

MINUTES of the POLICY ADVISORY COMMITTEE to the INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

APRIL 4, 2019

Time values indicated in blue (0:00:00) reference the video recording available at iwvga.org

1. CALL TO ORDER

- Called to order at 6pm by Chairperson David Janiec at the Ridgecrest City Hall
- Members Present (stricken names were ~~not present~~):
 - ~~Tim Carroll~~, Lyle Fisher, Ed Imsand, David Janiec, Raj Jonnalagadda, West Katzenstein, John Kersey, Ryan Klausch, ~~James Mower~~, Joshua Nugent, ~~Lorelei Oviatt~~, Pat Quist, Nick Panzer, Renee Westa-Lusk, Don Zdeba

2. OPEN PUBLIC COMMENT

- Lee Knudsen, report on well monitoring program, questions from David (2:35)

3. REVIEW AND APPROVE MINUTES FOR FEBRUARY AND MARCH PAC MEETINGS

- David thanks Renee for service, new minutes format with short summary linked to video recording, and Joshua to take over the minutes (3:35)

4. ALLOCATION STATUS REVIEW AND UPDATE

- Attorney Markman update on attorney group meetings read with additional background information by David (7:00)
- Domestic Well Owners Association sustainability plan outline presented by West and Lyle, discussion by David (10:00) document attached
- Discussion of future potential meetings by attorney group, modeling group, TAC by David (11:30)
- Member comment from Judy about Stetson Engineering, the Water Resource Manager, waiting on an agreement from the attorney group, discussion by David, that shallow wells mitigation is important, and West, that other community groups should be consulted in addition to the attorney group (13:50)
- Member comment from Raj about a previously requested response from Stetson Engineering about the assumptions used in the model runs, sees timeline as being too compressed to allow for discussion and input between Stetson and the PAC, discussion by David (17:30)

5. DRAFT GSP CHAPTER REVIEW AND UPDATE

- Background and introduction to new drafts of GSP chapters and release schedule by David (19:25)

- Member comment from West about sustainability goals should be quantitative and specifically outlined in the GSP, discussion by David (21:15)
- Member comment from Nick about three items (24:15)
 - change implementation to adoption in section 1.1
 - there is not a rate payer representative on the TAC 1.3.2.2, on which Judy comments that Tim Parker represents rate payers, and on which David comments titles were used in draft rather than names of specific individuals
 - misleading paragraph in section 1.4 as the public can comment directly to DWR about any aspect of a GSP at any point in the process
- Member comment from Renee on official address of the IWVGA, discussion by Judy, David, and Don (30:35)
- Member comment from West on legal authorities section, discussion by David (33:30)
- Public Comments on first chapter final draft
 - Derek Hoffman, Meadowbrook – reserve right for further comments, document is missing a reference to water code 10723.2, which refers to a GSA considering the interests of all beneficial users, including specifically agriculture users, and highlighted in a 2017 legislative update to SGMA (35:35)
- Release schedule overview by David, potential need for more PAC meetings to meet the compressed review schedule (38:15)
- Member comment from Raj about how the schedule seems too compressed, with a request for more time to further develop the science needed for the GSP (43:10)
- Comments from many committee members about an extension or a reevaluation of the schedule, refer summarized concerns over the schedule to Groundwater Authority Board (46:00)

6. REVIEW REPORT ON POTENTIAL NEW AUTHORITIES AVAILABLE UNDER SGMA, IF AVAILABLE

- Response from general counsel of the Groundwater Authority to PAC introduced by David (1:04:30)
- Member comment from Joshua – read from document to emphasize water rights portion (1:06:45)
- Member comment from Renee about the water rights of de minimis users, discussion by David (1:07:30)
- Member comment from Nick about constitutional provision and more fully reading section of law quoted in document (1:08:15)
- Comment from Don clarifying that this document is a sufficient response, discussion by Judy, David, and Nick (1:09:45)

7. IMPORTED WATER UPDATE

- Recap the hiring of a consultant for finding water and funding and related activities by David (1:12:45)
- Member comment from Judy that the water consultant was well qualified, discussion by David (1:14:05)

8. SHALLOW WELL MITIGATION POLICY

- Introduction of draft document by David along with tasking from Groundwater Authority, suggestion that topic should be examined by an ad hoc committee (1:16:20)
- Member comment from Judy about the need for a separate funding document, discussion by David (1:19:15)
- Member comment from Joshua about an established well mitigation plan in the San Joaquin Valley (1:23:15)
- Member comment from Pat supporting an ad hoc committee (1:24:45)
- Member comment from Nick on the timing of DWR approval, minimum thresholds, lack of data, and potential problems with cost of implementation, discussion by David and Lyle (1:25:00)
- Member comment from West about the amount of data already available, discussion by David (1:29:20)
- Member comment from Judy Decker about the importance of considering water quality at depth (1:31:30)
- Ad hoc committee formed with Judy, Pat, West, and Joshua (1:34:45)
- Public Comments
 - Derek Hoffman, Meadowbrook, requests ad hoc committee consider the urgency of implementing the mitigation plan, comments on the importance of identifying the location of wells and areas of impact, discussion by David (1:36:00)
 - Don Decker, provides clarifying information about wells, discussion by Joshua and Judy (1:40:25)
 - Elaine Mead, provides information and clarification of the Neal Ranch property and the causes of water quality in the Brown Road Area, discussion by Judy and West (1:43:30)
 - Offer to camera wells that are pulled in order to establish cause of failure or issue with well going dry (1:45:15)
 - Don Decker, further clarification the limitations and capabilities of the model, discussion by David (1:47:00)
 - Sophia Merk, there are several reasons why a well has gone dry, provides local knowledge of the potential issues facing well owners with a failure (1:49:30)
 - Lee Knudsen, Well Intel, advocating for installing well monitoring (1:51:00)
- Member comment from Lyle about his own well failure (1:52:00)
- Member comment from Pat about the historical well data assembled in the past by the RCD and the potential of sharing the information to the Groundwater Authority, discussion by Judy and Don (1:53:00)
- Public comments
 - Sophia Merk, that the RCD and the confidentiality of the historical information, discussion by David, Judy, and Don (1:58:00)
 - Don Decker, that Stetson may already have much of the information, discussion by Pat (1:59:50)

9. SELECT IWVGA LOGO FOR RECOMMENDATION TO GA BOARD

- Ballots were disbursed and votes were counted, with a majority selecting the logo with line drawings of mountains and water to be recommended to the GA Board [\(2:02:15\)](#)

10. FUTURE AGENDA ITEMS (MAY PAC)

- Reviewed items for May PAC meeting including allocation status review and update, draft GSP Chapter review and update, review POA&M item #35 and #49 progress, as well as an imported water update and an ad hoc committee update [\(2:08:15\)](#)
- West suggested the Domestic Well Owners Association's document be reviewed, David Janiec commented it falls under the allocations status review and update [\(2:09:00\)](#)

11. FUTURE PAC MEETING DATES

- May 2, June 5, and June 27 will be the next PAC meetings [\(2:09:45\)](#)

12. MEMBER COMMENT

- Member comment from Ed about getting documents out to PAC members in advance of the meetings with discussion from Judy Decker [\(2:10:45\)](#)
- Member comment from Renee about additional meetings for the PAC, discussion by David and Joshua [\(2:11:30\)](#)
- Member comment from West about additional copies of Domestic Well Owners Association document [\(2:12:45\)](#)
- Member comment from David thanking Renee and Joshua, push to get information out in a timely manner, clarification on making comments in public as PAC members, discussion by Nick [\(2:13:00\)](#)

PAC Comments from APR 4 GSP Section 1 Draft Review

From PAC Member Nick Panzer:

Section 1.1, Page 1-2: I believe that the last word in this Section 1.1 should be adoption, (not implementation).

Section 1.3.2.2, Page 1-9: To my knowledge, rate payers do not have TAC representation at this crucial intersection with modeling scenarios. Some mistakenly think that Mr. Tim Parker represents rate payers on TAC, when in fact he represents the Water District. Constructive conflict is inherent in the relationship between the Water District and its customers. Hence the need for customer representation on TAC.

Section 1.4, Page 1-11: This section strongly implies that stakeholders will have a 60 day period to comment on the GSP **only after** the DWR receives the adopted plan. In fact, Reg. 353.8 says that "Any person may provide comments on [a GSA's] decision to develop a Plan, including comments on elements of a proposed Plan under consideration by the [GSA]....Comments shall be submitted to [DWR] by written notice, with a duplicate copy of the comment provided to the [GSA]....Comments received by the [DWR] shall be posted on [DWR's] website."

From PAC Member Judie Decker:

"Small Agriculture" is not listed as having a representative on the TAC.

From PAC Member David Janiec:

Section 1.3.2.1 (PAC), All names of specific representatives were removed from this section, except Tim Carrol's name was not omitted from the first paragraph after the constituent groups representation list.

Section 1.3.2.1 (PAC), Section 1.3.2.2 (TAC) PAC and TAC meetings are still listed to be conducted at the Water District address. They have now been moved to City Hall Council Chambers.

Public Comment from Dereck Hoffman, Atty for Meadowbrook Dairy:

Agricultural users were not listed among the group with interests that need to be considered in a GSP, while they were specifically given that recognition in 2017 SGMA revised language. Reference California Water Code 10723.2.

Summary of April 26, 2019 Attorney's Meeting

These notes reflect discussions which occurred at the above-referenced meeting. The statements made and positions taken continue to be inadmissible in any proceeding in accordance with the agreement of the parties to the discussions. Further, no statement made or position taken may be construed as binding on or a constraint to any party with respect to continued negotiations, administrative processes or litigation. Following is the subject report.

First, the representatives of Meadowbrook and Mojave Pistachios informed the group that they had not met to discuss the possible merger of their interests in the pumping allocations made for various reasons. So, there was nothing more to report on that process.

Next, the Authority's representative informed the group of the following proposed pumping allocation structure which could receive the Authority Board's support following public input and PAC input:

The core principle of this option would be to afford the opportunity for agricultural uses to continue for a prescribed period of time in order to generate agreement and settle the issue of allocation of pumping rights. The other characteristics of this option are the following:

- a. The base amount allocated would be calculated as the lowest amount of production in any year from 2010 through 2014.
- b. This would eliminate Mojave Pistachio production due to lack of production in several of the years to which the calculation applied except for some potential production related to alfalfa farming.
- c. Some small agriculture may have a base allocation based on continuous farming; however, the total amount of that allocation is not known.
- d. Production rights would be made transferrable which would give Mojave Pistachio and Searles an opportunity to continue using water during a rampdown period.
- e. The Navy's pumping on the base would be exempt from any rampdown and 86% of the pumping by the District and domestic Mutual Water Companies and Trona would be protected based on multiple legal bases.
- f. The City's overlying production right would be exempt from rampdown since the City's overlying right is not subject to prescriptive rights claims. De minimus pumpers would not be ramped down.
- g. No reduction in base production rights would begin until the first full year commencing after approval of the Implementation Plan by DWR or by January 1 2022, whichever is earlier.
- h. The rampdown period would be set at 6 years and would reduce pumping by 1/6 from the base amount allowed in 2021 to the allowed amount in 2022. Each year thereafter the pumping right would be reduced by 1/6 of the original base amount so that there would be an allocation of zero in 2027.

This option uses the continued water production as a settlement incentive.

The group was then informed that absent a settled resolution, the Authority Board would consider an option which simply would eliminate all pumping upon DWR approving the Implementation Plan except pumping for municipal use which would include de minimis residential wells, 86% of the pumping by the Water District and domestic Mutual Water Companies serving residences, the City's overlying pumping and pumping on the Navy Base.

It is understood that this approach would be the one most likely to generate litigation and that understanding is the basis for the suggestion made that the first option specified above be carefully considered as the basis for settlement.

It was then stated that model runs would be made reflecting both of the above stated options and the White Paper approach.

The group was informed that the Authority Board wants to move this part of the process forward promptly, contemplating public presentations and hearings in June if possible.

There also was a discussion that made it clear that a purchase or condemnation of agricultural property always presents itself as an alternative to the discussed approaches.

Meadowbrook then indicated that that company would be presenting an alternative approach concerning its production to counsel for the Authority Board within a month.

Finally, and importantly, it was noted that either of the approaches discussed would still leave a deficit in present water demand by municipal suppliers of approximately 2,000 acre feet per year and that that amount does not include the continued need of Searles for industrial water. Accordingly, there still will be a need for a supplemental imported water supply.

The next meeting was set to occur in Keith Lemieux's office at 10 a.m. on May 23.

April 24, 20 19

PAC ad hoc meeting Subject: Draft Preliminary Shallow Well Mitigation Plan

From : Judie Decker, committee member

Present: Pat Quist, Josh Nugent, West Katzenstein, Judie Decker

There was much discussion of this draft document, and perhaps some misunderstanding of what we were tasked to do. The meeting progressed smoothly once it was understood that the purpose of the mitigation plan is not to decide which wells can be mitigated, but rather how to assess failed wells already chosen for mitigation. Some thought we were to add much detail to the items line by line while others thought we were to agree with it with potential minor changes.

In the end it was agreed that the Plan was acceptable as is with minor changes.

Mitigation Fees for growth/water use

The group discussed the fact that other areas that had water issues required builders to purchase water rights to help mitigate overdraft. In some areas property cannot be developed until water rights for the property are purchased.. In some areas well must be registered before the sale of property is finalized, including when the property changes ownership.

The group feels strongly that the GA Board and the PAC need to discuss the above mentioned issues and answer the question below. How can the County, the City, and the Water District permit growth without mitigation to the existing overdraft problem?