

September 28, 2022

Alpaugh Irrigation
District

Mr. Craig Altare

City of Corcoran

Supervising Engineering Geologist

Corcoran Irrigation
District

California Department of Water Resources

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County of Kings

Sacramento, CA 94236

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Lovelace

Portal Submission: <https://sgma.water.ca.gov/portal/gsp/comments/42>

Reclamation District
No. 739

Ms. Deanna Jackson

Melga Water District

Executive Director

Salyer Water District

Southwest Kings GSA

286 W. Cromwell Ave

Tulare Lake Basin
Water Storage
District

Fresno, CA 93711

Email: djackson@tcwater.org

Tulare Lake
Drainage District

Dear Mr. Altare and Ms. Jackson,

El Rico GSA respectfully submits the following comments regarding Southwest Kings GSA's ("SWK") seeming non-approval of the updated Tulare Lake Subbasin Groundwater Sustainability Plan ("GSP") in July of 2022. The president of the SWK Board, Mr. John Vidovich, and the four out of five board members he controls and/or employs, are attempting to sabotage the Tulare Lake Subbasin Groundwater Sustainability Plan, that covers more than 535,000 acres, by attempting to insert language too late for consideration for timely adoption and submission. Further, Mr. Vidovich had previously initiated private litigation over the issue sought to be added to the GSP by SWK. Litigation defers jurisdiction to the courts rather than to a GSP, so the attempt to add this new matter to the GSP is moot by his own actions. El Rico GSA requests that the submitted updated Tulare Lake Subbasin GSP be treated as complete, and an issue stands of whether SWK should be placed on probation should the resubmission be found complete.

In January of 2020, the Tulare Lake Subbasin, which includes five (5) GSA's including El Rico GSA and SWK, submitted its initial GSP. During the initial drafting, SWK did not provide meaningful input into the drafting of the GSP. However, SWK did provide a comment letter regarding the GSP it approved in 2020 during the comment period to the SGMA Portal on May 5, 2020.

DWR sent a determination letter regarding the initial GSP for Tulare Lake Subbasin on January 28, 2022 with some suggestions to improve the GSP. The five GSA's worked together to meet with the Department of Water Resources ("DWR"), respond to the comments, and produce an updated GSP. At no time did SWK raise the issue of routing groundwater through reservoirs.

On May 11, 2022, Mr. Vidovich sent a demand letter to JG Boswell Company regarding water operations in El Rico GSA. The letter was received on May 16, 2022. At no time did SWK raise the issue of routing groundwater through reservoirs as an item for the GSP.

On May 12, SWK cc'd El Rico GSA on a complaint to the State Water Resources Control Board regarding the issue of routing groundwater through reservoirs. The letter was received May 16, 2022. The complaint contains several assumptions and speculations that are not true and were neither investigated nor inquired about. The board vote was split on sending the complaint letter, with all of Mr. Vidovich's controlled board members voting yes and the sole non-Vidovich controlled board member voting no. At no time did SWK raise the issue of routing groundwater through reservoirs as an item for the GSP.

On May 18, 2022, Mr. Vidovich's entity, Sandridge Partners LP, sued JG Boswell Company about the very same allegations in the demand and complaint letters. The lawsuit is underway in Kings County. At no time did Mr. Vidovich raise the issue of routing groundwater through reservoirs as an item for the GSP.

On July 16, El Rico GSA noticed a board meeting to approve the updated GSP on July 19, 2022 at 3:00 pm. From July 19 to 21, 2022, all five GSA's in Tulare Lake Subbasin established board meetings to approve the updated GSP for submission to SGMA Portal by the deadline of July 28, 2022.

On July 19, 2022 at 12:53 pm, which was two (2) hours and seven (7) minutes before the El Rico GSA approval meeting, Deanna Jackson of SWK sent an email to the representatives of the five GSA's that Mr. Vidovich had an idea to add to the GSP the concepts behind his lawsuit regarding routing groundwater through reservoirs. Two hours and seven minutes is not enough time to discuss important topics and not enough time to comply with the Brown Act to hold public meetings. This was the FIRST TIME that SWK or Mr. Vidovich proposed to add the concept to the GSP, with 2 hours and seven minutes before the approval despite working on the GSP for more than 4 years.

Between July 19 and July 21, all the GSA's except SWK approved the submittal of the updated GSP.

On July 21, at the SWK board meeting to approve the updated GSP, Mr. Vidovich pulled a piece of paper out of his pocket that described this concept. He had not forwarded the concept to any of the other SWK board members via staff members, including the one he does not control. SWK Resolution 22-04 as presented in the public notice was changed with a post-script to add language incorporating his lawsuit. The SWK board again had a split vote with Mr. Vidovich and his controlled board members voting with a majority to add the language. The one non-Vidovich controlled board member resigned shortly after the meeting citing insufficient notice and thus improper operation of a public entity.

Based on discussions with DWR and SWRCB, it is believed that the Resolution could place Tulare Lake Subbasin into probationary status because SWK changed the approval at the last minute to incorporate Mr. Vidovich's lawsuit into the updated GSP. The current Sandridge/Boswell lawsuit is between two private entities that covers an area less than 1% of the subbasin, but Mr. Vidovich is seeking to put the entire 535,000+ acres into probation rather than having his day in court.

If the Tulare Lake Subbasin goes into probationary status, the consequences would be minimal to SWK because there is very little usable groundwater in the GSA. However, the thousands of water users in four other GSA's plus the many disadvantaged communities including Kettleman City, Corcoran, Hanford, Armona, Home Garden, Stratford, and Lemoore would all see sharp price increases.

The provisions of SGMA appear to provide a couple of alternatives for when one landowner tries to send an entire subbasin into probation. First, in cases of adjudication and litigation over formation of GSA's, SGMA allows for the courts to rule while still complying with SGMA goals but taking the appropriate time to decide. In this case, the person in control of SWK is already in litigation over the issue of concern in a neighboring GSA. The addition of language to the GSP to cover the lawsuit should be trumped by the decisions of the courts. Whatever the courts decide will be the guiding principle to the GSP, and it is not expected that this litigation would hinder any of the SGMA deadlines or goals. If DWR and the SWRCB follow this argument, then the post-script on the SWK approval resolution would be moot and the updated GSP as submitted could be evaluated for compliance with sustainability goals.

Second, SGMA also provides a "bad actor" provision. SGMA law provides, "[t]he board shall exclude from probationary status any portion of a basin for which a groundwater sustainability agency demonstrates compliance with the sustainability goal." Cal.

Water Code Section 10735.2(e). The bad actor provision seems to cover this exact situation of one landowner trying to take a subbasin hostage. All the GSA's were in agreement that the updated GSP addressed the concerns of DWR's determination letter. SWK did not raise its concern from 2018 through 2022 while working on the GSP, nor did it raise the issue when its controller of 80% of the board seats filed suit months before the GSP submission deadline, but instead waited until 2 hours and 7 minutes before approval of the updated GSP in order to place the entire subbasin into probation despite the issue already being before the courts. Assuming that the GSA's are correct in their expectation that DWR's concerns were addressed, then all GSA's except SWK should be excluded from probation since they are demonstrating compliance with the sustainability goal.

For these reasons, El Rico GSA requests that the updated GSP be reviewed as submitted. SWK should be acknowledged as having approved the updated GSP as submitted or be placed into probationary status for not approving the updated GSP and thus not demonstrating compliance with the sustainability goal.

El Rico GSA appreciates the opportunity to provide comments on the Tulare Lake Subbasin GSP.

Regards,

A handwritten signature in cursive script that reads "Jeof Wyrick".

Jeof Wyrick
Chairman
El Rico GSA