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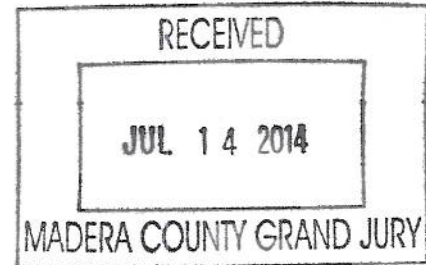
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July 10, 2014



**VIA UNITED STATES MAIL**

Madera County Grand Jury  
Post Office Box 534  
Madera, CA 93639

**Re: Response of Madera Irrigation District to 2013-2014 Madera County Grand Jury, Madera County Ground Water Issues**

Dear Honorable Members of the Grand Jury:

I serve as General Counsel to the Madera Irrigation District (the "District"), a California irrigation district encompassing an area of approximately 129,180 acres within the County of Madera. The District's mission is to obtain and manage affordable surface water and groundwater supplies in a manner which will ensure the long-term viability of irrigated agriculture in the District.

The District has reviewed the 2013-2014 Report on Madera County Ground Water Issues (the "Ground Water Report") prepared by the Madera County Grand Jury (the "Grand Jury"). As an initial matter, the District appreciates the Grand Jury's concern regarding the severe drought affecting the State of California and Madera County, and the overdraft condition of the local aquifer. The District agrees that groundwater overdraft is a significant concern, which is being exacerbated by the unprecedented drought facing the State and the County.

Although the District is not listed as a respondent in a Ground Water Report, the District believes it is important to provide additional information to the Grand Jury to assist the Grand Jury in finalizing the Ground Water Report. Therefore, the District would like to provide additional input regarding several of the findings of fact and recommendations stated in the Ground Water Report:

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### A. **The County, the District, and Other Local Agency Stakeholders Are Actively Engaged in a Planning Process, Supported By Information Provided By Engineers and Technical Consultants, to Develop Measures Designed to Address Groundwater Overdraft**

The recommendations in the Ground Water Report should allow sufficient flexibility to accommodate, and not interfere with, the significant progress being made by several local stakeholders in developing comprehensive solutions to groundwater overdraft within the County. Both the County and the District are active participants in these efforts, along with other local agencies. These efforts include:

- ***Madera Regional Groundwater Management Plan.*** The Madera Regional Groundwater Management Plan (the “GMP”) is a joint effort by several agencies, including the County, the District, the City of Chowchilla, the City of Madera, Chowchilla Water District (“CWD”), and South-East Madera County United (“SEMCU”). The goal of the GMP is to provide data and a framework within which the agencies may jointly act to maintain a high quality and dependable groundwater resource within the County. The GMP has retained engineers and technical consultants, including Provost & Pritchard, Wood Rodgers, and KDSA, to assist in the development of the technical data necessary to identify and propose mitigation measures for consideration and adoption by local agencies. The District anticipates that the GMP will be released for public review within the next month. (See Ground Water Report, Fact No. 16.)

- ***Integrated Regional Water Management Plan.*** The Integrated Regional Water Management Plan (“IRWMP”) is a region-wide planning document that identifies broadly supported water resources projects and programs to enhance, among other things, water supply, flood management, water quality, environmental restoration, and recreation within Madera County. The IRWMP represents a joint effort of the Regional Water Management Group, Madera Region (the “RWMG”), whose mission is to facilitate future coordination, collaboration, and communication for comprehensive management of water resources within the Madera Region. The RWMG includes the County, the District, CWD, SEMCU, the City of Chowchilla, the Chowchilla Red Top Resource Conservation District, the Coarsegold Resource Conservation District, Gravelly Ford Water District (“GFWD”), Madera County Special Districts, Madera Valley Water Company, Madera Water District (“MWD”), North Fork – Mono Rancheria, Root Creek Water District (“RCWD”), and the Yosemite/Sequoia Resource Conservation and Development Council. The IRWMP was originally completed in 2008, and the RWMG has recently received funding to update the IRWMP, which is presently occurring.

- ***Madera Groundwater Joint Powers Authority Formation Committee.*** To provide a formal governance structure to support groundwater management within Madera County across jurisdictional boundaries, several public agencies within the County are engaged in the process of forming a joint powers authority under the California Joint Powers Act, Government Code, § 6500, *et seq.* The purpose of the proposed joint powers authority would be to manage and oversee groundwater resources within Madera County, which would likely

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include the implementation of measures identified in the GMP and the IRWMP. Presently, the County, the District, RCWD, GFWD, CWD, Aliso Water District, Columbia Canal Company, the City of Madera, the City of Chowchilla, MWD, and Clayton Water District are engaged in this process. Several of the participants have provided the funding necessary to formally establish the joint powers authority. (See Ground Water Report, Finding No. 1.)

### **B. The District Recommends that the Ground Water Report's Recommendations Be Revised to Reflect Local Agencies' Ongoing Efforts to Evaluate and Address Groundwater Overdraft**

In light of the efforts identified above, the District is concerned with the Ground Water Report's recommendation of discrete actions to be taken by the County. While the joint powers authority may ultimately identify and impose mitigation measures similar to some of the measures recommended in the Ground Water Report, the mitigation measures identified in the GMP and the updated IRWMP will be based upon the technical expertise of engineers and technical consultants, and will reflect the needs of the agency stakeholders engaged in the process. The utilization of technical expertise, and coordination amongst the agency stakeholders, is necessary to ensure groundwater management within the County is performed in an efficacious, legal, and cost-effective manner.

The District appreciates the active, solution-oriented approach taken by the Grand Jury. However, the adoption of specific recommendations at this juncture – at a time when the GMP is nearly complete, and the IRWMP is being updated – could frustrate the hard work and financial resources expended by numerous local agencies to help craft a solution to the groundwater issues within the County, particularly to the extent those recommendations are not consistent with the recommendations in the GMP and the updated IRWMP.

*Recommendation No. 1.* For example, based on the experiences of other counties, the District is concerned that a moratorium on the issuance of well permits for new agricultural wells is likely to be less effective than other potential measures, would be costly to implement, and may distract from the agencies' other efforts to reduce overdraft. In addition, since enacting a moratorium in October 2013, the San Luis Obispo County has incurred significant costs in the defense of several lawsuits challenging the moratorium, which call into question the legality of such a measure. As such, the District recommends that Recommendation No. 1 either be eliminated, or clarified to suggest that the County (working in coordination with the other local agencies within Madera County) evaluate whether a moratorium should be included as a possible mitigation measure.

*Recommendations Nos. 2-5, 7, 11.* Recommendations Nos. 2-5, 7, and 11 suggest particular measures, such as the enactment of ordinances or the imposition of fees, by the County. While some of these concepts are being evaluated in the GMP and the updated IRWMP, ultimately the local agencies will need to determine those measures are efficacious, legal, and cost-effective. As such, the District suggests that Recommendations Nos. 2-5, 7, and 11 be modified to clarify that the County (working in coordination with the other local agencies

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within Madera County) evaluate those actions as possible mitigation measures in the GMP and the updated IRWMP.

**Recommendation No. 6.** This recommendation suggests that the County enact a water conservation plan, and publish the plan online. Because the County is presently engaged in the preparation of the GMP and the update of the IRWMP, which among other things will provide a plan (and mitigation) for the conservation of water resources within the County, Recommendation No. 6 should be revised to encourage the County to continue to work, in an expeditious manner, with local agency stakeholders to finalize and adopt the GMP and the updated IRWMP, and cooperate in the formation of a joint powers authority to implement the measures recommended in those documents.

**Recommendation No. 8.** The District does not recommend any changes to Recommendation No. 8, as the employment of additional staff by the County to focus on water-related issues will help facilitate the County's involvement in water-related issues, including the GMP and IRWMP processes. The District, however, notes that many of the local agencies that have been working with the County on the GMP and the IRWMP, including the District, employ licensed engineers who have been heavily involved in those efforts. In addition, outside engineers and technical consultants have been engaged to provide support to the local agencies to help quantify groundwater overdraft, and formulate measures recommended in the GMP and the updated IRWMP. The agencies' employees, and the engineers and technical consultants retained to develop the GMP and the updated IRWMP, will continue to work with the County and other stakeholders to provide the technical support needed to help craft recommended measures that are efficacious, legal, and cost-effective.

**Recommendations Nos. 9-10.** The District agrees that the development of further data, and continued monitoring of the County's groundwater resources, is an integral component of any proposed solution to groundwater overdraft within the County. However, data collection, monitoring, and reporting are each issues that are being evaluated in the context of the development of the GMP, the updated IRWMP, and the proposed joint powers authority. To avoid inconsistencies with the work already performed on these issues, and the measures being developed in the GMP and the updated IRWMP, the District recommends that Recommendations Nos. 9-10 be modified to clarify that the County (working in coordination with the other local agencies within Madera County) evaluate methods to ensure that relevant data is being collected, that adequate monitoring is occurring, and that the public is kept adequately informed.

### **C. Technical Comments Regarding the Ground Water Report's Findings Of Fact**

The District also has the following technical comments on several of the factual findings in the Ground Water Report:

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### 1. Facts (Ground Water Report, Pages 2-3)

- Although the County has some responsibility and authority for setting water policies in the County, as stated in Fact No. 1, (Ground Water Report at 2 [Fact No. 1]), there are several other agencies with jurisdiction over aspects of the use and delivery of water within the County. These agencies include, for example, the United States Bureau of Reclamation; the State Water Resources Control Board; the California Department of Water Resources; the Central Valley Regional Water Resources Control Board, Region 5; and irrigation and water districts, such as the District, Chowchilla Water District (“CWD”), Gravelly Ford Water District (“GFWD”), Root Creek Water District (“RCWD”), and Aliso Water District (“AWD”).

- Fact No. 3 is accurate; however, the District notes that groundwater extraction wells for residential, commercial, industrial, and other uses likewise only require a well drilling permit.

- Fact No. 5. Unlike agricultural uses, which can be fallowed, it is not feasible to halt the delivery of water to residential and urban users, notwithstanding any deficiency in the supply of water, due to the need to avoid health and safety impacts on those users.

- Fact No. 10 is based upon the findings in the Gunner Ranch West SB 610 Water Assessment Study. This is not the most recent version of the study, the study has been modified several times, and the study has not been approved in any form as adequate by the County. Moreover, several commenting parties, including local agencies such as the District, have provided comments to the County questioning the adequacy of this document. Thus, to the extent the Ground Water Report makes findings on typical water usage within the County, the District recommends that the Ground Water Report reference another source for the data.

### 2. Findings (Ground Water Report, Page 4)

- The District disagrees, in part, with Finding No. 4. Specifically, an effective solution to groundwater overdraft within the County can only be effectuated through significant action on the part of all water users and local agencies with jurisdiction over water resources – not just agricultural end-users.

- While the Water Advisory Commission itself may not itself have professional staff, as stated in Finding No. 8, many of the various local agencies engaged in the GMP, IRWMP update, and joint powers authority-formation processes have in-house staff well-versed in water resources management assisting with those efforts, in addition to outside technical and engineering expertise.

- The District does not have the basis to evaluate whether the County only employs one individual with water expertise, as stated in Finding No. 9. The District, however, notes that the various agencies that are engaged in the GMP, IRWMP update, and joint powers authority-

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formation processes – including the County – have retained outside technical and engineering expertise to assist with those efforts.

**D. Conclusion**

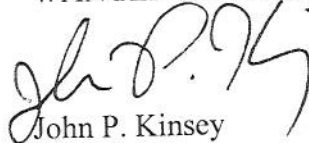
The District appreciates the Grand Jury's attention to the important issue of groundwater overdraft within the County, as well as the opportunity to comment on the Ground Water Report.

To ensure the GMP, IRWMP update, and joint powers authority-formation processes move forward expeditiously, and that the measures recommended through those efforts are implemented as soon as possible, the District believes it is important that the Ground Water Report be revised to maintain consistency with those efforts, as explained above.

Should the Grand Jury, or any other person or entity, wish to discuss the above suggestions in greater detail, or obtain additional information regarding the GMP, IRWMP update, and joint powers authority-formation processes, the District would be happy to accommodate any such request. If you would like further information, please contact Thomas Greci, the District's General Manager, at 673-3514.

Respectfully submitted,

WANGER JONES HELSLEY



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