

December 23, 2024

The Honorable Patricia Guerrero,
Chief Justice, and Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4792

RE: Letter in Support of Petition for Review of *Indian Wells Valley Groundwater Authority v. Superior Court*, Supreme Court of California Case No. S288048, Court of Appeals Case No. G062327

Dear Chief Justice Patricia Guerrero and Associate Justices:

The Community Alliance for Family Farmers (CAFF) and the UC Davis Small Farmer Water Justice Clinic (Small Farmer Clinic) submits this amicus letter urging the Court to grant a review of the above-titled case concerning the implementation of the Sustainable Groundwater Management Act (SGMA) and the role courts should play in groundwater adjudication involving technical determinations made by local agencies. CAFF is a California nonprofit organization dedicated to building sustainable food and farming systems through policy advocacy and programs to create more resilient family and small farms. CAFF represents over 8,000 of California's smallest and most vulnerable family farmers. As the only agricultural group to support the passage of the Sustainable Groundwater Management Act (SGMA), CAFF understands the nuanced needs of groundwater regulation in California. Sound groundwater management is essential to the continuing success of many family farmers. The Clinic was created to provide legal assistance to the small-scale and family farmer community (collectively, "small farmers") regarding SGMA, and it has assisted small farmers around the State. Small farmers play an essential, unique part in the State's food supply, including by providing healthy produce to rural and underserved communities. Both CAFF and the Clinic have a strong interest in this case and believe it would benefit the small farmer community if the Court accepted the case.

SGMA was adopted in 2014 to protect California's valuable groundwater resources and avoid harmful results caused by excess groundwater pumping like groundwater overdraft and ground subsidence. To achieve these goals, SGMA authorized the identification of a local agency for each groundwater basin known as a Groundwater Sustainability Agency (GSA) that is responsible for managing groundwater in that area. Once identified, each GSA was required to develop a technical plan to manage groundwater basins defined as a Groundwater sustainability Plan (GSP). After their preparation, the GSPs are subject to adequacy review by the California Department of Water Resources and the State Water Resources Control Board.

As part of the GSP, each GSA was asked to establish the "sustainable yield" for the basin--the amount of groundwater that may be pumped from a groundwater basin annually without causing undesirable results--and then implement the GSP to achieve SGMA's sustainability goal. This process is currently ongoing in over a hundred groundwater basins in the state. This petition for review raises the legal issue of the role courts play in reviewing technical determinations made by GSA's during the development of GSP's, including the sustainable yield calculation, and how those issues may be properly raised for a court to review.

Small farmers in California have a strong interest in SGMA implementation to protect their groundwater use and farms. During the development of the GSPs, GSAs were required to consider the water needs of groundwater users in the basin, including small farmers. As representatives of small-scale farmers, we strongly support the requirement in SGMA that the GSA's technical determinations should be relied upon by the courts in adjudications to avoid redundancies and unnecessary costs. (Wat. Code, § 10737.2; Code Civ. Proc., § 840, subd. (a)(2)). CAFF and the Small Farmer Clinic believe that if the GSA's sustainable yield determination is not embraced by the court in an adjudication, this could lead to significant hardships for the small farmer community and others with limited resources. If the court elects to start anew with the sustainable yield determination and adopt a new sustainable yield different from the GSA, this would render much of the work of the GSA since SGMA's inception and the work of the small farmer stakeholders in the GSP process seemingly valueless. In addition, many small farmers lack the financial and time resources needed to effectively participate in groundwater adjudications, a court process which generally requires attorney representation and technical groundwater experts. This is especially the case in adjudications if the sustainable yield determination made by the GSA is relitigated in court using technical experts, moving the current public process to a costly, legal process.

Without effective participation in adjudications, small farmers are at risk of having their water rights limits and their farming activities compromised. Besides this case, the issue of the role of the court reviewing a GSA's sustainable yield determination has been raised in another pending groundwater adjudication involving small farmers. (Bolthouse Land Company, LLC et al. v. All Persons Claiming a Right to Extract or Store Water in the Cuyama Groundwater Basin et al., Los Angeles County Sup. Ct. Case No. BCV-21-10127). The same issue is likely to occur in other groundwater adjudications occurring in agricultural regions, so this is a significant issue to small farmers all around the State.

CAFF and the Small Farmer Clinic respectively ask the Court to accept this petition for review and provide guidance on this important issue.

Sincerely, CAFF & Small Farmer Clinic



Catherine Van Dyke
Water Policy and Organizing Manager
Community Alliance with Family Farmers
Justice Clinic



David A. Sandino
Director
UC Davis Small Farmer Water



December 23, 2024

Page 4

DECLARATION OF ELECTRONIC SERVICE

Case Name: Indian Wells Valley Groundwater Authority v. Superior Court
District (DWR/State Water Board)

No.: S288048

I declare:

I am employed in the County of Yolo, State of California. I am 18 years of age or older and not a party to this matter. My business address is One Shields Avenue, Davis, CA 95616.

On December 23, 2024, I electronically served the attached Letter in Support of Petition for Review by transmitting a true copy via this Court's TrueFiling system. I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

This declaration was executed on December 23, at Davis, California.

Lindsey Bilick

Lindsey Bilick