



## AGENDA

July 25, 2024 at 3:00 pm

Council Chambers, Ojai City Hall

401 South Ventura Street, Ojai, CA 93023

Phone: 805.640.1207 Web site: [obgma.com](http://obgma.com)

Email: [obgma@aol.com](mailto:obgma@aol.com)

### Board of Directors

Richard Hajas, Casitas Municipal Water District

Jim Finch, Ojai Water Conservation District

Peter Thielke, Mutual Water Companies

Bob Daddi, Community Facilities District

Andrew Whitman, City of Ojai

### Zoom Teleconferencing for Public Call in Participation:

1. Zoom Dial in Information: 1-669-900-9128, Meeting ID: 827 5712 7464, Password: 218792.

### For Public Viewing

2. Zoom Meeting  
Link: <https://us02web.zoom.us/j/82757127464?pwd=Rm5JenhNUDNvRVovaEUwMzdScnFRdz09>
3. [www.OBGMA.com](http://www.OBGMA.com)
4. City of Ojai YouTube Channel at:  
<https://www.youtube.com/channel/UC3DhCB5Z1DynNC7n8qcNeDQ/live> (2 Minute delay of transmission)
5. In Ojai, CA: Spectrum Channel 10.

**Public Comments:** Members of the public may provide public comments under Item 6 or on each agenda item presented herein. Please wait until the Board Chair asks if any members of the public wish to comment. This will provide for orderly participation during the meeting.

Members of the public may also submit written public comments in advance via e-mail no later than 12:00 p.m. on the day of the meeting. Public comment e-mails should be sent to

[OBGMA@aol.com](mailto:OBGMA@aol.com) "Attention Board of Directors".

## 1) CALL TO ORDER AND ROLL CALL

## 2) PLEDGE OF ALLEGIANCE

## 3) DIRECTOR ANNOUNCEMENTS/REPORTS/COMMENTS

- Mutual Water Companies
- Ojai Water Conservation District
- City of Ojai
- Casitas Municipal Water District
- Community Facilities District – CMWD Ojai Service Area

#### **4) GENERAL MANAGER COMMENTS**

#### **5) BASIN STATUS REPORTS**

- Current Status of Basin: Input, Output, and Storage

#### **6) PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA**

The Board will receive comments from the public at this time. Other than for emergency items, no action can be taken during this period. Matters raised at this time may be briefly discussed by the Board and will generally be referred to staff and/or placed on a subsequent agenda.

#### **7) CONSENT AGENDA**

- a) Financial Report for June 2024
- b) Minutes of the June 27, 2024, meeting

#### **8) DISCUSSION ITEMS**

- a) Delinquent Well Owners – Enforcement and Penalty Authority
- b) Legislative Ad-Hoc Committee Update
- c) Meter Compliance Ad-Hoc Committee Update

#### **9) CLOSED SESSION**

##### **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Authority: Government Code section 54956.9, subdivision (d)(2)**

Based upon existing facts and circumstances, significant exposure to litigation exists in the opinion of OBGMA's legal counsel, involving OBGMA's anticipated participation in the Ventura River Adjudication (Santa Barbara Channelkeeper v. City of San Buenaventura, Los Angeles County Superior Court, Case No. 19STCP01176) pursuant to California Code of Civil Procedure Section 837, subdivision (a).

#### **10) ADJOURNMENT**

The regular meetings of the Ojai Basin Groundwater Management Agency are scheduled for the last Thursday of each month. The meeting agenda will be posted at Ojai City Hall and the OBGMA website 72 hours prior to the meeting.

The next regular meeting of the Ojai Basin Groundwater Management Agency is scheduled for August 29, 2024, at 3:00 p.m. to be held in the Council Chambers at Ojai City Hall and by Zoom

Teleconferencing. Please contact OBGMA by email at [obgma@aol.com](mailto:obgma@aol.com) or by calling 805.640.1207 with any questions.



**OBGMA**  
Budget Actuals FYTD 23/24

|                               | Oct-23            | Nov-23            | Dec-23            | Jan-24            | Feb-24            | Mar-24             | Apr-24            | May-24             | Jun-24            | YTD               |
|-------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|-------------------|--------------------|-------------------|-------------------|
| <b>Beginning Bank Balance</b> |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Checking                      | 53,370.69         | 98,401.77         | 112,952.56        | 117,678.55        | 147,685.03        | 134,104.00         | 95,562.03         | 118,966.70         | 103,184.30        |                   |
| Savings                       | 5,023.80          | 5,023.80          | 5,023.80          | 5,024.43          | 5,024.43          | 5,024.43           | 20,025.13         | 20,025.13          | 20,025.13         |                   |
|                               | <b>58,394.49</b>  | <b>103,425.57</b> | <b>117,976.36</b> | <b>122,702.98</b> | <b>152,709.46</b> | <b>139,128.43</b>  | <b>115,587.16</b> | <b>138,991.83</b>  | <b>123,209.43</b> |                   |
| <b>Income</b>                 |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Returned Check Charges        |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| GSP Extraction Fees           | 34,707.16         | 11,041.73         | 4,340.84          | 30,138.87         | 6,032.76          | 1,975.46           | 24,290.11         | 4,441.10           | 2,577.67          | 119,545.70        |
| Well Head Fee                 | 4,915.57          | 6,914.71          | 2,871.00          | 8,471.44          | 3,830.39          | 1,365.00           | 6,370.00          | 4,615.00           | 328.70            | 39,681.81         |
| Interest Charges              | 115.07            | 349.18            |                   | 27.50             | 102.77            | 69.43              | 15.75             | 24.83              |                   | 704.53            |
| Recording Fee                 | 358.07            | 464.40            | 119.00            | 636.65            | 220.00            | 100.00             | 420.00            | 245.00             | 22.22             | 2,585.34          |
| Extraction Charges            | 24,118.16         | 10,747.93         | 1,025.25          | 21,213.02         | 4,122.52          | 1,403.00           | 10,186.34         | 1,934.63           | 8,001.66          | 82,752.51         |
| Savings Acct Interest         |                   |                   | 0.63              |                   |                   | 0.70               |                   |                    | 2.49              | 3.82              |
| <b>Total Income</b>           | <b>64,214.03</b>  | <b>29,517.95</b>  | <b>8,356.72</b>   | <b>60,487.48</b>  | <b>14,308.44</b>  | <b>4,913.59</b>    | <b>41,282.20</b>  | <b>11,260.56</b>   | <b>10,932.74</b>  | <b>245,273.71</b> |
| <b>Total Income</b>           | <b>64,214.03</b>  | <b>29,517.95</b>  | <b>8,356.72</b>   | <b>60,487.48</b>  | <b>14,308.44</b>  | <b>4,913.59</b>    | <b>41,282.20</b>  | <b>11,260.56</b>   | <b>10,932.74</b>  | <b>245,273.71</b> |
| <b>Expense</b>                |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Equipment Purchased           |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Advertising                   | 97.75             |                   | 432.14            |                   |                   |                    |                   |                    |                   | 529.89            |
| Computer Repairs              |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Dues & Subscriptions          |                   |                   |                   |                   | 100.00            |                    | 586.24            |                    |                   | 100.00            |
| Printing and Reproduction     |                   |                   |                   |                   |                   |                    |                   |                    |                   | 586.24            |
| Liability Insurance           |                   |                   |                   |                   |                   | 3,308.00           |                   |                    |                   | 3,308.00          |
| Postage and Delivery          | 367.99            | 19.99             | 119.99            | 89.98             | 19.99             | 19.99              | 198.05            | 14.46              | 128.66            | 979.10            |
| Bank Service Charges          |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Workers Comp Ins              | (100.00)          |                   |                   |                   |                   |                    | 530.24            |                    |                   | 430.24            |
| Office Supplies               | (254.07)          | 1,796.07          | 143.03            |                   | 96.25             | 700.00             | 611.66            |                    | 118.06            | 3,211.00          |
| Payroll Expenses              | 2,806.88          | 2,614.83          | 2,393.34          | 2,026.74          | 3,388.87          | 2,526.55           | 1,856.46          | 2,175.79           | 1,953.98          | 21,743.44         |
| Professional Fees             | 14,657.51         | 10,347.94         |                   | 25,855.18         | 24,145.20         | 10,732.14          | 11,833.77         | 15,502.88          | 11,585.00         | 124,659.62        |
| Website Expense               |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Rent                          | 923.00            | 923.00            | 923.00            | 1,046.00          | 800.00            | 923.00             | 923.00            | 923.00             | 923.00            | 8,307.00          |
| Travel                        |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Telecommunications            | 68.52             | 77.97             | 77.97             | 77.97             | 77.97             | 79.98              | 79.98             | 79.98              | 79.98             | 700.32            |
| <b>Total Expense</b>          | <b>18,567.58</b>  | <b>15,779.80</b>  | <b>4,089.47</b>   | <b>29,095.87</b>  | <b>28,628.28</b>  | <b>18,289.66</b>   | <b>16,619.40</b>  | <b>18,696.11</b>   | <b>14,788.68</b>  | <b>164,554.85</b> |
| <b>Net Ordinary Income</b>    | <b>45,646.45</b>  | <b>13,738.15</b>  | <b>4,267.25</b>   | <b>31,391.61</b>  | <b>(4,319.84)</b> | <b>(13,376.07)</b> | <b>24,662.80</b>  | <b>(7,435.55)</b>  | <b>(3,855.94)</b> | <b>80,718.86</b>  |
| <b>Grant Activity</b>         |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| WCB Grant Income              |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| WCB (WS) Expenses             |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| GSP Expenses                  |                   |                   |                   |                   |                   | 10,800.00          |                   | 8,890.00           |                   | 19,690.00         |
| <b>Net Income</b>             | <b>45,646.45</b>  | <b>13,738.15</b>  | <b>4,267.25</b>   | <b>31,391.61</b>  | <b>(4,319.84)</b> | <b>(24,176.07)</b> | <b>24,662.80</b>  | <b>(16,325.55)</b> | <b>(3,855.94)</b> | <b>61,028.86</b>  |
| <b>Other Adjustments</b>      |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Deposit Paid                  |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Transfer to Savings           |                   |                   |                   |                   |                   | 15,000.00          |                   |                    |                   |                   |
| Transfer From Savings         |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Deposit Adj from Bank         |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Payroll Tax Liab Paymts       | 1,460.22          |                   |                   | 1,828.31          |                   |                    | 1,724.46          |                    |                   |                   |
| Payroll Liab on hold          | 516.76            | 543.89            | 459.37            | 443.18            | 738.81            | 634.80             | 466.33            | 543.15             | 465.48            |                   |
| Customer Overpayments         | 328.09            | 268.75            |                   |                   |                   |                    |                   |                    |                   |                   |
| Nominal Over/Short            |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Customer Credits Applied      |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Refunds                       |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| State Comp Fund Dividend      |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Rent Reimbursement            |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Customer Reimbursement        |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| <b>Ending Bank Balance</b>    |                   |                   |                   |                   |                   |                    |                   |                    |                   |                   |
| Checking                      | 98,401.77         | 112,952.56        | 117,678.55        | 147,685.03        | 134,104.00        | 95,562.03          | 118,966.70        | 103,184.30         | 99,791.35         |                   |
| Savings                       | 5,023.80          | 5,023.80          | 5,024.43          | 5,024.43          | 5,024.43          | 20,025.13          | 20,025.13         | 20,025.13          | 20,027.62         |                   |
|                               | <b>103,425.57</b> | <b>117,976.36</b> | <b>122,702.98</b> | <b>152,709.46</b> | <b>139,128.43</b> | <b>115,587.16</b>  | <b>138,991.83</b> | <b>123,209.43</b>  | <b>119,818.97</b> |                   |

**OBGMA**  
**Cash Flow**  
As of June 30, 2024

|   | <u>Jun 30, 24</u> |
|---|-------------------|
| <b>Beginning Balances as of May 31, 2024</b>    |                   |
| Bank of the Sierra-Checking                     | 103,184.30        |
| Bank of the Sierra-Savings                      | 20,025.13         |
|   | <u>123,209.43</u> |
| <b>Inbounds</b>                                 |                   |
| GSP Extraction                                  | 2,577.67          |
| Well Head Fee                                   | 328.70            |
| Recordation Fee                                 | 22.22             |
| Extraction Charges                              | 8,001.66          |
| Savings Interest                                | 2.49              |
|   | <u>10,932.74</u>  |
| <b>Outbounds</b>                                |                   |
| Postage and Delivery                            | 128.66            |
| Office Supplies                                 | 118.06            |
| Payroll Expenses                                | 1,488.50          |
| Professional Fees                               | 11,585.00         |
| Rent  | 923.00            |
| Telephone                                       | 79.98             |
|   | <u>14,323.20</u>  |
| <b>Ending Cash Balances as of June 30, 2024</b> |                   |
| Bank of the Sierra-Checking                     | 99,791.35         |
| Bank of the Sierra-Savings                      | 20,027.62         |
|   | <u>119,818.97</u> |
| <b>Net change in Financial Position</b>         | <b>(3,390.46)</b> |

# OBGMA Reconciliation Summary

Bank of the Sierra-Checking, Period Ending 06/30/2024

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|  | <u>Jun 30, 24</u>        |
|--|--------------------------|
| <b>Beginning Balance</b>                 | 130,496.80               |
| <b>Cleared Transactions</b>              |                          |
| Checks and Payments - 16 items           | -28,171.70               |
| Deposits and Credits - 6 items           | 11,261.00                |
| <b>Total Cleared Transactions</b>        | <u>-16,910.70</u>        |
| <b>Cleared Balance</b>                   | <b><u>113,586.10</u></b> |
| <b>Uncleared Transactions</b>            |                          |
| Checks and Payments - 7 items            | -13,794.75               |
| <b>Total Uncleared Transactions</b>      | <u>-13,794.75</u>        |
| <b>Register Balance as of 06/30/2024</b> | <b><u>99,791.35</u></b>  |
| <b>Ending Balance</b>                    | 99,791.35                |

**OBGMA**  
**Disbursements**  
As of June 30, 2024

| Date       | Num  | Name                             | Split                | Amount            |
|------------|------|----------------------------------|----------------------|-------------------|
| 06/02/2024 | ACH  | Condor Self Storage              | Rent                 | -123.00           |
| 06/17/2024 | ACH  | Staples                          | Office Supplies      | -118.06           |
| 06/25/2024 | ACH  | Stamps.com                       | Postage and Delivery | -19.99            |
| 06/03/2024 | ACH  | USPS                             | Postage and Delivery | -8.67             |
| 06/17/2024 | ACH  | Spectrum                         | Telecommunications   | -79.98            |
| 06/25/2024 | ACH  | Stamps.com                       | Postage and Delivery | -50.00            |
| 06/25/2024 | ACH  | Stamps.com                       | Postage and Delivery | -50.00            |
| 06/27/2024 | 3597 | Michelle Gaston                  | Professional Fees    | -1,050.00         |
| 06/27/2024 | 3598 | Farber Hass Hurley LLP           | Professional Fees    | -8,750.00         |
| 06/27/2024 | 3599 | Casitas Municipal Water District | Professional Fees    | -1,785.00         |
| 06/27/2024 | 3600 | 417 Bryant Circle LLC            | Rent                 | -800.00           |
| 06/30/2024 | 3601 | VanDerMeer, Cece A               | Payroll              | -886.25           |
| 06/30/2024 | 3602 | Ransom, Tara R.                  | Payroll              | -602.25           |
|            |      |                                  |                      | -14,323.20        |
|            |      |                                  |                      | <b>-14,323.20</b> |



12:00 PM

07/11/24

# OBGMA Reconciliation Summary

Bank of the Sierra-Savings, Period Ending 06/30/2024

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|                                   | <u>Jun 30, 24</u>       |
|-----------------------------------|-------------------------|
| Beginning Balance                 | 20,025.13               |
| Cleared Transactions              |                         |
| Deposits and Credits - 1 item     | <u>2.49</u>             |
| Total Cleared Transactions        | <u>2.49</u>             |
| Cleared Balance                   | <u><b>20,027.62</b></u> |
| Register Balance as of 06/30/2024 | 20,027.62               |
| Ending Balance                    | 20,027.62               |

# OBGMA EXTRACTION CHARGES BY PERIOD

## 2023/2024 Water Year

**Oct/Nov/Dec 2023 (1-2024) (\$25/acre for 2023)**

|               | Acre Feet     | Charges            | Well Head         | Recordation     | GSP Fees           | Total Rec'd        |
|---------------|---------------|--------------------|-------------------|-----------------|--------------------|--------------------|
| Agriculture   | 408.11        | \$10,223.84        |                   |                 |                    |                    |
| Dom/Land      | 54.17         | \$1,427.50         |                   |                 |                    |                    |
| Muni/Indus    | 11.70         | \$292.50           |                   |                 |                    |                    |
| CMWD          | 401.70        | \$10,042.50        |                   |                 |                    |                    |
| <b>Totals</b> | <b>875.68</b> | <b>\$21,986.34</b> | <b>\$9,750.00</b> | <b>\$710.00</b> | <b>\$31,605.45</b> | <b>\$64,051.79</b> |

**Jan/Feb/Mar 2024 (2-2024) (\$25/acre for 2024)**

|               | Acre Feet     | Charges           | Well Head         | Recordation     | GSP Fees           | Total Rec'd        |
|---------------|---------------|-------------------|-------------------|-----------------|--------------------|--------------------|
| Agriculture   | 92.29         | \$2,660.22        |                   |                 |                    |                    |
| Dom/Land      | 49.28         | \$1,517.25        |                   |                 |                    |                    |
| Muni/Indus    | 2.16          | \$70.00           |                   |                 |                    |                    |
| CMWD          | 221.10        | \$5,527.50        |                   |                 |                    |                    |
| <b>Totals</b> | <b>364.83</b> | <b>\$9,774.97</b> | <b>\$8,515.00</b> | <b>\$485.00</b> | <b>\$26,930.98</b> | <b>\$45,705.95</b> |

**April/May/June 2024 (3-2024) (\$25/acre for 2024)**

|               | Acre Feet   | Charges       | Well Head | Recordation | GSP Fees | Total Rec'd   |
|---------------|-------------|---------------|-----------|-------------|----------|---------------|
| Agriculture   |             |               |           |             |          |               |
| Dom/Land      |             |               |           |             |          |               |
| Muni/Indus    |             |               |           |             |          |               |
| CMWD          |             |               |           |             |          |               |
| <b>Totals</b> | <b>0.00</b> | <b>\$0.00</b> |           |             |          | <b>\$0.00</b> |

**Jul/Aug/Sept 2024 (4-2024) (\$25/acre for 2024)**

|               | Acre Feet   | Charges       | Well Head | Recordation | GSP Fees | Total Rec'd   |
|---------------|-------------|---------------|-----------|-------------|----------|---------------|
| Agriculture   |             |               |           |             |          |               |
| Dom/Land      |             |               |           |             |          |               |
| Muni/Indus    |             |               |           |             |          |               |
| CMWD          |             |               |           |             |          |               |
| <b>Totals</b> | <b>0.00</b> | <b>\$0.00</b> |           |             |          | <b>\$0.00</b> |

**Total for water YTD 10/1/23- 9/30/24**

| Acre Feet | Charges      | Well Head Fee | Recordation F | GSP Fees    | Total Rec'd  |
|-----------|--------------|---------------|---------------|-------------|--------------|
| 1240.51   | \$ 31,761.31 | \$18,265.00   | \$1,195.00    | \$58,536.43 | \$109,757.74 |

OJAI BASIN GROUNDWATER MANAGEMENT AGENCY  
Minutes of the Regular Board Meeting of June 27, 2024

The Regular Meeting of June 27, 2024, of the Ojai Basin Groundwater Management Agency was called to order at 3:00 PM in the Council Chambers, Ojai City Hall, 401 S. Ventura Street, Ojai, CA 93023.

**Attendees were:** Board Members: Richard Hajas, Jim Finch, Bob Daddi, and Peter Thielke (via Zoom). General Manager Julia Aranda and Secretary/Treasurer Cece VanDerMeer.

Also in attendance: Peter Candy, Attorney

1. **Call to Order and Roll Call:** Chair Hajas called the meeting to order at 3:00pm. VanDerMeer called the roll.

2. **Pledge of Allegiance:** Led by Hajas.

3. **Director Announcements/Reports/Comments:**

Mutuals: Thielke reported that FEMA is still involved in Senior Canyon's renovation. Thielke stated that he is now the Vice President of Senior Canyon.

Ojai Water Conservation District: None

City of Ojai: None

Casitas Municipal Water District: None

Community Facilities District: None

4. **GENERAL MANAGER COMMENTS:**

Aranda reported that she has developed a brochure for the Agency and will be getting them printed. Aranda stated that she will be reaching out to the Ojai Board of Realtors to describe the Agency and how it affects properties that have water wells.

5. **BASIN STATUS REPORT:**

Aranda presented Jordan Kear's presentation with support from Tim Becker of Kear Groundwater. "A Slow Drop Off the Table". Kear's report stated the Key Well was 38.46' and there was 75,200 acre-feet in the basin.

**6. PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA:**  
None

**7. CONSENT AGENDA:**

- a. Finch motioned to approve the Consent Agenda Items. Daddi seconded. The Consent Agenda Items were approved unanimously.

Roll Call vote:

Ayes: Finch, Daddi, Thielke, Whitman and Hajas

Noes: None

**8. DISCUSSION ITEMS:**

- a. Legislative Ad-Hoc Committee Update: The Ad-Hoc Committee did not meet.
- b. Meter Compliance Ad-Hoc Committee Update: The Ad-Hoc Committee did not meet. There was discussion regarding non-compliance and more feedback will be needed to develop a path forward.

**9. ADJOURNMENT**

The meeting was adjourned at 3:40 pm. The next regular scheduled meeting will be July 25, 2024, at 3:00 p.m. in the Council Chamber in Ojai City Hall, 401 S. Ventura Street, Ojai.

**ATTEST:** \_\_\_\_\_

# Ojai Basin Groundwater Management Agency

## Memorandum

**To:** Board of Directors  
**From:** Julia Aranda, PE, General Manager  
**Subject:** Delinquent Well Owners – Enforcement and Penalty Authority  
July 25, 2024

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### **Background and Discussion**

A primary focus of the OBGMA has been to identify well owners who are delinquent in the quarterly reporting of their groundwater extractions, payment of fees, and/or metering compliance. The General Manager and staff have been researching and preparing an accounting for individual well owners who have been delinquent for extended periods of time. The delinquencies generally range from 1 year to ten years; the most egregious so far dates back to 2010.

Considerable time is spent reviewing well owner records, reconciling what, if any, fees have been paid, and incorporating changes in fees over the relevant time period. The General Manager will first attempt to reach the owner by phone to discuss their delinquency. Since May, eight letters have been sent requesting completion of quarterly reports and payment of fees. If applicable, OBGMA's metering requirements are also mentioned and appropriate forms provided. To date, only two owners have brought their accounts current.

The attached memo from Peter Candy describes OBGMA's enforcement and penalty authority related to delinquent owners as provided in OBGMA's enabling legislation and the Sustainable Groundwater Management Act (SGMA), as well as the avenues available to collect delinquencies. As we move forward with identifying and communicating with delinquent owners, a process for compliance with these statutes would be beneficial to ensure well owners are paying their fair share of OBGMA's costs for managing the Ojai Basin and complying with SGMA.

Items to consider and provide direction to staff:

- Imposition of penalties and fines as allowed by the enabling legislation and SGMA, which will require an individual Board hearing for each non-compliant owner/operator
- Collection of fees, penalties and fines (if imposed) through filing of a lawsuit in Ventura Superior Court or placing the delinquent amount on the property tax roll through the Ventura County Tax Assessor's office

Attachment: Memo from Peter Candy, General Counsel, dated July 19, 2024



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**MEMORANDUM**

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**TO:** OBGMA Board of Directors

**FROM:** Peter Candy, General Counsel

**RE:** OBGMA's Enforcement & Penalty Authority Related to Delinquent Well Owners

**DATE:** July 19, 2024

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The following summarizes OBGMA's statutory authority pursuant to its Enabling Legislation and the Sustainable Groundwater Management Act to enforce its groundwater metering and fee ordinance requirements and to impose interest and penalty charges on delinquent well owners. The remedies specified below for collecting and enforcing fees are cumulative and may be pursued alternatively or may be used consecutively as determined by the OBGMA Board.

**I.**

**Authorities Provided In OBGMA's Enabling Legislation (Senate Bill No. 534)**

1. A well owner who intentionally violates any Agency metering or fee ordinance requirement is guilty of an infraction and may be required to pay a fine not to exceed \$500 for each violation. Imposition of the fine requires at least 30-days written notice and a hearing before the Board to determine the amount of the fine. (Section 405.)
2. A well owner who violates any Agency metering or fee ordinance requirement (either negligently or intentionally) may also be held civilly liable to the Agency for a per diem fine not to exceed \$1,000 per day for each violation. Imposition of the per diem fine requires at least 30-days written notice and hearing before the Board to determine the amount of the fine. The per diem fine may begin to accrue 30 days after OBGMA first provides the well owner with written notice of the violation and the opportunity to cure. (Section 406.)
3. In determining the amount of any penalty or fine, the Board should take into consideration all relevant circumstances, including, but not limited to, the nature and persistence of the violation, the extent of the harm caused by the violation, the length of time over which the violation occurs, and any corrective action taken by the violator.
4. If a well owner refuses to pay any delinquent fee or fine imposed, OBGMA is authorized to bring suit against the well owner in the Ventura County Superior Court to

recover any sums due the Agency or damages incurred by the Agency. This would include the amount of any delinquent fees owed or penalties assessed. When bringing suit to recover amounts owed, OBGMA is authorized to petition the court for a temporary restraining order, preliminary or permanent injunction requiring the well owner to comply with OBGMA's metering and/or fee ordinance requirements. Failure of the well owner to comply with such a court order could result in further sanctions being imposed by the court. (Sections 407 & 408.)

5. As an alternative to filing suit for collection of delinquent fees owed and penalties assessed, OBGMA is authorized pursuant to the Sustainable Groundwater Management Act (SGMA) to adopt a resolution requesting the County to collect the delinquent amounts in the same manner as ordinary municipal ad valorem taxes. For further discussion regarding use of the County tax roll for purposes of delinquent fee collection, see Section II.6. below.

## **II.**

### **Authorities Provided In The Sustainable Groundwater Management Act of 2014 (Water Code Section 10720 et. seq.)**

1. A well owner who knowingly fails to pay a groundwater fee within 30 days of it becoming due is liable to the Agency for interest at the rate of 1% per month on the delinquent amount, and a 10% penalty. Unlike OBGMA's Enabling Legislation, there is no requirement that OBGMA provide the violator notice and an opportunity for a hearing prior to OBGMA imposing the interest or penalty charges. (Water Code Section 10730.6(a) and (b).) However, it advised that OBGMA first provide the well owner with written notice of the violation and the opportunity to cure prior to assessing an interest or penalty charge.

2. As an additional remedy, a well owner who violates any Agency metering or fee ordinance requirement (either negligently or intentionally) may also be held civilly liable to the Agency for a penalty not to exceed \$1,000, plus one \$100 for each additional day on which the violation continues. Imposition of the foregoing fine and per diem amount requires at least 30-days written notice and a Board hearing for purposes of determining the penalty amounts. The per diem penalty can start to accrue 30 days after OBGMA first provides the well owner with written notice of the violation and the opportunity to cure. (Water Code Section 10732(a)(2).)

3. In determining the amount of any fine or penalty, the Board should take into consideration all relevant circumstances, including, but not limited to, the nature and persistence of the violation, the extent of the harm caused by the violation, the length of time over which the violation occurs, and any corrective action taken by the violator. (Water Code Section 10732(b)(3).)

4. As an additional remedy, OBGMA is authorized to issue an order requiring a delinquent well to cease extraction of groundwater until all delinquent fees are paid. Such an order requires at least 15-day written notice to the alleged violator and a hearing before the Board. (Water Code Section 10730.6(e).)



5. If a well owner refuses to pay any delinquent amount, SGMA (similar to OBGMA's Enabling Legislation) authorizes the Agency to bring suit against the delinquent well owner in the Ventura County Superior Court to recover any delinquent groundwater fees, interest or penalties assessed. (Water Code Section 10730.6(c).)

6. As an alternative method for collecting any delinquent fees owed and penalties assessed, OBGMA is authorized pursuant to Water Code Section 10730(d) to adopt a resolution requesting the County Tax Collector to place the delinquent amounts on the County tax roll. This would enable collection of delinquent fees and penalties in the same manner as ordinary municipal ad valorem taxes. The Board resolution would need to include a list of parcels and the amount to be collected for each parcel, and must be adopted and furnished to the County Auditor-Controller and Board of Supervisors by August 1 of each year. (Water Code Section 10730(d).) A memorandum of understanding or agreement would need to be worked out between OBGMA and the County in advance of August 1 to facilitate the tax roll collection process.

7. The remedies specified above for collecting and enforcing groundwater fees and metering requirements are cumulative and may be pursued alternatively or may be used consecutively as determined by the OBGMA Board. (Water Code Section 10730.6(f).)