Klein · DeNatale · Goldner
ATTORNEYS AT LAW

Joseph D. Hughes 661-328-5217 jhughes@kleinlaw.com

4550 California Ave., Second Floor, Bakersfield, CA 93309
p. 661-395-1000 f. 661-326-0418 **www.kleinlaw.com**

October 26, 2021

Central Management Area GSA
c/o William Buelow
Santa Ynez River Water Conservation District
3669 Sagunto Street, Suite 101
Santa Ynez, CA 93460

Re: Central Management Area draft GSP Comments

Dear Directors and Staff:

The purpose of this letter is to provide the Central Management Area Groundwater Sustainability Agency (GSA) with the comments of the Santa Ynez Water Group to the GSA's draft groundwater sustainability plan (GSP).

Enclosed with this letter is a memorandum prepared by our consultant, Bondy Groundwater Consulting, Inc., focusing on the technical issues and concerns identified during their review of the GSP. In addition to those comments, we add the following.

As previously expressed to the GSA, a primary concern of our members continues to be the GSA's failure to adequately consider the interests of agricultural landowners holding overlying groundwater rights and the effects of the GSA's actions on those landowners. This is evident in the draft GSP's proposed projects and management actions and associated financing structure.

For example, the draft GSP estimates a 15 to 20 percent increase in water use by the City of Buellton, a municipal entity within the Central Management Area holding appropriative groundwater rights. (Draft GSP, 2c.4-1-2.) The draft GSP identifies projects and management actions that may be implemented in response to these projected increases in demand. (Draft GSP, Section 4A.1.) However, throughout Section 4A.1, the draft GSP suggests that the costs associated with these projects and management actions will be borne by *all* groundwater users. Consequently, the GSA is requiring agricultural landowners holding senior overlying groundwater rights to pay for the increased pumping of groundwater users holding junior appropriative groundwater rights. This approach is neither equitable nor reflective of groundwater law.

Additionally, there are several issues within the Sustainable Management Criteria (SMC) chapter of the draft GSP. First, the minimum thresholds (MT) associated with the Chronic Lowering of Groundwater SMC are arbitrary and lacking in sufficient support. This is likely the result of the flawed methodology used in developing these MTs. Further, the Degraded Water Quality SMC is too broad in scope. This SMC should only consider those effects associated with

groundwater pumping or other GSP implementation activities, not the adverse effects of wastewater treatment facilities or other like sources.

While these are only a few examples of our members' concerns, several others are identified in the enclosed memorandum.

We appreciate the significance of the considerations and decisions the GSA must undertake, and we look forward to working with you further regarding these matters. Please feel free to contact us if you have any questions or wish to discuss any of our comments.

Very truly yours,

Joseph D. Hughes

JDH/sbh

Enclosure

BONDY
Groundwater Consulting, Inc.

MEMORANDUM

To: Joe Hughes / KDG

From: Bryan Bondy / BGC BB

CC: Doug Circle, SYWG

Date: October 25, 2021

Re: CMA Draft GSP Review

Pursuant to your request, this memorandum presents the material findings from my review of the Draft Groundwater Sustainability Plan (GSP) for the Central Management Area of the Santa Ynez River Valley Groundwater Basin (CMA). Please note that my review focused on the key GSP elements only; not all GSP aspects were reviewed in detail.

- Sustainable Management Criteria:
    - Chronic Lowering of Groundwater Levels – The logic behind the minimum thresholds is questionable and the minimum thresholds themselves appear arbitrary.

      The GSP concludes that well operational issues that may be associated with groundwater levels below the top of well screens are indicative of significant and unreasonable depletion of supply. First, well operational issues are not a depletion of supply in of themselves; rather they are infrastructure issues that can be remedied through well redevelopment, well replacement, or backup wells, which could be implemented as GSP projects. It is suggested that depletion of supply not be viewed as well issues that can be remedied; rather, depletion of supply is more appropriately characterized as the inability to produce adequate water because the water isn't there.

      Second, the "well impact analysis" provides clear evidence contrary to the GSP conclusions. Approximately 26% of the wells in the CMA had groundwater levels below top of screen in 2020, yet the GSP states that no reported undesirable results associated with chronic lowering of groundwater levels have occurred (see p. 3b-9). If the premise is that groundwater levels below top of screen causes significant and unreasonable effects, then why haven't numerous instances of significant and unreasonable effects been reported already? Moreover, the number of wells with groundwater levels below the top screen at minimum threshold groundwater elevations is not materially different than the number of wells at 2020 groundwater levels. (0% more municipal wells, 6.3%

more agricultural wells, and 4.3% more domestic wells). There is no justification for why the small increase in the number of wells with groundwater levels below top of screen results causes the CMA to cross the line into the realm of significant and unreasonable effects. No specific, demonstrable effects that are *not* occurring at 2020 levels, but are expected to occur at the minimum threshold levels are identified. Lastly, it is noted that the "well impact analysis" shows that the number of impacted wells would be *exactly the same* if the minimum threshold were set 5 feet lower (i.e., 20 feet below 2020 levels versus 15 feet below 2020 levels). No justification is provided for why undesirable results would be expected at the shallower groundwater level (15 feet below 2020 levels) even through the number of wells impacted is the same if the minimum threshold were to be set at 20 feet below 2020 levels. For these reasons, the minimum thresholds appear arbitrary.

It is noted that there is nothing that has or would prevent any well owner from drilling deeper wells. It is unfair to restrict the use of the groundwater resource and/or charge fees to benefit specific beneficial users who have not made the same level of investment to access the groundwater resource as others. If the GSP is to keep groundwater levels high enough to prevent well issues for those who have not fully invested in infrastructure to access the resource during droughts, then those users should fund the management actions necessary to do so, particularly in the case of the City of Buellton whose appropriative groundwater rights are junior to the overlying landowners.

- Degraded Water Quality:

  - Page 3b-17 states that adverse water quality conditions could be related to wastewater treatment and other sources. The CMA GSA should only be responsible for addressing degradation of groundwater quality caused by pumping and/or GSP implementation. There is a concern that the GSP does not caveat the minimum threshold to this effect. The minimum thresholds should only apply if the CMA GSA determines that water quality degradation is being caused by pumping or GSP implementation.

  - The GSP could be improved by explaining how the GSA will differentiate between changes in concentrations caused by groundwater pumping or GSA activities versus other mechanisms.

- Projects and Management Actions

  - Overarching Comment: GSP projects and management actions will be funded through grants and fees to be levied for groundwater pumping, which appears to include overlying pumpers. Because overlying landowners' groundwater rights are senior to the City of Buellton's appropriative rights, SYWG believes

consideration should be given to requiring the City to fund actions necessary to achieve the sustainable yield before levying fees on overlying groundwater users for project or management actions.

- Supplemental Imported Water Program (Section 4a.2-3): The purchase of supplemental State Water Project water would be funded through fees, which appears to include overlying pumpers. Because overlying landowners' groundwater rights are senior to the appropriative rights held by the City of Buellton, SYWG believes consideration should be given to requiring the City to pay for the supplemental water purchases to achieve the sustainable yield.

- Increase Stormwater Recharge (Section 4a.2-4): While the projects described in this section may increase recharge to the CMA, it should be made clear that a primary purpose of the projects is to achieve compliance with Municipal Separate Storm Sewer System permit requirements for storm water quality. Presumably, the City of Buellton would be required to complete these projects regardless of SGMA or take other actions to comply with permit requirements. Therefore, overlying pumpers should not be forced to subsidize the City's efforts to comply with stormwater regulations by including and funding these projects through the GSP. It is acknowledged that the projects may have a groundwater recharge benefit. However, SYWG believes it is appropriate for the City to provide the recharge benefits through these projects at their cost because there is an identified deficit in the CMA water balance and the City's groundwater rights are junior to the landowners overlying groundwater rights.

Closing

Please contact me if you have any questions regarding this memorandum. The opportunity to assist KDG / SYWG is greatly appreciated.