and will force three supervisors — Couch, Second District Supervisor Zack Scrivner and Third District's Mike Maggard — into a November election. Scrivner and Maggard's terms are up, but Couch wasn't set to end until 2020.

Gleason considers the decision a muted victory. MALDEF and the county reach a compromise, and East Kern will still have two seats on the board of supervisors.

But his district gets reshuffled.

“District One got mangled up pretty badly,” Gleason said. “We are going to lose Delano, Shafter and McFarland, and some parts of northern Bakersfield like City on the Hills. We are going to pick up the Rosedale and Stockdale area of Bakersfield — a larger piece of west Bakersfield.”

He’s not happy with the judge’s initial ruling, either.

“I think the judge made a bad decision,” Gleason, reflecting as well on the anniversary of Dr. Martin Luther King, Jr.’s death. “I think Martin Luther King Jr. would disagree with that decision. I think we have taken a step back from becoming a blended, integrated society. We have politically defined battle lines that one special interest can battle against another.”

He’s also not comfortable the judge’s decision.

“I find it disturbing that one person, just because he wears a black robe, can make decisions to turn the Kern County election process completely upside down. It’s bothersome,” Gleason said. “Appealing it is another issue. If we appeal it in the federal court, and the higher federal court doesn’t issue a stay, we keep going with the decision and we appeal, it goes the Ninth Circuit Court of Appeals.”

The Ninth Circuit has been considered one of the more liberal corps of judges in the federal judiciary system.

The new boundaries also shift District One’s political leanings decisively right.

“District One is now predominately Republican, perhaps the most Republican district in Kern County,” Gleason said. He didn’t call that a bad thing, or good.

East Kern a ‘go-no go’

Gleason strongly advocated for two districts in East Kern throughout the proceedings, including during his testimony during the lawsuit proceedings.

While not thrilled with the ruling, retaining two seats is a victory.

“I wish I could take a victory lap about maintaining two East Kern districts — that’s the goodness of the decision — and that was the one thing I could not lose,” Gleason said. “That was a go—no go for me.”

During a 15-day period in March, the board of supervisors and top staff discussed many solutions on how to handle the settlement.

“One of the fundamental building blocks in the decisions that led to how he drew the map were some the traditions we tried to maintain and keep consistent,” Gleason said. One of those, was keeping population density the same and demographics as close as you can, and having two East Kern districts.”

Two East Kern districts were agreed on, and after that, Gleason said “it minimized the variations we had adjust.”

He added Judge Drozd’s findings show a lack of understanding of county-level politics by applying a federal filter to it. The maps included in the judge’s findings cut only one district for East Kern.

“He said things like Congressman Kevin McCarthy’s area doesn’t need two representatives to represent East Kern. If Congressman McCarthy can do it, why can’t you?” Gleason said. “It shows a shallow lack of understanding.”

Gleason also noted the initial findings found the judge referred to the Air Force and Navy presence in East Kern as one interest, not two.

During testimony, Gleason argued that Edwards Air Force Base and Naval Air Weapons Station China Lake are two separate entities, often with competing interests.

Drozd wrote in his findings that “although the court does not doubt the sincerity of the County’s convictions in the purported necessity of two eastern districts, the court is unpersuaded that such a justification may override other legal requirements. The court is unconvinced that a single supervisor would be placed in an impossible position concerning the two military bases, as evidenced by the fact that one congressional representative currently represents both bases. The court, therefore, concludes that this factor should be afforded neutral weight, at best.”

Gleason disagrees, noting a difference between federal and county government.

“County government, you’re close to the people and in many areas of East Kern that have no incorporated areas. There’s Kern River Valley, areas outside of Tehachapi, Rosamond, Inyokern,” Gleason said. “Their first level of government is the county.”

A former NAWS China Lake commanding officer, Gleason also provided a more nuanced understanding of military operations.

We talked a lot about how they (Air Force and Navy) are competing interests at the county level — maybe at the federal level they are one entity under the DoD budget, but once you get below that it goes Navy, Air Force, Army and they compete for dollars,” Gleason said.

Gleason also argues having two East Kern votes on the board makes economical sense.

Future of county in East Kern?

Kern County has gone through tough times economically, ever since the price of oil crashed three years ago. The county drew much of its budget from revenue on oil properties.

“I think the oil industry has busted in the last couple of years and the days of \$100 oil is gone. I think the agriculture community has seen its heyday,” Gleason said. “With SGMA (Sustainable Groundwater Management Act) and recent decisions in water allocations, and politics in Sacramento, agriculture has seen better days.”

“If you look down the future, it’s in Eastern Kern. It’s aerospace, it’s a \$700 billion budget, we have manned space flight coming up,” he said. “The growth in Kern County is over here, why would we reduce our government support of those agencies now?”

Alternative energy like wind and solar is poised for expansion as well, Gleason said, should issues of transmission capacity ever be solved

Next steps

It may be at least a month before Drozd gives his final blessing on the new district map.

But Gleason isn't sitting still, like the other supervisors.

"We're going around to prepare for the move and get ahead of it," he said. "We've got some pending issues in Delano and McFarland like the McFarland fire station and we are going to fund it. We are trying to get those issues in the can and work with Dave [Couch] on the transition."

Until the district lines receive the final blessing, Gleason's office will continue managing affairs in the northwest the Kern County communities he represents.

For other districts, Couch will lose areas like Taft but pick up Delano. Scrivner gains more territory, absorbing Taft and Frazier Park, and holds on to Tehachapi, California City, Mojave and Rosamond.

With elections now pushed to November, Gleason thinks Couch and Scrivner will do well against anyone who challenges them.

"I think Dave (Couch) is a formidable politician, campaigner and good guy that he will win a tough race and I think he will prevail," Gleason said. But Couch, popular in Taft, could face different voting component in Delano.

And should he retain his seat in the November election, he'll have to run again in 2020 — when his term should have ended.

"It's freaking insane," Gleason said. "I don't know how it's going to end up."

Maggard's opponent, Bakersfield firefighter Jeff Heinle, was drawn out of the third district with the re-districting. Gleason noted county lawyers are certain Heinle can still run as he filed prior to the judge's finding. If he wins, he'll have to move inside District Three boundaries.

Future of elections

However, with the new shape of Kern County districts, Gleason thinks elections will forever change.

"The people up in the north-central valley want to be regarded as a unique community of interest and I get that," Gleason said. "I think that's a good thing, but I just don't think we need to go to the extremes we've gone to accommodate that."

"There's a better way and that's for everyone to vote," Gleason said. "If people voted, we wouldn't have this problem."

He used his own district as an example.

"We have the second largest city in the county in Delano and fourth in Shafter and they were in my district," Gleason said. "If they voted, they would outnumber the voting population in Ridgecrest significantly, but they don't vote."

Now those Central Valley votes in District One shift to western Bakersfield.

"What we've done is take those 100,000 people and moved them from Delano, Shafter and McFarland down to western Bakersfield in areas like Rosedale, Coffee, Calloway, Fruitvale and those places," Gleason said. "Those people vote — there is a higher propensity voter base than Delano, Shafter and McFarland."

That shift adds a challenge for East Kern if someone from the Central Valley runs for Gleason's seat in 2020.

"What I'm implying is that it will be more difficult in the out years for Ridgecrest to be representative from Ridgecrest," Gleason said. "We need to focus on good candidates. If we have good candidates we'll do OK. If we don't, we'll get creamed."