



# Santa Clara Valley Water District

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**File No.:** 22-0688

**Agenda Date:** 5/24/2022

**Item No.:** 3.4.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Denial of May 10, 2022 Claim by Stanford University Against Santa Clara Valley Water District for Refund of Water Year 2021-2022 Groundwater Production Charges.

### **RECOMMENDATION:**

Deny Stanford University's claim.

### **SUMMARY:**

Stanford University (Stanford) presented a written claim on May 10<sup>th</sup>, 2022 (Claim), demanding from Santa Clara Valley Water District (Valley Water) a refund of groundwater charges paid in Water Year 2021-2022. Stanford's claim identifies payments totaling \$449,630.77 for the months of July 2021 through February 2022, and states that payments for March 2022 through June 2022 will be identified once known. Stanford asserts that Valley Water's groundwater charges as applied to Stanford:

1. Violate the District Act;
2. Violate California Constitution, Article XIII C;
3. Violate California Constitution, Article XIII D;
4. Trespass upon Stanford's vested groundwater and surface rights;
5. "Take" Stanford's vested groundwater and surface rights; and
6. Violate the Sustainable Groundwater Management Act.

Stanford has long disputed the benefits it receives from Valley Water's management of the groundwater supply in Zone W-2 and has long argued that it should not be required to pay the Zone W-2 groundwater charges. In April of last year, Stanford submitted a similar claim for groundwater charges paid in Water Year 2020-2021. That claim was denied by the Board.

Stanford claims its wells are located in a distinct hydrologic area of the northern portion of the Santa Clara Subbasin, and Valley Water's recharge management activities further to the south do not affect the groundwater level in the northern portion of the subbasin where Stanford pumps groundwater. It also asserted that groundwater-management activities undertaken by Stanford and the City of Palo

Alto since the 1960's, rather than Valley Water's activities, are responsible for sustainable groundwater levels in the area where Stanford pumps. Stanford claims that its surface water diversions from the San Francisquito Creek watershed provide in-lieu recharge benefit, and that water diverted and stored in its Lake Lagunita reservoir percolates into the underlying subbasin further benefitting that subbasin.

As part of the Groundwater Benefit Zone Study completed in 2020, Valley Water's consultant considered Stanford's analysis, and responded in detail, through several rounds of correspondence, explaining the reasons that Stanford's assertions were mistaken. Through that process, Valley Water's consultants concluded that:

- Stanford's wells are located within the valley floor alluvium, which forms the primary aquifers of the Santa Clara Subbasin.
- The portion of the subbasin underlying Stanford is hydrologically connected to other areas of the subbasin where Valley Water groundwater management activities are located.
- These activities, including direct recharge and indirect recharge (e.g., treated and recycled water deliveries), provide substantial benefit to the groundwater budget in all years, and the subbasin would be in chronic imbalance and susceptible to land subsidence without Valley Water's work.
- Groundwater level data and the direct geologic and hydrogeologic connection to Valley Water activities to protect and augment groundwater support inclusion of the Stanford area in the groundwater benefit zone.

After considering the analysis and report of Valley Water's consultant and the analyses submitted by Stanford and other stakeholders, the Valley Water Board adopted Resolution Nos. 20-12 and 20-31, modifying Valley Water's then-existing benefit zones (W-2 and W-5) and adding two new zones in the South County area. As modified, Stanford's groundwater facilities remain in Zone W-2 and subject to the groundwater charges applicable in that zone.

Stanford's current Claim contains the same legal theories asserted in its claim submitted last year, which was denied. Consistent with the detailed analysis of those objections provided previously by Valley Water staff and consultants and with their detailed determination that Stanford's criticisms of the Study were and are misplaced, it remains our position that the Board's benefit zone determinations and its decision to adopt groundwater charges in each of those zones comply with applicable legal standards. Accordingly, we recommend that the Board deny Stanford's current Claim.

#### **ENVIRONMENTAL JUSTICE IMPACT:**

There is no Environmental Justice impact associated with this item.

#### **FINANCIAL IMPACT:**

There is no financial impact associated with this item.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or indirect physical change in the environment.

**ATTACHMENTS:**

Attachment 1: Claim

**UNCLASSIFIED MANAGER:**

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