

April 9, 2023

Via email

Board of Directors  
Salinas Valley Basin Groundwater Sustainability Agency  
P.O. Box 1350  
Carmel Valley, CA 93924

Re: Scope of work for barrier feasibility assessment

Dear Members of the Board:

LandWatch Monterey County offers the following comments on the proposed Scope of Work identified as Attachment A to the Salinas Valley Basin Ground Water Sustainability Agency Agreement For Professional Services. We understand that the Board will consider approval of this agreement at its next meeting.

**A. The Scope of Work should include (1) an assessment of willingness to pay for the project based on an econometric analysis and (2) an estimate of the likely assessments for seawater intrusion mitigation benefits based on a principled assignment of the duty to mitigate seawater intrusion as between different groundwater user groups.**

The Scope of Work fails to include any assessment of the willingness to pay by potential end users for the water that might be produced or for the seawater intrusion mitigation benefits that might be provided. Without some assessment of willingness to pay, it is possible that the SVGBGSA will invest substantial sums in a project that is ultimately found to be uneconomic. It makes no sense to invest millions of dollars in project assessment, design, CEQA review, and permitting, only to find that the project cannot obtain approval in a Proposition 218 vote. The SVGBGSA can and should assess economic feasibility at the same time it assesses technical feasibility.

Unless users are willing and able to pay for their fairly apportioned cost share, the project may not be feasible. Generally, agricultural users are not willing to pay more than the marginal productivity of water over the long term, i.e., over the life of an infrastructure project. For example, studies of agricultural users' willingness to pay for SGMA compliance water projects in the San Joaquin Valley indicate that farmers there would be willing to pay at most \$300-\$500 per acre-foot for water supplied by new projects.<sup>1</sup> After

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<sup>1</sup> Hanak et al, Water and the Future of the San Joaquin Valley, p. 22, Feb. 2019, available at <https://www.ppic.org/wp-content/uploads/water-and-the-future-of-the-san-joaquin-valley-february-2019.pdf>.

that, San Joaquin Valley farmers would prefer to attain SGMA compliance via pumping reductions because the marginal productivity of water does not justify higher costs. Thus, even if marginal agricultural value of water is five times higher per acre in the Salinas Valley than in the San Joaquin Valley, it may be unrealistic to expect agricultural users to pay more than \$1,500 to \$2,500 per acre-foot for projects to avoid pumping reductions. Previous cost estimates indicated that desalinated water from the pumping barrier project would cost at least \$4,000 per acre-foot, suggesting that there is a significant possibility that the project may not be economically feasible. **Accordingly, the Scope of Work should include at least some econometric analysis of the value of a marginal acre-foot of water to potential users.**

Furthermore, users' shares of project costs depend on the size of the assessment base over which costs are apportioned. The SVBGSA has not yet articulated any principled basis for cost apportionment of major infrastructure projects as between subbasins and as between urban and agricultural users, despite stakeholders' interest in establishing a common understanding of who must pay for SGMA compliance. Fairness, Proposition 218, and political accountability require that the SVBGSA eventually be prepared to apportion project costs based on the proportional benefit to users using a principled and transparent methodology that identifies the responsibility to mitigate seawater intrusion.

That mitigation responsibility may vary by location of users and by priority of water rights. First, users located in subbasins that do not cause or suffer overdraft and seawater intrusion may arguably have no mitigation responsibility for these problems in other subbasins; and even if these subbasins cause some lesser amount of the problem, their mitigation responsibility should arguably be proportional. Second, urban users with priority water rights should bear no mitigation responsibility for the amounts pumped within their priority rights. In short, a user who has no legal obligation for mitigation obtains no benefit from mitigation project, and without a benefit, such a user cannot be assessed under Proposition 218. **Accordingly, the Scope of Work should include at least some preliminary identification of the users who have mitigation responsibility for seawater intrusion so that a realistic range of potential assessments to different groups of groundwater users can be estimated.**

LandWatch discussed in detail the need to assess willingness to pay and to develop a principled and equitable apportionment of project costs based on mitigation responsibility its June 28, 2022 letter regarding Environmental Justice and Cost Apportionment Considerations in Planning Projects and Management Actions.<sup>2</sup> We urge the Board to consider these issues before finalizing the Scope of Work for the contract.

The Round One SGMA grant funding can clearly be used for this work. It is likely that a useful preliminary analysis could be produced for a small fraction of the funding that is being proposed for technical and engineering work.

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<sup>2</sup> Available at <https://landwatch.org/pages-new/policy/water/SVBGSA/062822-LWComments-EJ-CostApportionment.pdf>.

**B. The alternatives should include fundamentally different approaches to seawater intrusion mitigation.**

The Scope of Work calls for developing alternatives to the project, but it does not make clear what sorts of alternatives will be considered. The Scope of Work should be revised to require assessment of some fundamentally different approaches to seawater intrusion, rather than just considering variations in the barrier project architecture.

The Groundwater Sustainability Plans for the 180/400, Monterey, and Eastside subbasins include alternative projects and management actions to address overdraft and seawater intrusion, including the management actions for Reservoir Reoperation and Demand Management; the infrastructure project for Seasonal Release with ASR Or Direct Delivery; and several infrastructure projects for Irrigation Water Supply. Some of these projects would take advantage of winter releases and/or 11043 water rights to move surface water or groundwater north for use in lieu of pumping in the coastal areas.

The SVGBGSA should consider whether the investment of more than \$100 million for the barrier project would exhaust otherwise available funding for a less expensive suite of smaller projects and management actions that could attain the same benefits as the barrier project. Accordingly, the consultants should assess alternative infrastructure projects, reservoir reoperation, and demand management used in various combinations to attain the least cost suite of projects. This assessment need not be conducted at the same level of detail as the barrier engineering feasibility assessment, but it should permit the SVGBGSA to meaningfully compare the barrier to its alternatives.

Indeed, CEQA compliance for a barrier project would require assessment of a reasonable range of alternatives. This range cannot be restricted to variations on the barrier project because “[m]eaningful analysis of alternatives in an EIR requires an analysis of meaningful alternatives.” (*Save Our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655, 704) This requires “enough of a variation to allow informed decisionmaking.” (*Id.* at 703, quoting *Mann v. Community Redevelopment Agency* (1991) 233 Cal.App.3d 1143, 1151.)

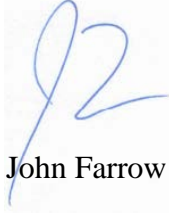
In sum, neither prudent planning nor CEQA permit the SVGBGSA to put all of its eggs in the barrier basket.

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Thank you for your consideration of these comments.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

A handwritten signature in blue ink, appearing to be 'JF', is written over a light blue rectangular background.

John Farrow

JHF:hs

cc: Piret Harmon, [harmonp@svbgsa.org](mailto:harmonp@svbgsa.org)  
Michael DeLapa