



## GREAT OAKS WATER COMPANY

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October 8, 2019

### **Hand-Delivered**

Santa Clara Valley Water District  
Board of Directors  
5750 Almaden Expressway  
San José, CA 95118

RE: Board of Directors Meeting  
October 8, 2019  
Agenda Item 5.1 Additional Information on the Groundwater Benefit Zone Study

Dear Santa Clara Valley Water District Board of Directors:

With respect to Agenda Item 5.1 for today's meeting, Great Oaks Water Company (Great Oaks) offers the following additional information for your consideration:

1. The staff presentation provided for this Agenda item includes several comments and statements that require clarification and/or correction.
2. Valley Water staff did meet with representatives of Great Oaks, Stanford University (Stanford), and the City of Palo Alto (Palo Alto) on September 16, 2019 to discuss concerns about the Benefit Zone Study (Study).
3. During the course of that meeting, the three "retailers" expressed concern that the Study did not examine the level of benefits (*i.e.*, degree or grade) provided by Valley Water activities in the actual or prospective zones of benefit. The retailers all expected the Study to include this information.
4. It was revealed during the meeting that it is entirely feasible to examine the level of benefits provided (if any) from Valley Water activities in the actual or prospective

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zones of benefit, but that such examination was not performed because Valley Water staff did not include such an examination within the scope of the Study.

5. Great Oaks, Stanford, and Palo Alto presented a proposal requesting that the level of benefits provided by Valley Water activities (referenced in the staff presentation as “a gradational approach to benefits”) be examined and that zones of benefit be established based upon such an approach.
6. While the presentation associated with this Agenda item does confirm the concerns expressed by the three retailers, only perceived “negatives” about this proposal will be presented to the Valley Water Board of Directors (*see, e.g.*, Attachment 5, page 6).
7. These “negatives” only confirm that the method employed to establish the existence of benefits from Valley Water activities and the method employed in the Study are flawed and unreasonable, as they both fail to include the reality that such benefits (if any) are not distributed or received equally throughout existing or prospective zones of benefit. The result is that the cost of actual benefits are not allocated to those paying the groundwater charges in a reasonable manner.
8. The staff presentation includes three arguments against the proposal made by the retailers. Each argument only proves the necessity of further examining the level of benefits provided by Valley Water activities (if any).
  - a. The acknowledgement that benefit levels may change every year supports the retailers’ proposal and confirms that the current and proposed “one size fits all” approaches are flawed. It is unreasonable to charge full price for a benefit when the full benefit is not received by the payor of the charge. That reviewing benefit levels each year may be time consuming is an insufficient basis for continuing a process that produces unreasonable results.
  - b. During the September 16, 2019 meeting, Valley Water’s consultant for this project confirmed that the technology and capability exists to conduct the gradation of benefits study proposed by the retailers. Staff says it is “doubtful that even a refined model could adequately quantify benefits from Valley Water activities in localized areas to the degree needed to support the imposition of different zones/charges.” However, as noted above, the consultant was never requested to perform this sort of analysis. Given that the technology and capability exist to perform the analysis, choosing not to do so is merely an attempt to avoid the issue, rather than to address the shortcomings of the current and proposed methods for determining zones of benefit.
  - c. Arguing that “thresholds used to separate gradational zones would be arbitrary and likely challenged by other well users” also fails to address the issues raised by the retailers. Declaring such thresholds as “arbitrary” even before beginning such an analysis means that staff is assuming to know the outcome of a study that has not been performed.

9. Finally, at the September 16, 2019 meeting, it was suggested that a delay in implementing the “new” approach to determining zones of benefit would impact water producers identified as outside the “new” zones of benefit, as those water producers would have to continue paying groundwater charges under the “old” or current method. This, too, acknowledges, the flaws in the current method. If there are water producers paying groundwater charges who are not receiving benefits from Valley Water activities, and Valley Water has identified who those water producers are, immediate action should be taken to exempt those water producers from further groundwater charges.

Great Oaks requests that Valley Water continue to refine its methodology for establishing zones of benefit. Clearly, the current method is (and has been) obsolete for quite some time and it is clearly unreasonable to fail or refuse to use existing technology and capability to accurately establish zones of benefit. It is required by law and by Valley Water policy.

The end result desired by Great Oaks is simple: zones of benefit and the groundwater charges levied within such zones should be established so that the costs of providing the benefits is reasonably allocated to those paying for such benefits.

Respectfully submitted,



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Vice President and General Counsel  
Legal and Regulatory Affairs

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