

# INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

## GROUNDWATER EXTRACTION FEE FREQUENTLY ASKED QUESTIONS

### 1. What is SGMA?

The “Sustainable Groundwater Management Act” (“SGMA”) became effective January 1, 2015. In essence, SGMA allows local agencies with water supply, water management or land use responsibilities to 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. Federal governmental agencies may choose to voluntarily participate in the development of the GSP. The Indian Wells Valley Groundwater Authority (“Groundwater Authority”) was formed and serves as the exclusive GSA for the Indian Wells Valley Groundwater Basin (“Basin”).

### 2. What is the benefit of the Groundwater Sustainability Plan (GSP)?

Every resident of the Indian Wells Valley region will benefit from the successful development and management of a Groundwater Sustainability Plan (“GSP”) by having a secure and reliable water supply. SGMA requires local governments and water agencies of high and medium priority basins, like the Indian Wells Valley Groundwater Basin, to generally halt overdraft and bring groundwater basins into balanced levels of pumping and recharge. GSPs are detailed road maps for how groundwater basins will accomplish SGMA requirements and reach long term sustainability. The Groundwater Authority is currently developing the Indian Wells Valley Groundwater Basin GSP, through collaboration with the public and local stakeholders, to be completed by January 2020. After implementing the Indian Wells Valley Groundwater Basin GSP, the Indian Wells Valley Groundwater Basin should reach sustainability within 20 years, by the year 2040. The Indian Wells Valley Groundwater Basin GSP will benefit all groundwater users and residents within the Indian Wells Valley region by securing its precious water resources for the use of all.

### 3. What is the purpose of the groundwater extraction fee?

The purpose of the groundwater extraction fee is to generate revenue to cover the costs incurred by the Groundwater Authority to develop and adopt the Indian Wells Valley Groundwater Basin GSP along with tasks related to its development, in accordance with SGMA. The groundwater extraction fee, by partially funding the Indian Wells Valley Groundwater Basin GSP, is critical for achieving long-term groundwater management goals. Accordingly, the Groundwater Authority is collaboratively working with the public, including well owners, regarding the implementation of the groundwater extraction fee. The Groundwater Authority has chosen an initial cooperative approach to Well Registration and Well Pumping Reporting to minimize costs.

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## 4. What grants the authority for groundwater extraction fees?

California Water Code Section 10730, enacted through SGMA, authorizes the Groundwater Authority, the authority to impose a groundwater extraction fee. Pursuant to Section 10730(a), the fees may be used “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.” In addition, Water Code Section 10725(a) authorizes the Groundwater Authority to “perform any act necessary or proper to carry out the purposes of this part [SGMA]”.

## 5. Are all pumpers subject to the fee? Who is exempt?

Pursuant to SGMA, all groundwater pumpers are subject to the groundwater extraction fee except for federal entities and those that qualify as de minimis extractors. (Note: De minimis extractors that are currently exempt from the groundwater extraction fee may be subject to future fees implemented by the Groundwater Authority after the Indian Wells Valley Groundwater Basin GSP is adopted.)

## 6. Who qualifies as a de minimis extractor and is exempt from the fee?

SGMA expressly provides that a “de minimis extractor” is “a person who extracts, for domestic purposes, two acre-feet or less per year” (California Water Code Section 10721(e)). “Person” for the purposes of this fee is any typical household including landscaping. One acre-foot of water is equivalent to 325,851 gallons.

## 7. I share a well. Do I qualify as a de minimis extractor or do I have to pay the fee?

A well with a total of five household connections or more must be registered and is subject to the fee. If you share a well that has a total of four or fewer household connections and you individually use less than two acre-feet per year, you are a de minimis extractor and you do not have to register the well or pay the fee at this time.

### *Illustrative Example:*

A well has two persons extracting from it. The first person extracts less than two acre-feet per year for their home use while the second person extracts more than two acre-feet per year for use on a hobby farm. The first person is a “de minimis extractor” because they are drawing less than two acre-feet per year for their own domestic purpose and what the second person does, or does not do, has no effect on this analysis. The second person is not a “de minimis extractor” for two reasons: 1) they are using more than two acre-feet per year; and, 2) they are using the water for a non-domestic use. Either one of these reasons is enough on its own to make the second person a non de minimis extractor. Under the Groundwater Extraction Fee Ordinance, the first person does nothing while the second person will register their well and pay the fee.

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## 8. I get my water from a mutual water company or the Indian Wells Valley Water District; will I have to pay the fee?

The mutual water company (or the Indian Wells Valley Water District) that supplies your water will be subject to the fee.

## 9. What is a mutual water company?

Mutual water companies are created by several properties to supply water from a mutual well. They are corporations formed under California Corporations Code 14300. Mutual water companies are regulated by California's Water Code, Health and Safety Code and must abide by open meeting and records disclosure laws similar to many public water utilities.

## 10. How much is the fee?

The amount of the fee will be \$30 for each acre foot of water pumped in the Indian Wells Valley Groundwater Basin administered as \$3.00 per tenth (.10) of an acre foot.

## 11. What is the average domestic water use in the area?

Households within the Indian Wells Valley Water District typically use 0.7 acre-feet per year of potable water.

## 12. How was the fee determined?

The formula for determining the fee is the amount required to be funded by the groundwater extraction fee, divided by the fee period, divided by the average monthly groundwater pumping volume. The funds needed from the groundwater extraction fee (\$930,754) are the costs to develop and adopt the Groundwater Sustainability Plan not covered by grant money, member agency contributions, or in-kind services. The fee period is estimated to be between 15 and 21 months. The most recent estimate of annual pumping available is 2016 data reported by the Indian Wells Valley Cooperative Groundwater Management Group. The average monthly groundwater pumping volume used to determine the fee is 1,800 acre feet, which is the 2016 total annual groundwater production, reduced by the volume of production from the U.S. Navy and private wells, resulting in 21,600 acre-feet pumped annually, and then divided by 12 months. U.S Navy and private well production is excluded from the monthly groundwater pumping volume because these users are exempt from the groundwater extraction fee. (See Question 5).

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### 13. When does the groundwater extraction fee go in effect and for how long?

The ordinance establishing the fee is intended to be adopted on July 19, 2018 at the Groundwater Authority Board Meeting. If adopted the ordinance goes into effect 30 days after that date on August 19, 2018. The first month of groundwater production to be subject to the groundwater extraction fee will be September 2018. The fee period is estimated to be between 15 and 21 months but could be reduced or extended depending on actual groundwater pumping recorded. (See Question 14). (Note: After the Groundwater Sustainability Plan is adopted in 2020, the Groundwater Authority will likely be required to implement fees to pay for the cost of implementing the management measures proposed in the Groundwater Sustainability Plan (i.e. importing potable water into the Indian Wells Valley)).

### 14. What if the 2016 pumping estimates do not reflect future groundwater production? Will the fee change?

The 2016 annual pumping data was used as a guide to determine the volumetric pumping fee. If 2018 and 2019 annual groundwater production are greater than 2016 estimates, the fees will generate the required funds (\$930,754) in less than the anticipated number of months. If this occurs, the law would require that the Groundwater Authority either shorten the period over which the fee was collected or in the alternative lower the fee itself. Conversely, if 2018 and 2019 annual groundwater production is less than 2016 estimates, the fees will require more months to generate the required funds (\$930,754). If this occurs, the fee period may be extended or the fee may be increased. A public process and meeting would be required to increase the fee.

### 15. How are all wells being identified in the Basin?

By law, all wells drilled in the Indian Wells Valley Groundwater Basin within approximately the last 40 years require a permit from the Counties of Kern, San Bernardino, or Inyo. The lists of County well permits are how the Groundwater Authority has identified wells in the Basin. In the coming months, the Groundwater Authority staff will be using all reasonable efforts to identify outlier wells that are not contained on these permit lists. The Groundwater Authority is also collaboratively working with well owners to develop a complete and accurate well registry.

### 16. How will groundwater production be recorded and fees administered?

Administration of the groundwater extraction fee will require significant public cooperation. All well owners subject to the fee will be required to register their wells with the Groundwater Authority. Groundwater producers subject to the groundwater extraction fee will self-report their monthly production data to the Groundwater Authority along with submitting the associated monthly fees.

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## 17. Are there penalties for non-compliance?

As prescribed by California Water Code section 10730.6, if a groundwater extractor 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. Additionally, anyone that violates the ordinance establishing the groundwater extraction fee shall be subject to possible civil penalties and civil action by the Groundwater Authority.

## 18. What if I do not have a meter on my well?

The Groundwater Authority, through the Water Resources Manager, will coordinate with well owners to develop alternative methods for determining groundwater production for those wells without meters. After the Indian Wells Valley Groundwater Basin GSP is adopted, the Groundwater Authority will have the discretion to require all wells in the Indian Wells Valley to have water meters installed.

## 19. Who can I talk to with additional questions?

Technical questions can be directed to Steve Johnson, Groundwater Authority Water Resources Manager, at [stevej@stetsonengineers.com](mailto:stevej@stetsonengineers.com).

Legal questions can be directed to Keith Lemieux, Groundwater Authority Legal Counsel, at [klemieux@omlowlaw.com](mailto:klemieux@omlowlaw.com).

*Note: These Frequently Asked Questions are for general informational purposes only and should not be construed to supersede SGMA or the Groundwater Extraction Fee ordinance.*