

EVENT SCHEDULE PLANNER 2018-2019

PROJECT/EVENT

GSA SPEAKERS BUREAU

Mick Gleason 760-793-6655

Peggy Breeden 760-382-3563

Peter Brown 760-677-9064

DEMOCRATIC CLUB	3 rd Saturday @ 11:30	China Lake Buffet	Matthew Alexander	760-382-3878
RIDGECREST CHAMBER	2 nd Tuesday @ 12:00	Historic USO Bldg.	Suzette Caufield	760-375-8331
REPUBLICAN CLUB	2 nd Flex Friday @ 12:00	Casey's Steaks & BBQ	Marlene Tracy	760-608-3548
ROTARY CLUB	Every Wednesday @ 11:30	Clarion	Mary Lundstrom	760-382-1991

JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER
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DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY
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DEMOCRATIC CLUB	6/16/18	3 rd Saturday @ 11:30	Peggy Breeden
RIDGECREST CHAMBER	7/10/18	2 nd Tuesday @ 12:00	Peter Brown
REPUBLICAN CLUB	8/24/18	2 nd Flex Friday @ 12:00	Mick Gleason
ROTARY CLUB	Sept.	Every Wednesday @ 11:30 (pick one monthly)	Rotation Peter/Mick

INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

POLICY ADVISORY COMMITTEE MINUTES

Kerr McGee Center
100 W. California Avenue
Ridgecrest, CA 93555
Thursday May 31, 2018

Members Present:

Ed Imsand, Nick Panzer, Renee Westa-Lusk, West Katzenstein, Lyle Fisher, Donna Thomas,
Don Zdeba, John Kersey, David Janiec

Members Absent:

Patricia Quist, Tim Carroll, Steve Godard, Rodney Stiefvater, Carol Wilson, Lorelei Oviatt,
Ryan Klausch

1. CALL TO ORDER:

The meeting was called to order by Chairperson Donna Thomas at 3:10p.m. Chairperson Donna Thomas took the roll call for attendance. A quorum was present at roll call with 7 out of 12 voting members. A quorum is 7 out of 12 voting members.

2. APPROVAL OF MARCH 1, 2018 MEETING MINUTES

A motion to approve the March 1, 2018 meeting minutes was made by David Janiec and seconded by Ed Imsand.

Passed 7 ayes: Imsand, Panzer, Westa-Lusk, Katzenstein, Fisher, Thomas, Janiec
Abstentions 0 nays 0

3. APPROVAL OF MARCH 29, 2018 MEETING MINUTES

A motion to approve the March 29, 2018 minutes was made by David Janiec and seconded by Ed Imsand.

Passed 6 ayes: Imsand, Panzer, Katzenstein, Fisher, Thomas, Janiec
Abstentions 1 Westa-Lusk nays 0

4. DISCUSSION / APPROVAL OF FUTURE MEETING DATES FOR PAC

June 7, 2018 5PM will be a public informational meeting regarding the groundwater pumping fee assessment the IWVGA wants to adopt at their Thursday June 21 meeting. All PAC Members are asked to attend and participate in the discussion.

PUBLIC COMMENT

Derek Hoffman Attorney for Meadowbrook Dairy (Member of the Public) passed out proposed changes to the draft PAC/TAC meeting procedures from General Counsel Hall's Proposed PAC/TAC Procedures dated October 12, 2017. He was requesting that the PAC Members direct

the PAC and TAC Chairpersons to request that the IWVGA Board approve the Proposed PAC/TAC Procedures at their next (or soonest possible) IWVGA meeting.

Chairperson Donna Thomas offered to put Mr. Hoffman's PAC/TAC changed meeting procedures on the agenda for the next PAC meeting.

Don Zdeba (PAC Member) for clarification read out the bylaws on the descriptions of the PAC and TAC. In their duties of description it specifically states about PAC Member voting privileges. It states the TAC reaches consensus and mentions nothing about voting.

West Katzenstein (PAC Member) made a comment about consensus.

Sophia Merk (Member of the Public) made two comments: a) notice Mr. Steve Johnson the WRM is not at this meeting and b) she requests roll call be taken on attendance and all votes of the PAC.

Stan Rajtora (Member of the Public) said voting is clearly stated in the bylaws regarding the PAC but it is not clear on voting by the TAC. He recommended the bylaws need review as it is about one year since they were finalized. He further recommended that the IWVGA Board eliminate this plethora of 3 lawyers down to 1.

Elaine Mead (Member of the Public) said the scheduling of meetings is ridiculous. Having more than one meeting at the same time eliminates the public's access to attend all meetings.

MOTION FOR NEXT MEETING DATE

A motion by Renee Westa-Lusk and seconded by David Janiec to have the next PAC meeting on July 12 at 6PM.

Passed 6 ayes: Panzer, Westa-Lusk, Katzenstein, Fisher, Thomas, Janiec
Abstentions 1 Imsand nays 0

Other meeting announcements:

Thursday June 21 3PM City Council Chambers meeting about the hydro geologic Model. The results of SKY TEM will be presented along with the presentation of the Stanford Groundwater GAT Study.

Friday July 20 9AM? Meeting presenting roll out of hydro geologic model of Stanford project this will be shared with the IWVGA

West Katzenstein (PAC Member) asked what about a motion to request “not to have PAC and TAC meetings scheduled at the same time?”

MOTION NOT TO HAVE PAC AND TAC MEETINGS SCHEDULED AT THE SAME TIME

A motion stating “any meeting of the PAC or TAC should be scheduled so any member of the public can attend all meetings” was moved by West Katzenstein and seconded Lyle Fisher.

Passed 7 ayes: Imsand, Panzer, Westa-Lusk, Katzenstein, Fisher, Thomas, Janiec

David Janiec (PAC Member) made the comment unless a meeting is an informational presentation only Members of the PAC should be seated in the fashion of a conference table where they can face each other.

5. REVIEW AND DISCUSSION OF ORDINANCE 02-18, RESOLUTION _18 ESTABLISHING FOR THE IMPOSITION AND COLLECTION OF GROUNDWATER EXTRACTION FEES; REVIEW OF MAY 17, 2018 GROUNDWATER PUMPING FEE DATA PACKAGE

Chairperson Donna Thomas called for comment on the ordinance and resolution. The PAC Members were referred to the following in their agenda packets:

- 1) Memo Attorney Phil Hall Ordinance No. 02-18 recommendations to IWVGA Board
- 2) Water Code 10730-10731 Financial Authority on which pumping fee is based on
- 3) Memo from Attorney Phil Hall Resolution_-18- recommends no action by IWVGA Board
- 4) Draft Frequently Asked Questions
- 5) CFCC and Notice of Funding Availability

Don Zdeba (PAC Member) stated the decreased fee(May 17th pumping fee Data package) is contingent on the IWWVD Board deciding not to seek reimbursement for their \$500,000 cash advancement to get through cash flow shortage until the grant funding from the state comes in. David Janiec (PAC Member), Members of the Public Elaine Mead and Stan Rajtora all commented.

Chairperson Donna Thomas asked is there anything in this ordinance that PAC wishes to consider for making a recommendation?

Derek Hoffman Attorney for Meadowbrook Dairy(Member of the Public) stated 1)SGMA requires before any fee be imposed on the rate payers the data supporting the need for the fee must be made public. The public must get a data pack in time to make a recommendation. 2) the PAC could consider delaying the resolution to adopt the fee until well registrations come in. 3) he urged the PAC to deliberate on resolution imposing the fee.

David Janiec (PAC Member) stated the following points: 1) articulate what needs to be fixed, 2) how to talk to stakeholders effectively, 3) explain to rate payers are under state mandate required by laws, 4) what is the public's role in solving this water cost?, 5) cash flow runs out the end of July 31, 2018 if fee is not imposed, 6) how to articulate urgency of fee and consequences of not imposing the fee on rate payers,7) at present we are not proceeding down the proper communications to convince rate payers to pay the fee with punitive statements.

Chairperson Donna Thomas asked why penalties are given out to early in the process?

David Janiec(PAC Member) commented further with the following points:

- 1)there is still the equity fairness of why not all water users in the valley must pay
- 2) if there is not an alternative funding mechanism in place by August 1 what will happen
- 3) a communication problem with engaging the public/rate payers- a) why do I care?, b) what is my involvement?

Don Zdeba(PAC Member) the threat of not implementing the pumping assessment fee comes from the seasonal time changes in pumping practices as the summer time ends the GA is running out of time to collect the summer fees which are the maximum pumping fees for the whole calendar year.

Doreen Baker (Member of the Public) commented about not understanding why the GA is talking about administration, the GA not having too much foresight, deminimus users not being required to pay, if want more public involvement you must communicate better.

Josh Nugent of Mojave Pistachio (Member of the Public) commented on the forthcoming June 7 informational public meeting on the pumping fee assessment. He mentioned a substantive agenda and process is in order.

Ed Imsand of Meadowbrook Dairy (Member of the Public) said a mechanism of funding is needed.

Claudia Ethun (Member of the Public) asked where could we expedite other ways of funding?
Chairperson Donna Thomas stated a 50% advance could be gotten from the Prop. 1 funds that the IWVGA was awarded.

David Janiec (PAC Member) and Anita Imsand Meadowbrook Dairy (Member of the Public) both commented.

Nick Panzer (PAC Member) made the following points:

- 1) this is a relevant policy question
- 2) who is bearing the burden of the fee?
- 3) Who is bearing the benefits of the fee?
- 4) Borrowing money?
- 5) Running out of funds the end of July

West Katzenstein (PAC Member) said deminimus users should be part of the fee structure. It is too bad the state exempts deminimus users from being part of the rate payers. I understand borrowing.

Chairperson Donna Thomas spoke about CFCC (California Financing Coordinating Committee). There are funding fairs to help teach organizations about how to apply for low interest loans. The funding fairs in Southern California don't occur until August.

Derek Hoffman Attorney for Meadowbrook Dairy (Member of the Public) we never heard the board discuss any alternatives for funding. I have asked several times that an array of all alternatives for funding of financing be considered by the GA.

Stan Rajtora (Member of the Public) made a comment about the County should have the funds coming in because of the farmers drawing down the wells. Supervisor Gleason does not concur.

Don Zdeba, David Janiec (Members of the PAC) made comments.

Sophia Merk (Member of the Public) she said there is a problem with doing away with CEQA. CEQA affects agriculture's ability to survive. Some agriculture operations may be financially destroyed.

Nick Panzer (PAC Member) said 1) the policy on fees should wait til the GSP is formed and 2) the alternative to a fee is a loan.

John Kersey (PAC Member) for the record Fox Canyon is charging \$100/AFY. They are headed towards adjudication.

Doreen Baker (Member of the Public) we don't know the numbers of wells, we have no info on the wells.

Anita Imsand (Member of the Public) made comments about the costs of the IWVGA and what the County of Kern has spent.

Renee Westa-Lusk (PAC Member) called for point of order to advance the agenda as the meeting had already been in session for almost 1:40 minutes and we still have half the agenda left to cover.

Chairperson Donna Thomas appointed an ad hoc committee to discuss and make recommendations to the IWVGA Board on the pumping fee assessment ordinance 02_18, Resolution _18. on how they should :

- 1) approach communication to the public
- 2) not focus on penalties
- 3) look at all other options for funding the funding gap of the GA

The Chairperson Donna Thomas stated she and David Janiec will send out an email to all PAC Members to contribute on the policy recommendations of the ad hoc committee.

6. DISCUSSION OF SPEAKER TEAM OUTREACH PLAN

The following IWVGA Board Members have been designated by the IWVGA Board to be the speaker outreach team:

Peggy Breeden

Peter Brown

Mick Gleason

David Janiec (PAC Member) gave the following recommendations:

- 1) the speaker team needs MORE speakers
- 2) there should be more meeting options for the speakers to engage the public at
- 3) the newspapers and other media venues should be given the speaker team's schedule

Nick Panzer (PAC Member) stated there are two key policy questions the PAC should have input on before any public workshops or meetings the speaker team engages in. (These key policy questions were contained in the hand out Mr. Panzer passed out at the beginning of the PAC meeting.) Mr. Panzer thinks the PAC should take a chance at answering the two key policy questions and then deliver the results to the GSA, TAC, and the WRM. The two key policy questions Mr. Panzer cited as essential that the PAC answer before the speaker team engages the public are:

- 1) What conditions indicate a significant and unreasonable decline in groundwater levels?
- 2) How should we allocate sustainable yield to water uses?

7. POAM REVIEW FOR PAC INPUT (Members referred to May 8, 2018 POAM DRAFT)

The Chairperson Donna Thomas suggested the policy that anytime the TAC finishes a topic or project on the POAM schedule then the PAC should evaluate that topic for policy issues.

Nick Panzer (PAC Member) referred to his hand out stating his preference that the PAC get started answering the two key policy questions that he thought should be answered before any public engagement occurs with the speaker team in agenda item no. 5. He further stated that the two key policy statements have a lot to do with line 40 of the POAM “discussion on initial sustainable management criteria” and that the PAC should be assigned to line 40.

The Chairperson Donna Thomas stated the PAC should start with Best Management Practices as one of their tasks.

Don Zdeba, David Janiec (PAC Members) both said that the PAC needs to have the data from the TAC discussions on the line items of each POAM before the PAC can make any policies for the GSP plan.

Renee Westa-Lusk (PAC Member) said she agreed that line 40 of the POAM “discussion on initial sustainable management criteria” should be assigned to the PAC on the POAM. She also stated the PAC needs the data from the TAC before they can review any line item on the POAM in order to make policy.

8. FUTURE AGENDA ITEMS

Chairperson Donna Thomas stated she will put the following on for future agenda items:

- a) BMPs (Best Management Practices)
- b) Take on topic of Nick Panzer's hand out .
- c) Any documents going to the public should be sent to the PAC first for review prior to their release to the public.

9. COMMITTEE MEMBER ANNOUNCEMENTS

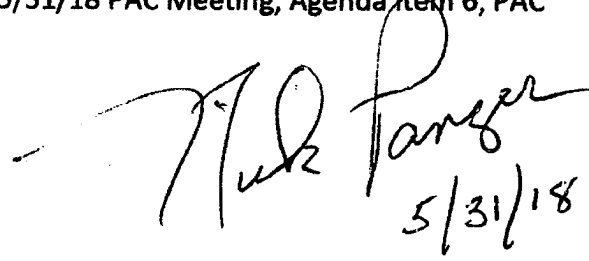
There were no announcements from the PAC Members.

10. ADJOURN TO JULY 12, 2018 MEETING AT 6PM AT IWVWD BOARD ROOM

The meeting was adjourned at 5:20PM with no objection by unanimous consent.

REMINDER: JUNE 7, 2018 5PM INFORMATIONAL MEETING ON PUMPING ASSESSMENT FEE AT INYOKERN SENIOR CITIZENS CENTER

To fellow PAC members from Nick Panzer Re 5/31/18 PAC Meeting, Agenda Item 6, PAC REVIEW of POAM for Input to WRM

A handwritten signature in black ink, appearing to read "Nick Panzer", with the date "5/31/18" written below it.

DISCUSSION

DRAFT POAM, May 8, 2018, line 40, assigns responsibility to TAC starting 7/12/18 for ***Discussion of Initial Sustainable Management Criteria***. That discussion topic begs two key ***policy*** questions for which the GSA, TAC and WRM may wish PAC input, namely

- What conditions indicate a significant and unreasonable decline in groundwater levels?
- How should we allocate sustainable yield to water uses?

Regards the first question, stakeholders must first describe in general terms the conditions that indicate a significant and unreasonable decline in groundwater levels before the GSA can set a measurable objective and minimum threshold for groundwater level as required by SGMA.

Regards the second question, unless artificial recharge proves feasible, we must reduce pumping by about 75% to operate within sustainable yield as required by SGMA. Such a large pumping reduction forces the GSA to prioritize groundwater uses among and within water use sectors (e.g., residential rate payers, domestic well owners, business, industry, agriculture, federal, managed recharge, native habitat).

POSSIBLE PAC ACTION

As a prelude to public workshops (and/or other public engagements) to address these two key policy questions, PAC could take a crack at answering them and delivering the results (consensus or otherwise) to the GSA, TAC, and WRM. This action could begin at our 7/12/18 PAC meeting if the GSA or the WRM so tasks us, and sets a deadline for completion.

Proposed PAC discussion items

- 1) Do we need a GA presence in the Valley?**
- 2) Do we need a full time rather than a part time GM? Would it cost more or less money?**
- 3) Do we need a finance director, either part time or full time? Would it cost more or less money?**
- 4) Do we need a dedicated GA lawyer to replace the plethora of agency lawyers? Would it be more or less effective? Would it cost more or less money?**
- 5) Should the PAC and TAC vote on items brought before them.**
- 6) Do we need a standing Finance Committee? What would this committee oversee?**
- 7) The California Financing Coordinating Committee is made up of seven financing agencies, five state agencies and two federal agencies. Should we consider obtaining grants from these funding agencies?**
- 8) Should we consider getting grants from other than CFCC agencies, such as the Inyo Mono IRWMG?**
- 9) What alternative funding sources should we investigate such as Kern County for agriculture or San Bernardino County for Searle's Valley Minerals?**
- 10) Should the comment period for the GA, TAC, and PAC be extended from 3 minutes to 5 minutes to be common with the City of Ridgecrest and the IWV Water District?**
- 11) Should the GA meet in the evening when more people can attend rather than in the morning?**
- 12) How should the GA be implementing DAC outreach?**

Stan Rajtora, May 31, 2018

IWVGA PAC 5.31.18 Donna Thomas
Continued PAC meeting Agenda Item # 4

IWVGA ADMINISTRATIVE OFFICE

MEMORANDUM

TO: IWVGA Board Members **DATE:** May 17, 2018

FROM: Phillip Hall, IWVGA Staff

SUBJECT: Resolution __-18 – Resolution Establishing Procedures for and Adopting a Groundwater Extraction Fee

DISCUSSION

Note – this Resolution is in draft format. The Board is not being asked to adopt this Resolution at this time. The Board is being provided this draft Resolutions to give it insight into the provisions that will be brought before your Board next month.

RECOMMENDATION

Take no action on this Resolution until the final version is brought before the Board at the June meeting.

BEFORE THE BOARD OF DIRECTORS INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

In the matter of:

Resolution No. __-18

RESOLUTION ESTABLISHING PROCEDURES FOR AND ADOPTING A GROUNDWATER EXTRACTION FEE

I, Lauren Duffy, Secretary of the Board of Directors for the Indian Wells Valley Groundwater Authority, do certify that the following resolution, on motion of Director _____, seconded by Director _____, was duly passed and adopted by the Board of Directors at an official meeting this 15th day of March, 2018, by the following vote:

AYES:

NOES:

ABSENT:

Secretary of the Board of Directors
Indian Wells Valley Groundwater Authority

WHEREAS:

- (a) The comprehensive groundwater legislation collectively enacted and referred to as the "Sustainable Groundwater Management Act" ("SGMA") initially became effective on January 1, 2015.
- (b) The stated purpose of SGMA, as set forth in California Water Code section 10720.1, is to provide for the sustainable management of groundwater basins at a local level by providing local groundwater agencies with the authority and technical and financial assistance necessary to sustainably manage groundwater.
- (c) SGMA further provides for and anticipates that the local groundwater agencies and federal governmental entities overlying a basin will form Groundwater Sustainable Agencies ("GSAs") for the

purpose of achieving groundwater sustainability through the adoption and implementation of Groundwater Sustainability Plans (“GSPs”) for the basin.

(d) The Indian Wells Valley Groundwater Authority (“Authority”) was formed for the purpose of cooperatively carrying out the requirements of SGMA, including, but not limited to, the funding, development, adoption and implementation of a GSP that achieves groundwater sustainability in the Indian Wells Valley Groundwater Basin (“Basin”), which is designated as basin number 6-54 in Department of Water Resources’ Bulletin No. 118.

(e) The Indian Wells Valley Groundwater Authority (“Authority”) is the exclusive GSA for the Basin.

(f) Pursuant to California Water Code section 10730, the Authority is expressly authorized 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 through the imposition of a Groundwater Extraction Fee.

(g) The Authority has reviewed and considered the environmental impacts of this action and concluded that this action is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines section 15273 and Public Resources Code section 21080(b)(8) because it is the establishment of operational rates and charges. Additionally, it has been determined that this action is exempt from further environmental review pursuant Guidelines section 15061(b)(3) because it can be seen with a certainty that this action will not have a significant effect on the environment.

THEREFORE IT IS RESOLVED by the Board of Directors of the Indian Wells Valley Groundwater Authority, as follows:

Section 1. This Board finds that the recited facts are true and that it has the jurisdiction to consider, approve, and adopt this Resolution.

Section 2. This Board finds that the this action is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines section 15273 and Public Resources Code section 21080(b)(8) because it is the establishment of operational rates and charges and Guidelines section 15061(b)(3) because it can be seen with a certainty that this action will not have a significant effect on the environment.

Section 3. Definitions. As used in this Resolution, the following terms shall have the meanings stated below:

3.1 “Authority” means the Indian Wells Valley Groundwater Authority.

3.2 “Basin” means the Indian Wells Valley Groundwater Basin which is designated as basin number 6-54 in Department of Water Resources’ Bulletin No. 118.

3.3 “De Minimis Extractor” shall have the same meaning set forth in California Water Code section 10721(e).

- 3.4 “Groundwater Extraction Facility (Facilities)” means any device or method used for the extraction of groundwater from the Basin.
- 3.5 “Groundwater Extraction Fee Resolution” means the Authority Resolutions and any amendments thereto, that refer to or sets conditions on the measurement of groundwater extractions in the Basin.
- 3.6 “Groundwater Extractors” means both the owner and the operator of a Groundwater Extraction Facility located within the Basin.

Section 4. Exemptions. As provided by law, and in particular California Water Code section 10730, federal entities are exempt from the provisions of this Resolution, as are De Minimis Extractors, unless, and only if, the particular provision expressly provides otherwise.

Section 5. Groundwater Extraction Fee. Effective August 1, 2018 and continuing for a period of 24 months, all groundwater extractions from the Basin shall be subject to an Extraction Fee of three dollars and fifty cents (\$3.50) per tenth (.10) of an acre foot for all groundwater extracted from the Basin.

The Groundwater Extraction Fee shall be determined and paid on a monthly basis with water extraction measurements rounded down to the nearest tenth (.10) of an acre foot per month.

Section 6. Groundwater Extraction Facility Registration. No later than July 23, 2018, all Groundwater Extraction Facilities within the boundaries of the Basin shall be registered with the Authority by the Groundwater Extractor. Groundwater Extraction Facilities are prohibited from extracting groundwater from the Basin if they have not registered by July 23, 2018 and said prohibition shall continue until the facility is registered to the satisfaction of the Water Resources Manager.

Notwithstanding the foregoing, Groundwater Extraction Facilities that are used solely by a De Minimis Extractor have until October 1, 2018 to register with the Authority. If such a Groundwater Extraction Facility is not registered by October 1, 2018, the Facility shall be prohibited from extracting groundwater until it is registered to the satisfaction of the Water Resources Manager.

Groundwater Extraction Facilities constructed after July 23, 2018 must register and must receive registration approval from the Water Resources Manager prior to the extraction of any groundwater from the Basin.

The registration of a Groundwater Extraction Facility shall be made to the satisfaction of the Water Resources Manager and at a minimum the registration shall include the following information: 1) the name and contact address of the owner and if different the operator of the Groundwater Extraction Facility; 2) the location of the Groundwater Extraction Facility; 3) the name and address of the owner of the land upon which the Groundwater Extraction Facility is located; 4) a description of the equipment associated with the Groundwater Extraction Facility; 5) a description of the method the owner and operator uses to measure groundwater extractions from the Groundwater Extraction Facility; 6) a statement describing whether the extracted groundwater is used for residential, commercial, industrial or agricultural purposes, or a combination thereof; and, 7) any other information that the Authority’s General Manager to be prudent

and necessary to achieve the legal purposes of the Authority.

The Water Resources Manager shall review all registrations and return, with corrective comment, any that do not meet the Water Resources Manager's approval. Approved registrations shall receive an approval notice from the Authority. A Groundwater Extraction Facility may not extract any groundwater from the Basin until it has received a registration approval notice.

Section 7. Groundwater Extraction Measuring Method. Effective August 1, 2018, all groundwater extractions from, and within, the boundaries of the Basin shall be measured in a method approved by the Authority's Water Resources Manager and reported to the Authority.

Groundwater Extractors shall seek the Water Resources Manager's method approval through the submission of an Authority approved form by no later than July 10, 2018. The Water Resources Manager shall review all method requests and return, with corrective comment, any that do not meet the Water Resources Manager's approval. Approved method requests shall receive an approval notice from the Water Resources Manager. A Groundwater Extraction Facility may not extract any groundwater from the Basin until it has received a method approval notice from the Water Resources Manager.

The preferred method for monitoring groundwater extractions shall be through a flow metering device approved by the Water Resources Manager. A secondary method shall be through use of electrical records and pump efficiency data. If the above options are not available the Groundwater Extractor must seek and receive approval from the Water Resources Manager of an alternative method prior to August 1, 2018.

Section 8. Groundwater Extraction Reporting and Fee Payment. On the first day of each month, Groundwater Extractors shall read and record the needed data for the measuring method used by the Groundwater Extraction Facility. By the 10th day of each calendar month, the Groundwater Extractor shall self-report the needed data from their Groundwater Extraction Facility on the self-reporting form provided by the Authority. Additionally, the Groundwater Extractor shall simultaneously pay the Groundwater Extraction Fee provided for on the Form.

If unusual circumstances exist, a Groundwater Extractor may request that their Groundwater Extraction Facility be placed on a modified reporting and billing schedule approved by both the Authority's General Manager and the Water Resources Manager.

Section 9. Delinquent Accounts. As prescribed by California Water Code section 10730.6, if a Groundwater Extractor knowingly fails to pay the Groundwater Extraction Fee for their Groundwater Extraction Facility within thirty (30) days of it becoming due, it is delinquent and the owner and operator shall be liable to the Authority for interest at a rate of one (1) percent per month on the delinquent amount of the Groundwater Extraction Fee and a ten (10) percent penalty on the delinquent amount of the Groundwater Extraction Fee.

As an additional remedy, the Authority may, after a public hearing, order an owner and/or operator to cease extraction of groundwater until all delinquent fees, interest and penalties are paid. In such an instance, the Authority shall give notice to the owner and/or operator by certified mail not less than 15 days in advance of the public hearing.

These above cited rights are additional rights to those rights which the Authority may otherwise be prescribed by Law.

Section 10. Owner Responsibility. The owners of Groundwater Extraction Facilities are ultimately responsible for the payment of all Groundwater Extraction Fee charges, interest and penalties should an operator fail to abide by the provisions of this Ordinance and Authority's Groundwater Extraction Fee Resolution. Consequently, owners are charged with providing for the requirements of this Ordinance and the Groundwater Extraction Fee Resolution in any agreements entered into with well operators and water users.

Section 11. New Groundwater Extraction Facilities. Groundwater Extraction Facilities constructed after the effective date of this Resolution shall meet the requirements set forth herein and receive Authority approval prior to the extraction of any groundwater from the Basin.

Section 12. Use of Extraction Revenues. Revenues collected through the imposition of the Groundwater Extraction Fee shall be used exclusively for the purposes authorized in California Water Code section 10730.

Section 13. Violations. Anyone that violates any provision of this Resolution shall be subject to possible civil penalties and civil action by the Authority. The Authority's civil penalties and civil action rights are an additional right to those rights which may otherwise be prescribed to the Authority by Law.

Section 14. Severability. Should any provision of this Resolution, or its application, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise invalid, that determination shall have no effect on any other provision of this Resolution to that end, the provisions hereof are severable.

IWVGA ADMINISTRATIVE OFFICE

MEMORANDUM

TO: IWVGA Board Members **DATE:** May 17, 2018

FROM: Phillip Hall, IWVGA Staff

SUBJECT: Ordinance No 02-18 – Establishing the Rules, Regulations and Procedures
For The Imposition and Collection of Groundwater Extractions Fees.

DISCUSSION

This Board has previously determined that it will 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 through the imposition of a Groundwater Extraction Fee. The attached Ordinance is one component in implementing that program.

Because this action is an Ordinance, the Board will need to introduce this Ordinance at today's meeting and then revisit the Ordinance for final adoption at the next regular meeting of the Board in June. It is anticipated that the adoption of this Ordinance will coincide with the adoption of the Authority's Groundwater Extraction Fee Resolution.

RECOMMENDATION

Staff recommends that your Board:

- 1) Make a finding that the proposed Ordinance is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines section 15273 and Public Resources Code section 21080(b)(8) because it is the establishment of operational rates and charges. Additionally, it has been determined that this action is exempt from further environmental review pursuant Guidelines section 15061(b)(3) because it can be seen with a certainty that this action will not have a significant effect on the environment. Moreover it has been determined that this action is exempt from further environmental review pursuant Guidelines section 15378(b)(5) because it involves administrative activities that will not result in direct or indirect physical changes in the environment.
- 2) Introduce the attached Ordinance by reading aloud its Title: Ordinance No 02-18– Establishing the Rules, Regulations and Procedures for the Imposition and Collection of Groundwater Extractions Fees.

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

In the matter of:

Ordinance No. 02-18

**ESTABLISHING THE RULES, REGULATIONS
AND PROCEDURES FOR THE IMPOSITION
AND COLLECTION OF GROUNDWATER
EXTRACTION FEES**

I, _____, Clerk of the Board of Directors for the Indian Wells Valley Groundwater Authority, do certify that the following ordinance, on motion of Director _____, seconded by Director _____, was duly passed and adopted by the Board of Directors at an official meeting this ____ day of June, 2018, by the following vote:

AYES:

NOES:

ABSENT:

Clerk of the Board of Directors
Indian Wells Valley Groundwater Authority

Deputy Clerk

**THE BOARD OF DIRECTORS OF INDIAN WELLS VALLEY GROUNDWATER AUTHORITY
ORDAINS AS FOLLOWS:**

Section 1. This Ordinance shall become effective 30 days from the date of adoption and the complete Ordinance shall be published in accordance with Californian Government Code section 25124.

Section 2. Definitions. As used in this Ordinance, the following terms shall have the meanings stated below:

2.1 “Authority” means the Indian Wells Valley Groundwater Authority.

2.2 “Basin” means the Indian Wells Valley Groundwater Basin which is designated as basin number 6-54 in Department of Water Resources’ Bulletin No. 118.

2.3 “De Minimis Extractor” shall have the same meaning set forth in California Water Code section 10721(e).

2.4 “Groundwater Extraction Facility (Facilities)” means any device or method for the extraction of groundwater from the Basin.

2.5 “Groundwater Extraction Fee” means the fee set forth in the Authority’s then applicable Groundwater Extraction Fee Resolution.

2.6 “Groundwater Extraction Fee Resolution” means the Authority’s Resolutions and any amendments thereto, that refer to or set charges and conditions on the measurement of groundwater extractions in the Basin.

2.7 “Groundwater Extractors” means both the owner and the operator of a Groundwater Extraction Facility located within the Basin.

2.8 “Water Resources Manager” means the individual given said title and position with the Authority by the Board of Directors.

Section 3. Groundwater Extraction Fee. Effective August 1, 2018, and unless otherwise expressly prohibited by law, all groundwater extractions from, and within the Basin shall be subject to measurement and the Groundwater Extraction Fee set for in the then applicable Groundwater Extraction Fee Resolution.

Section 4. Groundwater Extraction Facility Registration. No later than July 23, 2018, all Groundwater Extraction Facilities within the boundaries of the Basin shall be registered with the Authority by the Groundwater Extractor. Groundwater Extraction Facilities are prohibited from extracting groundwater from the Basin if they are not registered by July 23, 2018 and said prohibition shall continue until the Facility is registered to the satisfaction of the Water Resources Manager.

Notwithstanding the foregoing, Groundwater Extraction Facilities that are used solely by a De Minimis Extractor have until October 1, 2018 to register with the Authority. If such a Groundwater Extraction Facility is not registered by October 1, 2018, the Facility shall be prohibited from extracting groundwater until it is registered to the satisfaction of the Water Resources Manager.

Groundwater Extraction Facilities constructed after July 23, 2018 must register and must receive registration approval from the Water Resources Manager prior to the extraction of any groundwater from the Basin.

The registration of a Groundwater Extraction Facility shall be made to the satisfaction of the Water Resources Manager and at a minimum the registration shall include the following information: 1) the name and contact address of the owner and, if different, the operator of the Groundwater Extraction Facility; 2) the location of the Groundwater Extraction Facility; 3) the name and address of the owner of

the land upon which the Groundwater Extraction Facility is located; 4) a description of the equipment associated with the Groundwater Extraction Facility; 5) a description of the method the owner and operator uses to measure groundwater extractions from the Groundwater Extraction Facility; 6) a statement describing whether the extracted groundwater is used for residential, commercial, industrial or agricultural purposes, or a combination thereof; and, 7) any other information that the Authority's General Manager deems to be prudent and necessary to achieve the legal purposes of the Authority.

The Water Resources Manager shall review all registrations and return, with corrective comment, any that do not meet the Water Resources Manager's approval. Approved registrations shall receive an approval notice from the Authority. A Groundwater Extraction Facility may not extract any groundwater from the Basin until it has received a registration approval notice.

Section 5. Groundwater Extraction Measuring and Reporting. Effective August 1, 2018, all groundwater extractions from, and within, the boundaries of the Basin shall be measured in a method approved by the Water Resources Manager and reported by the Groundwater Extractor to the Authority in accordance with the provisions of the then applicable Groundwater Extraction Fee Resolution.

Section 6. Violations. Anyone that violates any provision of this Ordinance, or the Groundwater Extraction Fee Resolution, shall be subject to possible civil penalties and civil action by the Authority. The Authority's civil penalties and civil action rights are an additional right to those rights which may otherwise be prescribed by Law.

Section 7. Delinquent Accounts. As prescribed by California Water Code section 10730.6, if the owner and/or operator of a Groundwater Extraction Facility knowingly fails to pay the Groundwater Extraction Fee within thirty (30) days of it becoming due, it is delinquent and the owner and operator shall be liable to the Authority for interest at a rate of one (1) percent per month on the delinquent amount of the Groundwater Extraction Fee and a ten (10) percent penalty on the delinquent amount.

As an additional remedy, the Authority may, after a public hearing, order an owner and/or operator to cease extraction of groundwater until all delinquent fees, interests and penalties are paid. In such an instance, the Authority shall give notice to the owner and/or operator by certified mail not less than 15 days in advance of the public hearing.

These above cited rights are additional rights to those rights which the Authority may otherwise be prescribed by law.

Section 8. Owner Responsibility. The owners of Groundwater Extraction Facilities are ultimately responsible for the payment of all Groundwater Extraction Fee charges, interest and penalties should an operator fail to abide by the provisions of this Ordinance and Authority's Groundwater Extraction Fee Resolution. Consequently, owners are charged with providing for the requirements of this Ordinance and the Groundwater Extraction Fee Resolution in any agreements entered into with well operators and water users.

Section 9. New Groundwater Extraction Facilities. Groundwater Extraction Facilities constructed after the effective date of this Ordinance shall comply with the requirements set forth in this Ordinance and the Groundwater Extraction Fee Resolution prior to the extraction of any groundwater from the Basin.

Section 10. Severability. Should any provision of this Ordinance, or its application, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise invalid, that determination shall have no effect on any other provision of this Ordinance and to that end, the provisions hereof are severable.

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,



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 (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 (5) 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 (3) 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.