

**MEMORANDUM OF UNDERSTANDING
REGARDING GOVERNANCE OF A PORTION OF THE INDIO SUB-BASIN
UNDER THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT**

This memorandum of understanding (MOU), dated April 18, 2017, is entered into between the Coachella Valley Water District (CVWD) and the County of Imperial a political subdivision of the State of California ("County") (each a "party" and collectively, the "parties") regarding implementation of the Sustainable Groundwater Management Act (Water Code, Part 2.74, Section 10720 et seq.) (SGMA) within a portion of the Indio Sub-Basin located within the jurisdictional boundaries of both CVWD and the County.

WHEREAS, the California Department of Water Resources (DWR) has designated the Coachella Valley Groundwater Basin, Indio Sub-Basin (Bulletin 118, No. 7-21.01) ("Indio Sub-Basin") as a medium priority basin;

WHEREAS, the large majority of the Indio Sub-Basin is located within Riverside County, with smaller portions at the southern end of the basin located in Imperial and San Diego Counties;

WHEREAS, the portion of the Indio Sub-Basin within the jurisdictional boundaries of both CVWD and the County addressed by this MOU covers approximately 2.56-square miles, is referred to herein as the "Overlapping Area", and is depicted on the map attached hereto as Exhibit "A";

WHEREAS, SGMA provides that "any local agency or combination of local agencies overlying a groundwater basin may elect to be a groundwater sustainability agency [GSA] for that basin" and that GSA's are to be formed no later than June 30, 2017;

WHEREAS, in August 2015, the Imperial County Board of Supervisors approved Resolution No. 2015-122 to become the GSA for a number of groundwater basins within the County's jurisdiction, including the Overlapping Area,

WHEREAS, on or about September 15, 2015, DWR posted on its "Table of GSA Formation Notifications" webpage notice of the County's election to be the GSA over a number of groundwater basins, including the Overlapping Area;

WHEREAS on October 13, 2015, the CVWD Board of Directors adopted Resolution No. 2015-76 to become the GSA for the portion of the Indio Sub-Basin within CVWD's boundaries, including the Overlapping Area,

WHEREAS, on or about November 13, 2015, DWR posted on its Table of GSA Formation Notifications webpage notice of the CVWD's election ("CVWD Notice") to be the GSA over the Overlapping Area;

WHEREAS, the CVWD Notice expressly informed DWR that CVWD would coordinate with the County to resolve the GSA overlap issues in the Overlapping Area;

WHEREAS, CVWD has developed through an open stakeholder process in the Coachella Valley a comprehensive water management plan for the Indio Subbasin (2010 Coachella Valley Water Management Plan, updated by the 2014 Progress Report) that meets the standards of AB 3030, as amended by SB 1938;

WHEREAS, the CVWD Notice also informed DWR that CVWD is coordinating with other water agencies in the Coachella Valley, and has entered into an MOU to ensure a streamlined approach to management under SGMA of the portion of the Indio Sub-Basin within Riverside County, including regarding the submittal of the 2010 Coachella Valley Water Management Plan, as updated, as an alternative under SGMA;

WHEREAS, as a result of both CVWD and the County having sought to be the GSA for the Overlapping Area, DWR has indicated on its GSA Notification Website that overlap exists and that neither the County nor CVWD will become the GSA for the Overlapping Area until the two agencies agree on how to proceed;

WHEREAS, the County has adopted specific groundwater ordinances applicable within the County, including within the Overlapping Area, as described in Section 3.1.3, below; and

WHEREAS, CVWD and the County share the common goal of protecting the Indio Subbasin against long term overdraft and ensuring a sustainable groundwater supply; and

WHEREAS, CVWD and the County desire to reach a common understanding with respect to future SGMA governance of the Overlapping Area to maximize coordination and minimize potential areas of disagreement between the parties.

NOW, THEREFORE, it is mutually understood and agreed as follows:

SECTION 1:

AUTHORITY OF THE PARTIES

1.1 Coachella Valley Water District is a public agency of the State of California organized and operating under the County Water District Law, California Water Code section 30000, et seq, and the Coachella Valley Water District Merger Law, Water Code section 33100, et seq.

1.2 The County of Imperial is a political subdivision of the State of California constituted under Government Code section 23000, et seq.

SECTION 2:

PURPOSES AND GOALS OF THIS MOU

2.1 The purpose of this MOU is to memorialize the intent of the parties to coordinate and cooperate regarding implementation of SGMA to ensure that the sustainability goals of SGMA are met within the Overlapping Area portion of the Indio Sub-Basin. This MOU is intended to, preserve each agencies existing groundwater related authorities, encourage cooperation and coordination regarding management of the Overlapping Area and to improve and maintain overall communication between the parties.

SECTION 3

IMPLEMENTATION

3.1 The parties agree as follows:

3.1.1 Subject to the terms of this MOU and prior to the June 30, 2017 deadline established by DWR, CVWD will become the GSA for the Overlapping Area, and the County will withdraw its notice of intent to be the GSA for the Overlapping Area. The parties will work cooperatively to address any documentation issues needed to satisfy DWR regarding the establishment of the CVWD GSA for the Overlapping Area.

3.1.2. The parties will work cooperatively as part of CVWD's preparation of a groundwater sustainability plan (GSP) or alternative ("Alternative") for the Overlapping Area. With the parties' understanding that CVWD has entered into an MOU with and is working in conjunction with other existing GSA's in the Riverside County portion of the Indio Subbasin to produce a GSP or Alternative intended to cover the entire Indio Subbasin, CVWD will include at least one representative designated by the County as a member of any GSP Advisory Committee (as discussed in Water Code, § 10727.8(a)) for the Indio Subbasin established by CVWD. The parties further understand that CVWD lacks authority to bind or control any other Coachella Valley (Riverside County) GSA in regards to preparation of the GSP or Alternative for the Indio Subbasin.

3.1.3 The GSP or Alternative applicable to the Overlapping Area will be consistent with Title 9, Imperial County Code of Ordinances, Divisions 21 (Water Well Regulations) and 22 (Groundwater Ordinance) (collectively, "County Groundwater Ordinances"), as those County Groundwater Ordinances may be amended by the County from time to time, and shall not interfere with the County's exercise of its land-use regulatory authority under its police powers. The parties agree that the County Groundwater Ordinances are beneficial to the protection of the resources of the Indio Sub-Basin within the Overlapping Area, and such ordinances shall not be superseded by CVWD's adoption, submission and implementation of the Alternative or any GSP.

3.1.4 Not later than ten (10) days following CVWD’s submittal of an initial notification of intent to adopt a GSP, CVWD and the County shall meet to: (1) identify County issues/concerns relating to the Indio Subbasin; (2) establish a framework for addressing any County concerns regarding such GSP; (3) ensure consistency between the GSP and the County Groundwater Ordinances; and (4) establish a schedule of regular meetings to discuss development of the GSP.

3.1.5 In addition to the 90-day notice applicable to any GSP proposed by CVWD, or future amendment thereof, required by SGMA (see Water Code, § 10728.4), CVWD also agrees to provide the County with a preliminary draft of any GSP or amendment for the County’s review at least 60 days prior to any CVWD Board of Directors hearing to consider any GSP or amendment. The County agrees to provide written comments on any such preliminary draft GSP or amendment, as well as a determination of the consistency of such GSP or amendment with the County Groundwater Ordinances (“Consistency Determination”), within 45 days of the County’s receipt of the preliminary draft GSP or amendment. Before publishing notice of any CVWD Board of Directors hearing to adopt a GSP or amendment, CVWD will incorporate into the GSP or amendment changes identified in the County’s Consistency Determination to ensure consistency with the County Groundwater Ordinances.

3.1.6 The parties acknowledge that the 2010 Coachella Valley Water Management Plan, as updated by the 2014 Progress Report (CVWMP), has been prepared and approved by CVWD and that the WMP covers the Indio Sub-Basin. The parties acknowledge and agree that, on December 29, 2016, CVWD submitted the CVWMP, as updated, to DWR as a SGMA Alternative for the Indio Sub-basin, including for the Overlapping Area. Subject to CVWD making any changes to the CVWMP necessary to address the County concerns set forth in Section 3.1.4, above, the County agrees to support, and not object, to the submission of the CVWMP to DWR as a SGMA Alternative. Should modifications or amendments to the CVWMP become necessary to meet the alternative compliance procedures outlined in SGMA or for other reasons, the parties agree to coordinate and cooperate with one another to reach agreement on such modifications or amendments as they apply to the Overlapping Area. The parties agree to coordinate the implementation of SGMA in the Overlapping Area whether or not DWR approves the Alternative, in whole or in part.

3.1.7 With respect to management of the Overlapping Area under SGMA, the parties will work cooperatively to address the County concerns enumerated in Section 3.1.4, above, with the understanding that the Alternative for the Indio Sub-Basin was timely submitted to DWR and, if such Alternative is approved, it will be resubmitted to DWR every five years thereafter, as required by SGMA. (Water Code, § 10733.6(c).)

3.1.8 The County agrees to provide CVWD with at least ten (10) days’ notice and the opportunity to comment on any proposed changes to the County Groundwater Ordinances.

3.1.9 CVWD shall provide the County with a copy of reports, data and information in its possession related to the Indio Sub-Basin upon County’s request at no cost to the County other than CVWD’s administrative and duplication costs to provide the requested information.

3.1.10 All costs of the GSP or Alternative for the Indio Sub-Basin, including but not limited to costs of development, submission to DWR, remediation of any deficiencies, third party litigation and dispute resolution, and implementation of the GSP or Alternative, shall be borne exclusively by CVWD or its Riverside County partner GSA's.

3.1.11 CVWD acknowledges and agrees, consistent with Water Code section 10726.2(b), that the County remains responsible for issuing permits for the construction, modification or abandonment of groundwater wells within the Overlapping Area. CVWD also acknowledges and agrees that the County shall retain discretion and responsibility for reviewing applications and issuing permits under the County Groundwater Ordinances within the Overlapping Area.

3.1.12 CVWD agrees that in the future if the Indio Subbasin MOU is replaced with another type of expanded Governance Structure, Imperial County will be notified and will have the opportunity to reconsider its participation role under SGMA.

SECTION 4:

GENERAL PROVISIONS GOVERNING MOU

4.1 Term: This MOU shall be effective from the date the second party executes this MOU ("Effective Date") until such time as CVWD ceases to serve as the GSA for the Overlapping Area.

4.2 Termination. This MOU may be terminated by mutual agreement of the parties or if either party elects to cease participating in groundwater management activities within Imperial County in the Overlapping Area. Subject to the requirements of SGMA and the requirements of Section 4.3, below, if CVWD withdraws as the GSA for the Overlapping Area, if the State Water Resources Control Board places the Overlapping Area in probationary status under SGMA, or if CVWD implements the GSP or Alternative in the Overlapping Area in a manner inconsistent with the County Groundwater Ordinances, the parties agree that the County may seek GSA status over the Overlapping Area.

4.3 Meet and Confer: In the event there are disputes and/or controversies relating to the interpretation, construction, performance, termination, breach of, or withdrawal from this MOU, or the implementation of SGMA in the Overlapping Area that cannot be resolved informally, the parties shall in good faith meet and confer within sixty (60) calendar days after written notice has been sent by the complaining party to the other party. Should the meet and confer process prove unsuccessful in resolving the dispute, the parties agree to neutral facilitation/mediation of the dispute. The appointed facilitator/mediator shall be a person who is not a current or former employee or agent of any party, who has knowledge of the rules governing public agencies, and who has experience with the management of groundwater resources in Southern California. If the parties cannot agree on a mediator, they shall each select a proposed mediator and those two selected mediators shall select a qualified third person who shall serve as the mediator.

4.4 Construction of Terms: This MOU is for the sole benefit of the parties and shall not be construed as granting rights to any person other than the parties or imposing obligations on a party to any person other than the other party.

4.5 Good Faith: Each party shall use its best efforts and work wholeheartedly and in good faith for the expeditious completion of the objectives of this MOU and the satisfactory performance of its terms. By signing this MOU both parties commit to providing the resources necessary to comply with SGMA in the Overlapping Area under the statutory, regulatory and other applicable timelines, including but not limited to attending scheduled meetings, providing comments and other deliverables on time, and otherwise fully participating in the process.

4.6 Costs. Except as provided in Section 3.1.10 above, each party shall absorb its own costs related to preparation and implementation of this MOU.

4.7 No Effect on Independent Powers. Nothing in this MOU shall affect any existing authorities or powers existing under each party's enabling legislation or otherwise.

4.8 Necessary Actions. Each party agrees to execute and deliver additional documents and instruments and to take any additional actions as may be required to carry out the purposes of this MOU.

4.9 Counterparts. This MOU may be executed in one or more counterparts, each of which shall be deemed to be an original.

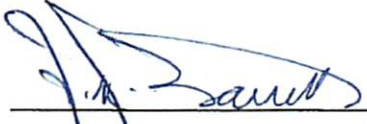
4.10 Each signatory of this MOU represents that s/he is authorized to execute this MOU on behalf of the Party for which s/he signs. Each Party represents that it has legal authority to enter this MOU and to perform all obligations under this MOU.

4.11 All notices, requests, demands or other communications required or permitted under this MOU shall be in writing unless provided otherwise in this MOU and shall be deemed to have been duly given and received on: (i) the date of service if served personally or served by electronic mail or facsimile transmission on the Party to whom notice is to be given at the address(es) provided below, (ii) on the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service, postage prepaid, and addressed as provided below, or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, addressed as follows:

To CVWD: Coachella Valley Water District
Attn: General Manager
P.O. Box 1058
Coachella, CA 92236

To County: County of Imperial
Attn: County Executive Officer
940 W. Main Street, Suite 208
El Centro, CA 92243

IN WITNESS WHEREOF, the parties have executed this MOU as of the day and year indicated on the first page of this MOU.



Jim Barrett, General Manager 5.01.17
Coachella Valley Water District



Ralph Cordova, Jr., County Executive Officer
County of Imperial