

Katherine Douglas

Public Comment

19

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Tuesday, October 3, 2023 4:54 PM
To: sbcob
Subject: FW: Clerk of the Board of Supervisors of SBC, from KPMarch, Esq of BkyLF, counsel for Walking U Ranch, LLC. Attached is Walking U Ranch LLC's "public comment"/opposition to Brodiaea, Inc.'s appeal to the Board of Supervisors, to be heard 10/10/23 by Boa

Attachments: Letter to SBBoard of Supervisors sent by fed ex and by email to Dargel on 100323.pdf

Follow Up Flag: Follow up
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100323

Clerk of the Board of Supervisors from KPMarch, Esq of Bky LF, counsel for Walking U Ranch, LLC:

Sending again, as was not delivered when sent a minute ago. Please see below. Please REPLY to confirm receipt.

Kathleen P. March, Esq.
The Bankruptcy Law Firm, PC
10524 W. Pico Blvd, Suite 212
Los Angeles, CA 90064
Phone: 310-559-9224
Fax: 310-559-9133
E-mail: kmarch@BKYLAWFIRM.com
Website: www.BKYLAWFIRM.com
"Have a former bankruptcy judge for your personal bankruptcy attorney"

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Tuesday, October 3, 2023 4:50 PM
To: 'sbcob@countyofsb.org.' <sbcob@countyofsb.org.>
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100323

To Clerk of the Board of Supervisors of SBC, from KPMarch, Esq of BkyLF, counsel for Walking U Ranch, LLC.

Dear Clerk:

Attached is the letter which is Walking U Ranch LLC's "public comment"/opposition to Brodiaea, Inc.'s appeal to the Board of Supervisors, appealing the Planning Commission's denial of Brodiaea's "frost ponds" project. The Board is scheduled to hear that appeal on 10/10/23.

Because the 7 exhibits to this letter are voluminous, they are too big to attach to this email. Consequently, our law firm has put the 7 exhibits, into dropbox, and the dropbox link is: <https://www.dropbox.com/scl/fi/ju6avycuc6kkhcdruapms/Letter-as-sent-to-Santa-Barbara-Planning-Commission-re-101023-hearing-re-frost-ponds-100223-compressed-dropbox.pdf?rlkey=apfunsknw2u7fswcfy7nv1r2c&dl=0>

Our law firm sent this letter, plus the 7 exhibits to this letter, today, to the Board, by fed ex, to the Board's address on 105 E. Anapamu Street, Santa Barbara, CA, for second day delivery.

I'm guessing that, as Clerk of the Board, you (or your staff), will be receiving that fed ex package. When you do, please REPLY to me, to kmarch@BKYLAWFIRM.com to confirm receipt. Thx.

Our law firm would like to speak for 3 minutes (or whatever allotted time is) at the 10/10/23 Board hearing, in opposition to Brodiaea's appeal. Please REPLY to tell me how to sign up to do that. Thx.

KPMarch

Kathleen P. March, Esq.
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October 3, 2023

Board of Supervisors of Santa Barbara County
Santa Barbara County Administration Building
105 E Anapamu St # 406
Santa Barbara, CA 93101
[Phone: (805) 568-2190]

RE: 10/10/23 hearing of Board of Supervisors of the County of Santa Barbara,
To consider appeal No. 23APL-00023 of Brodiaea, Inc.,
Appealing County Planning Commission's **denial** of Brodiaea, Inc.'s
"North Fork Ranch Frost Ponds Project," case no. 16CUP-0000-00005
Brodiaea's Appeal should be DENIED, including because proposed
Frost Ponds Project would violate SGMA, by requiring groundwater
use that is NOT Sustainable

By FedEx Second Day Delivery

To Santa Barbara County Board of Supervisors:

On behalf of our law firm's client, Walking U Ranch, LLC, our law firm is sending you, enclosed with this letter, **7 exhibits** which demonstrate that the Board of Supervisors should **affirm** the County Planning Commission's **denial** of Appellant Brodiaea, Inc's proposed North Fork Ranch "Frost Ponds" project.

Exhibits 1-7 are attached to this letter, with divider pages labeled to match the following numbers 1-7, as follows:

1. **Exhibit 1** hereto is that portion of the certified deposition transcript, where Walking U Ranch LLC's attorney Kathleen P. March, Esq, on 6/19/23,

cross-examined Brodiaea, Inc.'s expert hydrogeologist, Anthony Brown. Brown's deposition was given by Brown in the *Bolthouse/Grimmway v. all groundwater users in the Cuyama Basin*, comprehensive groundwater adjudication suit, LA Superior Court case BCV-21-101927.

The California Sustainable Groundwater Management Act, Cal. Water Code §§10720-10738 ("SGMA") requires groundwater use in California to be reduced/limited to make that groundwater use **sustainable**.

When Walking U Ranch LLC attorney March cross-examined Brodiaea's expert hydrogeologist, Anthony Brown, Brown made **significant admissions** which establish that it would violate SGMA's requirement that groundwater use be **sustainable**.

It would **violate** SGMA if the Board of Supervisors was to reverse the Planning Commission's **denial** of Appellant Brodiaea's unsustainable "Frost Ponds" project, to allow that project.

The Planning Commission's denial of Brodiaea's "Frost Ponds" (actually large lakes) project was required by SGMA, because the amount of groundwater that Brodiaea would have to pump, from Brodiaea's wells, to constantly refill the "Frost Ponds" as groundwater was pumped out of the "Frost Ponds" to be sprayed on baby grapes, to try to keep the baby grapes from freezing, during the several months each year when there is frost in the Cuyama Basin, would be **unsustainable groundwater use**.

Brown admitted, in **Exhibit 1** hereto (the attached cross-examination by attorney March, of Brown) each of the following:

(1) March showed Brown Walking U Ranch Exhibit WUR0003, attached to deposition transcript, Exhibit 1 to this letter. WUR0003 is the Santa Barbara County 2021 Groundwater Basin Survey Report (Sept 2021), where, at bates pages

82-38, regarding the area of the Cuyama Basin where Brodiaea's (aka North Fork Vineyard) is located—the “Northwestern Threshold Region”—the Report states:

“...deep wells withing the eastern portion of this region have experienced **continued declines**, with water levels dropping 40 feet on average since pumping began in 2016. It should be noted however, that although water levels continue to decline in this area, stable and static water level measurements are difficult to obtain. **The aquifer never fully recovers as a result of pumping.**” (Bold/underline added for emphasis)

Brown testified [transcript bottom p.687 to top p.688] that he did not question the technical accuracy of the Santa Barbara County 2021 Report, which is “something that I would, as a practicing hydrologist, review and consider.”

(2) March questioned Brown regarding a Chart (Walking U Ranch Exhibit WUR0002, which Chart is attached to deposition transcript which is Exhibit 1 to this letter), which showed that the groundwater level in OPTIwell 840 (a deep well which the location map in WUR0002 shows is at Brodiaea's vineyard, had **fallen 86 feet** between 2016 (when Brodiaea planted and started irrigating its vineyard) to 2021. Brown admitted that the water level in Brodiaea's deep well falling 86 feet between 2016 (when Brodiaea planted and started irrigating its vineyard) to 2021, is a decline that “would **not** be characterized as minor.” [cross-examination of Brown, p.682:5–684:6].

(3) March questioned Brown about Walking U Ranch exhibit WUR0004, which is attached as an exhibit to the deposition transcript, exhibit 1 to this letter. WUR0004 is relevant pages of the 2013 US Geological Survey of the US Department of Interior USGS 2013-5148, which discuss that the USGS performed **age dating** of groundwater in wells in the Cuyama Basin, and determined that water in 1000 feet deep wells, in the Cuyama Basin, had an average **age** of 11,000

years (where **age** of water is defined as “time since recharge,” i.e., time since the water in that well was replenished). See WUR0004, the relevant pages of the USGeologic Service 2013 Report on water dating, where, at p.87, USGeologic Service states age is “time since recharge of groundwater”; and

When March cross-examined Brown that 2013 year US Geological Survey of the US Department of Interior USGS 2013-5148, Brown admitted it takes **several thousand years** for recharge (i.e., new) water to reach those deep wells:

“THE WITNESS: So as I've indicated in response to the questions that have been posed, the recharge is ongoing continuously. The age -- average age of the water that's being produced at the locations that you've referenced ranges over several thousand years. So what that indicates is that, on average, the **water that's currently being recharged takes several thousand years to reach that well. The system is being recharged continuously, but, on average, it takes that long to get to the deeper well.**” [cross-examination of Brown, p.710:16–711:2].

Recharge (aka replenishment of groundwater pumped out of deep wells) which takes **several thousands of years** to reach the deep wells obviously **flunks** SGMA’s requirement that groundwater use in California be **sustainable** within a maximum of 20 years.

SGMA requires that groundwater use in California be sustainable within 20 years. **Brodiaea pumping groundwater from deep wells that take several thousands of years to recharge is already a blatant violation of SGMA.**

Allowing the “Frost Ponds” project would add MORE unsustainable groundwater use to Brodiaea’s present unsustainable groundwater use.

A pleading Brodiaea filed in the groundwater sustainability suit admitted that in 2022, Brodiaea pumped 741 acre feet of groundwater from its wells. That amount of groundwater use is already unsustainable, violating SGMA.

The Cuyama Basin Groundwater Sustainability Plan (“GSP”) is now in

effect, binding all groundwater users in the Cuyama Basin, because the California Department of Water Resources (“DWR”) finally approved that GSP in 2023. Per SGMA, that GSP will be updated in 2025. The 2025 update of the GSP will almost certainly require Brodiaea to **reduce** the 741 acre feet of groundwater per year, which Brodiaea is already pumping, and would not allow Brodiaea to add additional groundwater pumping to get water to spray on baby grapes.

Allowing Brodiaea to pump additional hundreds of acre feet of groundwater, per year, to constantly refill the proposed “frost ponds” (actually 15 acres of lakes) to refill the “Ponds” as water is pumped out of those lakes to spray on Brodiaea’s baby grapes, to try to keep the baby grapes from freezing during frost events, is an **even bigger violation of SGMA, and groundwater use violating SGMA is illegal.**

The Board of Supervisors should **affirm** the Planning Commission’s **denial** of Appellant Brodiaea, Inc.’s proposed “frost ponds” project.

2. **Exhibit 2** hereto is the 12/14/22 Comment of Walking U Ranch LLC to the County Planning Commission, **opposing** Brodiaea’s “frost ponds” project, pointing out important defects in the proposed EIR, attaching government report showing groundwater table is dropping unsustainably in area of North Fork Vineyard, from when it planted its vines to present, and pointing out that the aquifer cannot recover from the present overdrafting. The Comment also points out that North Fork already uses wind turbines to protect baby grapes from freezing, and can use additional wind turbines, which are the better alternative, because wind turbines do not use groundwater.

3. **Exhibit 3** hereto is the 1/13/23 Supplement to Walking U Ranch Comment, attaching pleading filed by North Fork Vineyards (aka Brodiaea, Inc.)

In the Superior Court water suit, in which Bolthouse and Grimmway et al. are plaintiffs, reporting North Fork Vineyards used 760 acre feet of water to irrigate North Fork/Brodiaea Inc's 500,000 grapes, in year 2021 alone. SGMA and CEQA require considering cumulative effect of adding additional groundwater use to this 760 acre feet per year of groundwater use, is unsustainable.

Cumulative impact shows the frost ponds project must be rejected because adding the water to be taken from frost ponds to spray baby grapes, to the 760 acre feet of water North Fork Vineyard is already using per year to irrigate its grapes, is unsustainable, whether that additional amount is 103 acre feet additional per year or 31 acre feet per year, and North Fork nowhere promises to limit how much water it uses to either 31 acre feet per year or to 103 acre feet per year.

Consequently, granting the frost pond project would give North Fork Vineyards a blank check to use as much water to spray baby grapes as it wishes.

4. Exhibit 4 to this letter are pages 285-286 of 556, of the RESPONSE the "final" EIR, posted on 3/8/23, makes, responding to Walking U Ranch LLC's comment that North Fork (aka Brodiaea, Inc) should utilize wind turbines, instead of building frost ponds that would have to be drained and refilled constantly, with groundwater, during frost season (aka January to April each year).

On EIR page 286 of 556 total pages, comment 8.6 of the EIR states the EIR does not consider alternatives like wind turbines because a 2009 Santa Barbara County Policy says farmers can pick farming methods.

That excuse is blatant error of law, because a County Policy cannot trump/overrule SGMA and CEQA, which are California state statutes, and bind everyone in the state, including binding every governmental body in the state (this includes binding County of Santa Barbara) to follow SGMA and CEQA.

The EIR is error of law in saying it does not consider, and is not required to consider, **alternatives to frost ponds, like wind turbines**. Comments of additional parties, including Robbie Jaffe, also recommend using wind turbines as being a superior alternative to frost ponds. Other comments point out that wind turbines can be more effective than spraying water, and that (in addition to violating SGMA and CEQA by being unsustainable groundwater use) that spraying water has additional bad effects, such as leaching minerals from soil, and making the soil soggy (grape vines need good drainage, not water saturated soil).

The County of Santa Barbara is required to consider whether wind turbines are a more environmentally sound, groundwater conserving, alternative to North Fork's proposed frost ponds.

Following, quoted verbatim, is p.286 of 556 pages, which is EIR's **error of law** Response 8.6 to the comment of Walking U Ranch LLC that the Frost Ponds project should not be approved by the SB County because North Fork (aka Brodiaea, Inc.) can use wind turbines, which are a superior alternative to frost ponds, because wind turbines do not require using groundwater:

“This comment [use wind turbines comment] suggests that the Project applicant use other frost control methods at the project site. The EIR did not evaluate an alternative to the proposed frost protection system because the environmental impacts of operating the proposed system (water storage reservoirs and associated spray irrigation) can be reduced to a less than significant level with the implementation of proposed mitigation measure WAT-01. In addition, **requiring the Project applicant to revise the proposed project to implement an alternative frost protection method at the project site would be inconsistent with the County Agricultural Element (2009) Policy I.B**, which states "The County shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management

decisions." Therefore, alternative methods of frost control were not evaluated in the EIR."

This comment is further false, and is **error of law**, in stating that the environmental impacts of operating the frost ponds system "can be reduced to less than significant level." NOT true; both SGMA and CEQA require considering the **cumulative impact** of allowing additional groundwater use. North Fork's pleading filed in the Superior Court water suit admits that North Fork in 2021 used 760 acre feet of groundwater to irrigate its vineyard. Add to that the additional water feet of ground water, whether that be 100 plus water feet, or only 31 water feet per year (no limit on how much groundwater frost pond system could use), and the total would be unsustainable groundwater use violating SGMA and CEQA (because just the irrigation already violates SGMA and CEQA).

EIR's Response (at page 286), responding to Walking U Ranch comment 8.5, is **additional error of law**, where EIR states:

"Groundwater used to irrigate the vineyard located on the project site property is not subject to the groundwater use threshold of significance adopted for the Cuyama Groundwater Basin because raising crops is a use allowed by right and not subject to CEQA review."

This sentence is completely false, and is error of law by the EIR. The groundwater (admitted to be 760 acre feet just in year 2021) which North Fork/Brodiaea admits it is using to irrigate its vineyard is subject to SGMA and CEQA. All groundwater use in California is subject to SGMA. The use of groundwater by North Fork/Brodiaea (760 acre feet a year just in 2021) is **causing the groundwater table in the area of the vineyard to drop unsustainably**, from when North Fork planted and started irrigating its grape

vines from 2016 to present, and **is subject to regulation under SGMA**. North Fork/Brodiaea is required to comply with SGMA, and continued unsustainable water use violates SGMA. Note this comment does not deny that SGMA applies to this irrigation. Nor does this comment deny that SGMA requires considering the **cumulative adverse impact on groundwater** which would result from allowing additional groundwater use for the frost ponds, above the 760 acre feet per year, which is already unsustainable.

5. **Exhibit 5** hereto is a copy of my law firm's email to EIN contractor Steve Rodriguez, for my law firm's client Walking U Ranch, LLC, informing Rodriguez' his present (3/8/23) EIR contains **significant legal errors** that need to be fixed, before Planning Commission considers EIR.

6. **Exhibit 6** hereto is a copy of my law firm's email to Director Plowman and her assistant directors Wilson and Dale, about these significant legal errors in EIR.

7. **Exhibit 7** hereto are my firm's emails with Travis Seawards, who works for the Planning Commission: my email that the significant legal errors in EIR need to be fixed before SB Planning Commission proceeds on the EIR, and asking that my firm's emails pointing out these significant legal errors in the 3/8/23 EIR need to be fixed before that EIR can be considered; email from Seawards back to my firm, confirming that my firm's emails about legal errors in EIR will be made part of public record, but saying Seawards does not agree with my firm's comments; and my firm's email responding to Seawards tells Seawards that public officials are required to be informed regarding, and to comply with, controlling California law, and that he should check the law my firm has cited,

before saying he does not agree with that law.

It should also be noted that the Planning Commission discussed and was concerned about the fact that Brodiaea's "Frost Ponds" would require excavating (and therefore destroying) many acres of natural grassland, which would be replaced with the "Frost Ponds," and noted that natural grassland cannot be replaced once destroyed.

For all reasons, the Planning Commission was correct, in rejecting Brodiaea's proposed "Frost Ponds." On Brodiaea's appeal to the Board of Supervisors, the Board of Supervisors should **affirm** the decision of the Planning Commission decision that rejected Brodiaea's proposed "Frost Ponds" project.

My law firm, The Bankruptcy Law Firm, PC, is registering, to appear via zoom at the 10/10/23 Board of Supervisors appeal hearing, to appear and speak as counsel for Walking U Ranch LLC opposing Brodiaea's frost ponds project, for all reasons stated in this letter.

Please REPLY to kmarch@BKYLAWFIRM.com to confirm receipt of this letter and its attachments, by the Board of Supervisors, and in your REPLY please confirm that The Bankruptcy Law Firm, PC, by me or by law firm attorney Paige Rolfe, is registered to speak at the 10/10/23 appeal hearing, for our firm's client Walking U Ranch LLC, to urge the Board of Supervisors to affirm the Planning Commission's denial of Brodiaea's proposed "frost ponds" project. Thank you.

Sincerely,

Kathleen P. March, Esq.

Enclosures are Exhibits 1-7, as listed in this letter

THE BANKRUPTCY LAW FIRM, P.C.
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The Board of Supervisors should **affirm** the Planning Commission’s **denial** of Appellant Brodiaea, Inc.’s proposed “frost ponds” project.

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Cumulative impact shows the frost ponds project must be rejected because adding the water to be taken from frost ponds to spray baby grapes, to the 760 acre feet of water North Fork Vineyard is already using per year to irrigate its grapes, is unsustainable, whether that additional amount is 103 acre feet additional per year or 31 acre feet per year, and North Fork nowhere promises to limit how much water it uses to either 31 acre feet per year or to 103 acre feet per year.

Consequently, granting the frost pond project would give North Fork Vineyards a blank check to use as much water to spray baby grapes as it wishes.

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The County of Santa Barbara is required to consider whether wind turbines are a more environmentally sound, groundwater conserving, alternative to North Fork's proposed frost ponds.

Following, quoted verbatim, is p.286 of 556 pages, which is EIR's **error of law** Response 8.6 to the comment of Walking U Ranch LLC that the Frost Ponds project should not be approved by the SB County because North Fork (aka Brodiaea, Inc.) can use wind turbines, which are a superior alternative to frost ponds, because wind turbines do not require using groundwater:

"This comment [use wind turbines comment] suggests that the Project applicant use other frost control methods at the project site. The EIR did not evaluate an alternative to the proposed frost protection system because the environmental impacts of operating the proposed system (water storage reservoirs and associated spray irrigation) can be reduced to a less than significant level with the implementation of proposed mitigation measure WAT-01. In addition, **requiring the Project applicant to revise the proposed project to implement an alternative frost protection method at the project site would be inconsistent with the County Agricultural Element (2009) Policy I.B**, which states "The County shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions." Therefore, alternative methods of frost control were not

evaluated in the EIR.”

This comment is further false, and is **error of law**, in stating that the environmental impacts of operating the frost ponds system “can be reduced to less than significant level.” NOT true; both SGMA and CEQA require considering the **cumulative impact** of allowing additional groundwater use. North Fork’s pleading filed in the Superior Court water suit admits that North Fork in 2021 used 760 acre feet of groundwater to irrigate its vineyard. Add to that the additional water feet of ground water, whether that be 100 plus water feet, or only 31 water feet per year (no limit on how much groundwater frost pond system could use), and the total would be unsustainable groundwater use violating SGMA and CEQA (because just the irrigation already violates SGMA and CEQA).

EIR’s Response (at page 286), responding to Walking U Ranch comment 8.5, is **additional error of law**, where EIR states:

“Groundwater used to irrigate the vineyard located on the project site property is not subject to the groundwater use threshold of significance adopted for the Cuyama Groundwater Basin because raising crops is a use allowed by right and not subject to CEQA review.”

This sentence is completely false, and is error of law by the EIR. The groundwater (admitted to be 760 acre feet just in year 2021) which North Fork/Brodiaea admits it is using to irrigate its vineyard is subject to SGMA and CEQA. All groundwater use in California is subject to SGMA. The use of groundwater by North Fork/Brodiaea (760 acre feet a year just in 2021) is **causing the groundwater table in the area of the vineyard to drop unsustainably**, from when North Fork planted and started irrigating its grape vines from 2016 to present, and **is subject to regulation under SGMA**. North

Fork/Brodiaca is required to comply with SGMA, and continued unsustainable water use violates SGMA. Note this comment does not deny that SGMA applies to this irrigation. Nor does this comment deny that SGMA requires considering the **cumulative adverse impact on groundwater** which would result from allowing additional groundwater use for the frost ponds, above the 760 acre feet per year, which is already unsustainable.

5. **Exhibit 5** hereto is a copy of my law firm's email to EIN contractor Steve Rodriguez, for my law firm's client Walking U Ranch, LLC, informing Rodriguez' his present (3/8/23) EIR contains **significant legal errors** that need to be fixed, before Planning Commission considers EIR.

6. **Exhibit 6** hereto is a copy of my law firm's email to Director Plowman and her assistant directors Wilson and Dale, about these significant legal errors in EIR.

7. **Exhibit 7** hereto are my firm's emails with Travis Seawards, who works for the Planning Commission: my email that the significant legal errors in EIR need to be fixed before SB Planning Commission proceeds on the EIR, and asking that my firm's emails pointing out these significant legal errors in the 3/8/23 EIR need to be fixed before that EIR can be considered; email from Seawards back to my firm, confirming that my firm's emails about legal errors in EIR will be made part of public record, but saying Seawards does not agree with my firm's comments; and my firm's email responding to Seawards tells Seawards that public officials are required to be informed regarding, and to comply with, controlling California law, and that he should check the law my firm has cited, before saying he does not agree with that law.

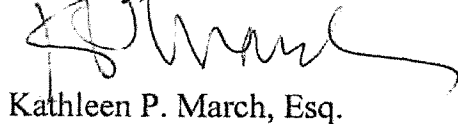
It should also be noted that the Planning Commission discussed and was concerned about the fact that Brodiaea's "Frost Ponds" would require excavating (and therefore destroying) many acres of natural grassland, which would be replaced with the "Frost Ponds," and noted that natural grassland cannot be replaced once destroyed.

For all reasons, the Planning Commission was correct, in rejecting Brodiaea's proposed "Frost Ponds." On Brodiaea's appeal to the Board of Supervisors, the Board of Supervisors should **affirm** the decision of the Planning Commission decision that rejected Brodiaea's proposed "Frost Ponds" project.

My law firm, The Bankruptcy Law Firm, PC, is registering, to appear via zoom at the 10/10/23 Board of Supervisors appeal hearing, to appear and speak as counsel for Walking U Ranch LLC opposing Brodiaea's frost ponds project, for all reasons stated in this letter.

Please REPLY to kmarch@BKYLAWFIRM.com to confirm receipt of this letter and its attachments, by the Board of Supervisors, and in your REPLY please confirm that The Bankruptcy Law Firm, PC, by me or by law firm attorney Paige Rolfe, is registered to speak at the 10/10/23 appeal hearing, for our firm's client Walking U Ranch LLC, to urge the Board of Supervisors to affirm the Planning Commission's denial of Brodiaea's proposed "frost ponds" project. Thank you.

Sincerely,



Kathleen P. March, Esq.

Enclosures are Exhibits 1-7, as listed in this letter

EXHIBIT 1

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 COUNTY OF LOS ANGELES, SPRING STREET COURTHOUSE
3
4

5 BOLTHOUSE LAND COMPANY, LLC, a) Case No.
6 California limited liability)
7 company; WM BOLTHOUSE FARMS, INC.,) BCV-21-101927
8 a Michigan corporation;)

9 and)

10 GRIMMWAY ENTERPRISES, INC., a)
11 Delaware corporation; DIAMOND)
12 FARMING COMPANY, a California)
13 corporation; LAPIS LAND COMPANY,)
14 LLC, a California limited)
15 liability company; RUBY LAND)
16 COMPANY, LLC, a Delaware) Volume IV
17 limited liability company;)

18 Plaintiffs,) Pages 665-712
19)

20 VS)

21 ALL PERSONS CLAIMING A RIGHT TO)
22 EXTRACT OR STORE GROUNDWATER IN)
23 THE CUYAMA VALLEY GROUNDWATER)
24 BASIN (NO. 3-013), et al.,)

25 Defendants.)

26 ZOOM/REMOTE PARTIAL TRANSCRIPT OF:

27 ANTHONY BROWN
28 MONDAY, JUNE 19, 2023
29 1:36 P.M.

30 Reported by: LINDA NICKERSON
31 CSR No. 8746

1 Deposition of ANTHONY BROWN, the witness, taken
2 on behalf of the Plaintiffs, on MONDAY, JUNE 19,
3 2023, 1:36 P.M., utilizing Veritext Virtual
4 Technology, San Francisco, California, before LINDA
5 NICKERSON, CSR No. 8746, pursuant to NOTICE.

6
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ALSO PRESENT:

AMY HUDSON (Tetrattech)

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I N D E X

WITNESS	EXAMINATION	PAGE
ANTHONY BROWN	By Ms. March	672

E X H I B I T S

WUR	NUMBER	PAGE	DESCRIPTION
	Exhibit 1	672	GSP page 2-45
	Exhibit 2	679	Pages 75 and 123 of Brown Aquilologic Report on Russell Subbasin Updated 5-22-23
	Exhibit 3	684	Santa Barbara County 2021 Groundwater Basins Summary Report
	Exhibit 4	690	USGS Report 2013-5108, Pages 29-32 Geology, Water-Quality, Hydrology, etc., of the Cuyama Valley Groundwater Basin

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E X H I B I T S (Continued)

PLAINTIFFS'

NUMBER	PAGE	DESCRIPTION
Exhibit 32	780	Annotated Figures 9-1, 10-1b, and 10-1c

PREVIOUSLY MARKED EXHIBITS

NUMBER	PAGE
Exhibit 4	718
Exhibit 5	

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MONDAY, JUNE 19, 2023, 1:36 P.M.

MR. ZIMMER: So we've been off the record. We discussed with Ms. March that we're willing to accommodate her. She's indicated her examination will be 45 minutes or less, and we're going to allow her to proceed out of order based upon that understanding, and we're going to allow her to start here in a second.

I was going to ask Mr. Brown, Mr. Brown, do you have an indication of the last figure we were talking about in your report?

THE REPORTER: He's not sworn in yet. I just want you to know that.

MR. ZIMMER: That's all right.

THE REPORTER: Okay.

THE WITNESS: I'm sorry. As I sit here, I don't recall.

MR. ZIMMER: Okay. Go ahead and swear him in. Thank you, Mr. Brown.

ANTHONY BROWN,
having been first duly resworn, was
examined and testified as follows:

1 EXAMINATION

2 BY MS. MARCH:

3 Q Good afternoon, Mr. Brown. I'm Attorney
4 Kathleen March with the Bankruptcy Law Firm. Our
5 firm represents the Defendant Walking U Ranch, LLC.

6 A Good afternoon.

7 Q Now, your report, the Aquilogic report that
8 was updated on May 22, 2023, on the -- what you call
9 the Russell Subbasin refers to the Cuyama Basin
10 Groundwater Sustainability Plan, correct?

11 A Yes, it does make reference to that
12 document.

13 Q And you reviewed the Groundwater
14 Sustainability Plan in preparing the Aquilogic
15 report?

16 A Yes.

17 (Ms. Hudson entered the deposition proceedings.)

18 MS. MARCH: And let's see if this works.
19 Introduce exhibit.

20 (The document referred to was marked by the
21 Reporter as WUR Exhibit 1 for identification and is
22 attached hereto.)

23 BY MS. MARCH:

24 Q Okay. In the Groundwater -- I'll call it
25 GSP -- the Groundwater Sustainability Plan, I've

1 your outcome would be, I want you to just do an
2 independent analysis and tell me what you have
3 determined.

4 BY MS. MARCH:

5 Q But why bother if you can just have three
6 separate management areas and use the three separate
7 management areas to account for the different
8 groundwater situation that you say exists in the
9 three management areas?

10 MS. WANG: Objection; calls for a legal
11 conclusion, argumentative.

12 You may answer.

13 THE WITNESS: I cannot speculate as to what
14 the GSA might do with respect to this area. I can
15 only offer an opinion based upon the direction I was
16 given and the analysis that I performed. And my
17 opinion is documented within my expert reports.

18 There's sufficient information to support
19 the division of the Cuyama Basin into three
20 subbasins based on the conditions within those three
21 areas and the hydraulic effects of the faults that
22 separate them.

23 MS. MARCH: All right. Next I'm going to
24 mark as Exhibit WUR 0002, second exhibit, and I'm
25 just hitting -- I think I just hit introduce

1 exhibit -- no, I have to hit introduce exhibit.

2 (The document referred to was marked by the
3 Reporter as WUR Exhibit 2 for identification and is
4 attached hereto.)

5 BY MS. MARCH:

6 Q All right. Here we go. This is a few
7 pages, Mr. Brown, from your Aquilogic report, the
8 one that is updated May 22, 2023. I hope you can
9 see that on screen.

10 Can you see that?

11 A Not yet. It's just loading.

12 Okay. It's up now.

13 Q Okay. Good. So what I want to talk about
14 is at the bottom of page 75, which is the first page
15 that I've marked here, is 10.8.2.1, "Northwestern
16 Threshold Region."

17 Do you see that?

18 A Yes, I do.

19 Q Okay. It says, "The Northwestern Threshold
20 Region is located within" -- "within the Russell
21 Subbasin. Groundwater levels are stable in the
22 Northwestern Threshold Region, with some minor
23 declines in the area where new agriculture is
24 established."

25 Do you see that language?

Page 679

1 A I do, yes.

2 MR. ZIMMER: Counsel, just to -- I'm not
3 seeing whatever it is you're referring to. I don't
4 know if anyone else can see that or not.
5 Apparently, Mr. Brown can see it.

6 MS. MARCH: Happily he can see it and he's
7 the one that's being examined, but you could go to
8 it by going to page 75 in Mr. Brown's report that
9 was produced on 5-22-23. Go to page 75 and you'll
10 see what I just read.

11 MR. ZIMMER: Is that the Ventucopa report?

12 MS. MARCH: No, no, it's the Russell
13 report.

14 MR. ZIMMER: Russell, okay. Thank you.

15 BY MS. MARCH:

16 Q Okay. So now --

17 MS. WANG: Sorry, Ms. March. Just for
18 clarification, I note that Exhibit WUR contains
19 certain -- 2 contains certain highlighting and
20 certain handwritten notes.

21 Those are not -- I assume you're not
22 suggesting that those are from Mr. Brown's original
23 report dated May 22nd, 2023?

24 MS. MARCH: No, I've just highlighted those
25 to help -- to help do this expeditiously.

1 Q So if you can just scroll down to the next
2 page, Mr. Brown, which is from the exhibit, it's
3 page 123 of your report updated on 5-22-23, and it's
4 at page -- it's 3-11 is the figure, Figure 3-11.

5 MS. WANG: I'm sorry, Ms. March, one more
6 clarification point.

7 When Mr. Brown updated his report on
8 May 22nd, he did not update the appendices. I
9 just -- I'm putting this on the record for the
10 group's benefit. So the updated -- the figures
11 that's in this report are from Mr. Brown's March
12 2023 report.

13 MS. MARCH: Okay.

14 Q So, now, Mr. Brown, you've gone down one
15 page from -- from -- you'll see that we're looking
16 at a map that is Figure 3-11. It says that at the
17 bottom right-hand corner.

18 Do you see that?

19 A I do see that. I have one question related
20 to the prior page. As we're discussing the updated
21 report from May of 2023, have we actually marked the
22 whole report as an exhibit? If not, should we do
23 that?

24 (Mr. McElhaney entered the deposition proceedings.)

25 BY MS. MARCH:

1 Q Well, not on my examination, you don't need
2 to. I'm just talking about these pages, and I'm
3 sure your counsel can do whatever she feels she
4 wants to do.

5 So the reason I want to look at this report
6 is if you -- this particular page, this Figure 3-11,
7 Mr. Brown, is I want to direct your attention to the
8 top right-hand corner which is Well -- OPTI Well
9 Number 840.

10 Do you see that? I highlighted it in
11 yellow to help you find it. Do you see that?

12 A I do, yes.

13 Q Okay. And you see that that well from 2014
14 to 2024 has dropped -- the groundwater level in that
15 well has dropped 86 feet?

16 A Yes, I believe we discussed this well and
17 the water level declines earlier in the course of
18 this deposition.

19 Q So that -- that's a well. It's in the --
20 this is an -- actually Brodiaea aka North Cork
21 Vineyard's well that is in what you call the Russell
22 Subbasin, correct?

23 MS. WANG: Objection; calls for
24 speculation, lacks foundation.

25 THE WITNESS: My understanding is it is in

1 an area that I've referred to as the Russell
2 Subbasin. I do not know specifically on which parts
3 of land it's located.

4 (Mr. Kuhs entered the deposition proceedings.)

5 BY MS. MARCH:

6 Q Okay. So an 86-foot drop in groundwater
7 level from 2016 when the vineyard was planted and
8 started to be irrigated to present, that -- that is
9 not -- that would not be characterized as relatively
10 stable, would it?

11 A I would not categorize it as such, no.

12 Q No, okay. So your -- going back to
13 page 75, the first page of WUR Exhibit 0002, where I
14 read from 10.8.2.1 where it says, "Groundwater
15 levels are stable in the Northwestern Threshold
16 Region, with some minor declines in the area where
17 new agriculture is established," that statement is
18 not actually correct, is it?

19 MS. WANG: Objection; mischaracterizes
20 prior testimony.

21 THE WITNESS: I think --

22 BY MS. MARCH:

23 Q But what the report says at page 75 that I
24 just read is not actually correct, is it?

25 A I would say that with respect to the

1 general statement, it's correct. However, at this
2 particular location, I think it would be reasonable
3 for me to say that for the well we've been referring
4 to that is Well -- OPTI Well 840, for the period
5 where there is monitoring data, those declines would
6 not be characterized as minor.

7 Q Okay. So, now, you're familiar, are you
8 not, with the Santa Barbara County 2021 groundwater
9 basins summary review report?

10 A Sorry. I don't recall that exact report.
11 Do you have a copy that we can look at?

12 Q Yes, we are going to do that.

13 A Okay.

14 MS. MARCH: Let's mark that -- it's just
15 some pages of the report that I want to talk about
16 that are -- we're going to make this -- the pages of
17 the Santa Barbara County 2021 groundwater basin
18 summary report are going to be WUR Exhibit 0003, and
19 I'm just introducing that exhibit.

20 (The document referred to was marked by the
21 Reporter as WUR Exhibit 3 for identification and is
22 attached hereto.)

23 BY MS. MARCH:

24 Q So, now, Mr. Brown, you should be able to
25 see it on your screen, got a picture of a vineyard.

1 So tell me when you have that up on your screen.

2 A I have that open now.

3 Q You have it, okay. So I want you to please
4 go to the second page. I've only picked selected
5 pages, but the second page is number 18 in that
6 report, and it is also about the Northwestern
7 Threshold Region.

8 Do you see that? It's the bottom
9 paragraph. I've highlighted it in yellow, and then
10 it goes on to the next page, which is page 19.

11 Do you see the portion I've highlighted,
12 the bottom of page 18 highlighted in yellow, top of
13 page 19 highlighted in yellow?

14 A I do see that, yes.

15 Q So it says, "In 2015, a new vineyard was
16 developed within the eastern portion of this
17 subbasin" -- that's the Northwestern Threshold
18 Region -- "on both sides of the Cuyama River. A
19 limited dataset of shallow wells indicates that
20 water levels have historically remained fairly
21 stable throughout this region and remain stable in
22 the western part of this region. However, deep
23 wells within the eastern portion of this region have
24 experienced continued declines, with water levels
25 dropping 40 feet on average since pumping began in

Page 685

1 2016. It should be noted, however, that although
2 water levels continue to decline in this area,
3 stable and static water level measurements are
4 difficult to obtain. The aquifer never fully
5 recovers as a result of pumping."

6 Do you see that text?

7 A I see the text you've highlighted, yes.

8 Q Now, OPTI Well 840 that we looked at
9 earlier is one of these deep wells within the
10 eastern portion of this Northwestern Threshold
11 Region, correct?

12 MS. WANG: Objection; document speaks for
13 itself, lacks foundation, calls for speculation.

14 THE WITNESS: I could not say for certain.
15 I just have the information on the Figure 3-11 for
16 the water levels at Well 840. I do not have a copy
17 of the well log with me here to confirm the depth of
18 the well as to whether it's one of the deeper wells.

19 BY MS. MARCH:

20 Q Well, we can go back and look at Exhibit
21 WUR 0002, which has it in your report, and it had --
22 in your report, it has the -- it has the map, and it
23 has the map in the Russell area, and it's that
24 little -- from OPTI Well 840 at the top right-hand
25 corner of Exhibit 3-11, it has a line that goes down

1 to show where that particular well is located.

2 Do you want to go back and look at that?

3 A I can see where it is located. I just
4 don't know whether it's one of the wells that Santa
5 Barbara County is referring to and whether it's, as
6 you described it, a deep well, as on the Figure OPTI
7 Well 840, the graph in the top right corner of
8 Figure 3-11, it states that the well depth is
9 unknown.

10 Q Well, it is dropping significantly,
11 correct, in OPTI Well 840?

12 MS. WANG: Objection; lacks foundation,
13 document speaks for itself, argumentative.

14 MS. MARCH: Well, it's in his report.

15 Q So it is -- your report shows that OPTI
16 Well 840 says the groundwater level is dropping
17 significantly, correct?

18 MS. WANG: Same objections.

19 THE WITNESS: As I indicated in response to
20 your prior questions, there is groundwater decline
21 at this well that I would not consider minor.

22 BY MS. MARCH:

23 Q Now, you would consider the Santa Barbara
24 County 2021 groundwater basin summary report is an
25 authoritative document, correct?

1 MS. WANG: Objection; vague, lacks
2 foundation, calls for speculation.

3 THE WITNESS: While I do not recall
4 reviewing the entirety of the document, I have no
5 reason to question the technical content therein
6 without such a review. So it is something that I
7 would, as a practicing hydrologist, review and
8 consider.

9 BY MS. MARCH:

10 Q Thank you. If you'd look at the first page
11 of Exhibit WUR 0003, do you see that at -- right
12 below the picture, the photo -- the photo of the
13 vineyard, it says, "Public Works Department, Water
14 Resources Division, Water Agency."

15 So it is by the Santa Barbara County Public
16 Works Department, Water Resources Division, Water
17 Agency, correct?

18 A That is correct.

19 MS. WANG: Objection; calls for
20 speculation, lack of foundation.

21 MS. MARCH: Oh, I think your expert can
22 read, Ms. Wang.

23 Q So back to page 19 of this Santa Barbara
24 County 2021 groundwater basin summary report, page
25 19, you agree, don't you, that what it states is

1 correct where this report says "The aquifer never
2 fully recovers as a result of pumping"?

3 MS. WANG: Again, outside the scope, lacks
4 foundation, document speaks for itself.

5 THE WITNESS: Unfortunately, just a
6 statement like that, I cannot agree with. I would
7 need more information as to what they're
8 specifically referring to because ultimately any
9 aquifer would recover if pumping ceased. It just
10 may take some time.

11 BY MS. MARCH:

12 Q Well, if the well is deep enough, we know
13 from the 2013 USGS report, Exhibit -- 2013-5108, we
14 know from that report, don't we, that the water
15 being pumped from deep wells in the Cuyama Basin is
16 water that is 11,000 to 32,000 years old?

17 MS. WANG: Objection; incomplete
18 hypothetical, documents speak for themselves, lacks
19 foundation.

20 You may answer.

21 THE WITNESS: Could you bring up the
22 specific page you're referring to so I could refresh
23 my memory as to the information you provided?

24 MS. MARCH: Yes, let's help you out by
25 marking as WUR 0004. I'm going to mark and

1 introduce some pages of the USGS scientific
2 investigations report 2013-5108. That should be up
3 on your screen now, Mr. Brown.

4 (The document referred to was marked by the
5 Reporter as WUR Exhibit 4 for identification and is
6 attached hereto.)

7 BY MS. MARCH:

8 Q It's called "Geology, Water-Quality,
9 Hydrology and Geomechanics of the Cuyama Valley
10 Groundwater Basin, California 2018 (sic) to 2012."

11 Do you have that in front of you now?

12 A Just let me refresh.

13 MS. WANG: Ms. March, just to let you know,
14 it hasn't appeared yet.

15 (Mr. Hill entered the deposition proceedings.)

16 MS. MARCH: Okay. Well, as you know, we --
17 let me try again here. We'll get it to cooperate
18 one way or the other.

19 Okay. Introduce exhibit. We are going to
20 add stamp. We'll try it again. Now we'll try to
21 introduce again. Maybe the second time is a charm.

22 MS. WANG: I see it listed now.

23 MS. MARCH: Okay. Good. Now we've got it.
24 So --

25 MS. WANG: The image is still uploading but

1 we can click on it --

2 MS. MARCH: I only did a few pages because
3 I noticed that these things upload pretty slowly.

4 MS. WANG: Yes, they do. Okay. I see it
5 now, Mr. Brown. If you want to try, you should be
6 able to pull it up.

7 BY MS. MARCH:

8 Q Okay. And, Mr. Brown, I want to tell
9 you -- represent to you that, on page 56 of your
10 amended report, the one produced on 5-22-23 at page
11 56, in section 8.4, you cite to that USGS 2013-5108
12 report.

13 And so you -- you did rely on this report
14 in preparing your Aquilologic report, correct?

15 A I believe this is one of the reports that
16 we reviewed and considered, yes.

17 Q Yes. Well, your report at Footnote 136 on
18 page 56 of your amended report on the Russell area
19 says that the -- cites to the 2013-5108 report and
20 says also that it was utilized -- this report was
21 utilized by subsequent USGS studies in the valley
22 that are referred to in your Footnotes 139, 140,
23 141, if you want to check that.

24 Do you remember that you did that or do you
25 want to go check in the report?

1 A I'm sorry. As I sit here, I do not
2 recall --

3 Q Okay. Why don't you look at page 56 of
4 your amended report on the Russell fault where you
5 cite -- at section 8.4, you cite to the USGS
6 2013-5108 report.

7 A Do we have that report to put up in the
8 Exhibit Share because I don't have a copy with me?

9 Q You don't have a copy of your own report?

10 A Correct, I'm not in my office. I'm at
11 home.

12 Q Well, it was marked by your attorney at
13 the -- or one of the attorneys in the previous
14 session.

15 I'll tell you what, why don't we just go
16 with I'll represent that's what it says, and you do
17 remember that you relied on the USGS report
18 2013-5108. So I've marked some pages of it.

19 MS. WANG: Objection to the extent it
20 mischaracterizes prior testimony, but you may
21 proceed, Ms. March.

22 MS. MARCH: Thank you.

23 Q So I want you to scroll down from the cover
24 page. I want you to scroll down to the next page
25 which talks about the USGS had done age dating of

1 water from wells in the Cuyama Basin, has done age
2 dating of water using tritium and using carbon-14 to
3 age date water.

4 You are aware, are you not, Mr. Brown, that
5 the USGS did age dating of water in wells in the
6 Cuyama Basin?

7 A I am aware of that.

8 Q I'm sorry. Could you speak up?

9 A I am aware of that.

10 Q Thank you. And this report, I'm going
11 to -- I highlighted a -- if you're looking at page
12 29, I highlighted in yellow the following sentence.
13 "Tritium and carbon-14 activities provide
14 information about the age (time since recharge) of
15 groundwater."

16 Do you see that?

17 A I do see that.

18 Q Okay. Now, so the way the USGS uses water
19 age, the water age is the amount of time since the
20 water has been recharged, correct?

21 A Correct.

22 Q So if -- if there was no -- if water is
23 11,000 years old, it hasn't been recharged for
24 11,000 years, correct?

25 A For that particular age of the water, often

1 what they are providing is the average age. There
2 may, in fact, be water that is mixed.

3 In fact, if I recall correctly, the USGS
4 determined that there was younger water present in
5 all zones based on the tritium content, but the
6 average age of much of the deeper groundwater was
7 very old and on the order you're mentioning.

8 Q Well, I'm pointing your attention to page
9 29 to where it says that "Tritium and carbon-14
10 activities provide information about the age (time
11 since recharge) of groundwater."

12 You see that sentence, correct?

13 A I do see that, yes.

14 Q So the USGS in this report, the 2013-5108
15 report, is using water age as meaning the time since
16 recharge, correct?

17 MS. WANG: Objection. The document will
18 speak for itself, also to the extent it calls for
19 speculation.

20 BY MS. MARCH:

21 Q You can answer.

22 A They are using that. What I'm making clear
23 is that often that's an average time to recharge
24 because the water is often mixed --

25 Q Okay. So an average time to recharge, all

1 right.

2 So if the report says -- you're aware the
3 report says using the tritium and carbon-14 and
4 testing wells in the Cuyama Basin, they determined
5 that the water in some of those wells was 11,000
6 years old, correct?

7 A They determined the average age to be
8 11,000 years, and that would be based on the
9 carbon-14 dating. The tritium actually reveals the
10 presence of younger water --

11 Q Correct.

12 A -- because tritium has only been available
13 in the atmosphere since the first nuclear test, so
14 essentially since the 1940s.

15 Q Right. So if water is 11,000 years old, it
16 hasn't been recharged for 11,000 years, then it
17 would have no tritium in it?

18 A If that was a specific sample, but usually
19 they make reference to average age because, if I
20 recall correctly, they do state they found tritium
21 in most of the groundwater-bearing zones.

22 So the water is mixed. It's both old and
23 some younger water, but on average, as you point
24 out, the water in the deeper zone, particularly in
25 the Central area, is on the order of the age you

1 mentioned.

2 (Ms. McDonald entered the deposition proceedings.)

3 BY MS. MARCH:

4 Q So I want you to go forward, go forward a
5 couple pages until you get to page 31 of this USGS
6 report, and I've highlighted a sentence there.

7 It's -- let's see -- it's in the first
8 column and it's one, two -- I guess you'd call that
9 the second full paragraph, and it says -- and it's
10 highlighted so you can find it easily -- "Estimated
11 carbon-14 ages for the KVKR" -- I'm sorry -- "CVKR,
12 CVBR, and CVFR sites ranged from 3,600 to 6,400,
13 20,900 to 31,200 and 2,700 to 3,100 years before
14 present respectively."

15 Do you see that sentence?

16 A I do.

17 Q "Estimated ages increased with depth at the
18 CVKR and CVBR sites."

19 So the deeper the well in the Cuyama Valley
20 the longer since -- since recharge, correct?

21 A For the specific locations they're
22 referencing, which are the sites within the Cuyama
23 Valley, that is what they are indicating.

24 I do not know the location of these ones
25 without reviewing the entire document, but they did

1 have two locations where they found the age of water
2 increased with depth.

3 Q Now, water that is, as this says, 3,600 to
4 31,200 years old, when that water is pumped out of
5 deep wells, that water is not going to be recharged
6 in the next 20 years, is it?

7 MR. ZIMMER: Objection; incomplete, calls
8 for speculation, calls for expert opinion, beyond
9 the scope.

10 BY MS. MARCH:

11 Q You can answer.

12 MS. WANG: Join. Also vague and ambiguous.
13 You may answer, Mr. Brown.

14 THE WITNESS: Certainly, yes, so actually
15 it is recharged. The issue they're commenting is
16 essentially the water that is being pumped out today
17 is much older and shallow groundwater. Where the
18 recharge occurs are on the edges of the basin and in
19 the upper aquifers.

20 So essentially the whole aquifer system is
21 being recharged. So as older water is coming out,
22 the current newer water is going in. Obviously in
23 the Central area, the amount of water coming out
24 exceeds by a considerable amount the amount of water
25 going in. So we have, you know, significant

1 declining water levels. So the recharge there is
2 less than the amount of pumping.

3 BY MS. MARCH:

4 Q Well, now, the -- this water in these deep
5 wells that the USGS report 2013-5018 is referring
6 to, this water that has not been recharged for
7 thousands of years, when that water is pumped, the
8 recharge is not going to reach down to these deep
9 wells, is it?

10 MR. ZIMMER: Objection. That's vague and
11 incomplete hypothetical. Ms. March, I also just
12 wanted to let you know that you're about seven
13 minutes off from your 45 minutes.

14 MS. MARCH: Thank you.

15 Q You can answer, Mr. Brown.

16 A So it actually is. So obviously the
17 water -- let's just say the water that is coming out
18 from a pumping well that has an average date of,
19 let's just say, 11,000 years, that water is coming
20 out.

21 The mixed water going on, on average, is a
22 little bit younger, and if you keep tracking that
23 back through the aquifer system, the young water is
24 shallow and at the edges of the basin.

25 Q Well, what makes you think that water

1 that's 11,000 years old that is pumped out is going
2 to be recharged by anything, Mr. Brown?

3 A Because that's how the groundwater system
4 works, essentially, you know, the deep central water
5 in the basin is older than the shallow peripheral
6 water in the basin because, if you recall, we
7 discussed the predominant forms of recharge in the
8 basin are mountain-front recharge as well as surface
9 water percolation -- that's rainfall falling on the
10 land -- and streambed loss.

11 So those are all coming in at a shallow
12 depth. Mountain-front recharge is coming at the
13 edges of the basin. So the new water is coming in
14 at the surface in the edges and the oldest water is
15 deep and in the middle.

16 Q Well, these wells that the USGS tested in
17 this 2013-5018 report, those are wells where water
18 had been pumping for a considerable number of years,
19 correct?

20 A Correct, that's my understanding.

21 Q And yet those wells have water that was
22 last recharged 11,000 years ago or up to 31,200
23 years ago.

24 So despite the pumping, those wells were
25 not being recharged, were they?

1 MS. WANG: Objection; misstates prior
2 testimony, argumentative.

3 You may answer.

4 MR. ZIMMER: It's vague and speculative.

5 THE WITNESS: Actually, they are being
6 recharged. So let's just visualize it in a very
7 simple system. Let's say the bucket. A bucket gets
8 filled with water very slowly. So, therefore, the
9 water -- the bottom of the bucket is older than the
10 water at the top of the bucket.

11 But as you draw water out of the bottom of
12 the bucket, basically the newer water that's coming
13 in would keep the bucket full if the pumping was
14 equal to the recharge.

15 Now, obviously in the Central Valley -- the
16 Central Subbasin, the pumping far exceeds the
17 recharge. So the water in the bucket is going down,
18 but there's still recharge coming into the system as
19 older water is being pumped out.

20 BY MS. MARCH:

21 Q Well, there's recharge coming into the
22 shallow wells, but there's not recharge coming into
23 the deep wells or they wouldn't show that they were
24 last recharged 11,000 or 31,000 years ago, would
25 they?

1 MS. WANG: Objection; asked and answered,
2 argumentative.

3 MR. ZIMMER: Vague and incomplete -- I'm
4 sorry, Wendy, go ahead.

5 MS. WANG: Incomplete hypothetical.

6 MR. ZIMMER: And it's vague and incomplete.

7 MR. HOFFMAN: Join.

8 THE WITNESS: So the wells themselves, the
9 water that they're drawing, and we're talking here
10 about the deep well we've been discussing, that is
11 the older water, but the water that is still flowing
12 in the system towards those wells, so there's always
13 recharge going on.

14 The problem in the Central Subbasin is the
15 recharge is far less than the pumping, but it's not
16 that we're mining a finite volume of groundwater.
17 So it's not as if the deep aquifer doesn't ever have
18 any more recharge; therefore, as we're taking water
19 out, there's no water going on.

20 That's not how the hydrologic system works.
21 We have an active system that's receiving water at
22 the same time it's discharging water.

23 BY MS. MARCH:

24 Q Well, you have no evidence that there's
25 water going into those deep wells. In fact, your

1 own report, Mr. Brown, shows that in that OPTI Well
2 840, that the groundwater level has dropped 86 feet
3 since the vineyard was planted in 2016.

4 So that's not being replenished, is it?

5 MS. WANG: Objection; misstates prior
6 testimony, argumentative.

7 THE WITNESS: It is being replenished.
8 There is recharge going on throughout the entire
9 Cuyama Valley. We do -- I'm not aware of any
10 location in the Cuyama Valley where there's an
11 isolated pocket of water that is very old and
12 isolated from any forms of hydrologic communication
13 with shallower groundwater and the recharge that's
14 been going on for thousands of years.

15 BY MS. MARCH:

16 Q What if it was so interconnected the water
17 level in the deep well, for example, OPTI Well 840,
18 wouldn't be falling 86 feet from when the vineyard
19 was planted in 2016, would it?

20 MS. WANG: Objection; lacks foundation,
21 calls for speculation, incomplete hypothetical,
22 argumentative.

23 THE WITNESS: But that is not an absence of
24 recharge. That's an indication that the pumping in
25 that particular area exceeds the recharge coming to

1 it, which is what we see throughout the Central
2 Subbasin and in this one particular well within the
3 Russell Subbasin.

4 So the water level is declining because the
5 production in that area is exceeding the amount of
6 water that's flowing towards that particular area,
7 the water that's recharging that particular area.
8 It's not the absence of recharge. It's just the
9 difference between two.

10 BY MS. MARCH:

11 Q Well, you've referred -- you've heard of
12 the term "mining water" by pumping fossil water.

13 Are you familiar with that term, "mining
14 water"?

15 A I am -- I am familiar with the term "mining
16 water."

17 Q And the term "mining water" refers to
18 pumping out fossil water that's not going to be
19 replenished, correct?

20 MR. ZIMMER: Vague and incomplete, outside
21 the scope.

22 MS. WANG: Join.

23 MR. HOFFMAN: Join.

24 THE WITNESS: I can only speak for how I
25 refer to mining groundwater. When we pump

1 groundwater, we generally refer to it one of two
2 ways.

3 The most predominant form of how we pump
4 groundwater is what I refer to as harvesting
5 groundwater. So essentially you're pumping
6 groundwater, but you know that groundwater will be
7 replenished at some point. So you're essentially
8 just harvesting a resource that can be returned.

9 When you mine groundwater, you are pumping
10 a water supply system that has no replenishment.
11 Those are actually quite rare circumstances because
12 you'd have to have a groundwater body that's somehow
13 isolated, it has no water coming in, it's simply
14 just a finite volume that's being drawn on.

15 If that were the case in, say, the Central
16 Basin, then we would have severe -- even far greater
17 concerns about the groundwater conditions than we
18 currently do, if the deep groundwater was, in fact,
19 being mined and was isolated from water
20 replenishment. That would be an extreme case.

21 BY MS. MARCH:

22 Q Yes, that would be very nonsustainable,
23 correct?

24 MR. ZIMMER: Ms. March, hold on a second
25 here. You're asking effectively the same questions

1 a lot of times. We're at 45 minutes right now.

2 MS. MARCH: Yes, well, I only have a few
3 more questions.

4 Q So could you answer my question, Mr. Brown?

5 MR. ZIMMER: I want some kind of
6 affirmation that you're going to finish, let's say,
7 in the next five minutes.

8 MS. MARCH: Sure, as long as we don't have
9 these lengthy speaking objections.

10 MR. ZIMMER: Well, it's not the lengthy
11 speaking objections are the issue in my view. It's
12 the repetitive questions and getting effectively the
13 same answer.

14 BY MS. MARCH:

15 Q You can answer now, Mr. Brown.

16 MS. WANG: Hold on. Let me insert my
17 objection first. Calls for a legal conclusion,
18 vague and ambiguous, outside the scope.

19 THE WITNESS: Are the objections done?

20 MS. WANG: Yes, thank you, Mr. Brown.

21 THE WITNESS: No problem. Could I have the
22 question read back now?

23 MS. MARCH: If the reporter can read it
24 back, please.

25 (The record was read as follows:

1 "Q Yes, that would be very
2 nonsustainable, correct?"

3 THE WITNESS: The mining of a finite
4 resource with respect to groundwater would not be a
5 sustainable practice.

6 BY MS. MARCH:

7 Q Now, you have no evidence, do you, that the
8 11,000-year-old water and the 31,000-year-old water
9 that is being pumped out of deep wells in the Cuyama
10 Basin is being recharged?

11 MR. ZIMMER: Objection; it's been asked and
12 answered, multiple other objections stated
13 previously.

14 MS. WANG: Join.

15 MR. HOFFMAN: Join.

16 THE WITNESS: As I've indicated, all of the
17 information I've reviewed with respect to the Cuyama
18 Valley, including the groundwater modeling that's
19 performed by the U.S. Geological Survey and the
20 model that was developed for the GSA, indicates that
21 recharge to the system does impact all of the
22 different aquifer units, that is, there's some
23 degree hydrologic connection with depth.

24 There is limited hydrology connection
25 between the subbasins. With respect to shallow

1 versus deep groundwater, there is not an isolated
2 area of groundwater in the deep zone that is not
3 receiving recharge.

4 BY MS. MARCH:

5 Q And what is the evidence that you cite for
6 the proposition that the deep wells where there has
7 not been recharge for 11,000 or 31,000 years are, in
8 fact, receiving recharge, Mr. Brown?

9 MS. WANG: Objection --

10 MR. ZIMMER: Objection; asked and
11 answered -- asked and answered.

12 MS. WANG: -- argumentative.

13 THE WITNESS: As I've indicated, that is
14 how the basin's hydrogeology has been described in
15 all technical studies of the groundwater basin. Of
16 note, the USGS studies, the GSP, the modeling that's
17 been performed, there is no isolated groundwater
18 that's been documented that is not receiving
19 recharge.

20 This is, as is most groundwater systems and
21 systems within groundwater basins, a dynamic system
22 where the aquifer units do receive some recharge.

23 BY MS. MARCH:

24 Q Some minor amount of recharge to the wells
25 that are deep enough that they are pumping water

1 that is 11,000 years old or 31,000 years old,
2 correct?

3 MR. ZIMMER: Vague -- vague, argumentative,
4 compound.

5 MS. WANG: Join. Incomplete hypothetical,
6 calls for speculation, outside the scope.

7 MR. ZIMMER: Ms. March, you're down to one
8 minute on your five-minute extension.

9 Ms. Wang is concerned that we try and
10 complete this deposition, and the only reason I let
11 you go is to finish up in that time.

12 MS. MARCH: I'm trying. If you would stop
13 talking and everybody would make shorter objections,
14 we'd be there.

15 Q Could you answer, Mr. Brown? I only have
16 two more questions after he answers.

17 A The question, I would say, does not state
18 my understanding of the hydrogeology of the Cuyama
19 Valley.

20 Q Do you have any evidence that these deep
21 wells where the water is 11,000 years old or 31,000
22 years old are being recharged?

23 MR. ZIMMER: That was asked and answered
24 about four or five times, Ms. March. If you're not
25 going to ask a new question and finish, then I'm

1 going to take over the questioning.

2 MS. MARCH: I'm asking for what evidence
3 your expert -- the Brodiaea expert has and he needs
4 to answer.

5 MR. ZIMMER: He did answer it. Is this
6 your last question?

7 MS. MARCH: No, I have two more questions
8 after this, but I'm asking what the evidence is --

9 MR. ZIMMER: I'm not going to --

10 MS. MARCH: -- because he hasn't cited any
11 evidence. He said it was his understanding. His
12 understanding is not evidence.

13 Q What evidence do you have, Mr. Brown, for
14 your theory?

15 MS. WANG: Objection; argumentative, and
16 I'd also like to incorporate my prior objections.
17 To save time, I'm not going to reiterate them again.

18 THE WITNESS: The evidence is the
19 documentation within all existing hydrogeologic
20 studies of the Cuyama Valley, the GSP, the USGS
21 studies, and, in particular, how the groundwater
22 models are developed perform, that is, the
23 groundwater models show that the groundwater from
24 shallow to deep is interconnected, and the water
25 that is recharging shallower aquifers does

1 eventually recharge deeper aquifers.

2 BY MS. MARCH:

3 Q How long does it take to get there to the
4 deeper aquifers?

5 MR. ZIMMER: Just, Ms. March, I'm going to
6 give you the warning here. We are three minutes off
7 an hour rather than 45 minutes, and I'm going to
8 take over questioning at 2:30, and you can do
9 whatever you're going to do.

10 MS. MARCH: Well, then you're wasting my
11 last question, Mr. -- Mr. Zimmer.

12 Q Mr. Brown, why don't you answer that
13 question.

14 MS. WANG: Objection; incomplete
15 hypothetical, outside the scope.

16 THE WITNESS: So as I've indicated in
17 response to the questions that have been posed, the
18 recharge is ongoing continuously.

19 The age -- average age of the water that's
20 being produced at the locations that you've
21 referenced ranges over several thousand years. So
22 what that indicates is that, on average, the water
23 that's currently being recharged takes several
24 thousand years to reach that well.

25 The system is being recharged continuously,

1 but, on average, it takes that long to get to the
2 deeper well.

3 BY MS. MARCH:

4 Q Thank you. How much have you been paid,
5 you or your company -- I'm not sure which gets
6 paid -- how much have you been paid to present for
7 your work as the expert for Brodiaea, et al.?

8 A I don't know the exact amount. I know -- I
9 believe we have submitted invoices, but I would
10 estimate on the order of \$250,000 so far.

11 MS. MARCH: Thank you, Mr. Brown. That
12 completes what I have.

13 MR. ZIMMER: Thank you, Ms. March.

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1 STATE OF CALIFORNIA)
2) ss
3 COUNTY OF ORANGE)
4

5 I, LINDA NICKERSON, CSR #8746, in and for
6 the State of California do hereby certify:

7 That, prior to being examined, the witness
8 named in the foregoing deposition was by me duly
9 sworn to testify the truth, the whole truth, and
10 nothing but the truth;

11 That said partial deposition was taken down
12 by me in shorthand at the time and place therein
13 named, and thereafter reduced to typewritten form,
14 and the same is a true, correct, and complete
15 transcript of the testimony at said proceedings.

16 I further certify that I am not interested
17 in the event of the action.

18 WITNESS MY HAND this 26th day of June, 2023.
19
20

21 
22

23
24 LINDA NICKERSON, CSR No. 8746
25

California Code of Civil Procedure
Article 5. Transcript or Recording
Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a seasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

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1 The Central Management Area is located entirely within the Central Cuyama Subbasin and
2 consists of two areas: one large contiguous area and a much smaller area immediately north of
3 the Santa Barbara Canyon Fault. In contrast to the Southeastern Management Area, the
4 majority of the Central Management Area is predicted to experience more than 5 ft/year of
5 groundwater level declines and have a groundwater surface below the Minimum Threshold by
6 2040.

7 **10.8.2 Sustainable Management Criteria**

8 Existing groundwater monitoring programs in the Valley are mainly operated by regional, state,
9 and federal agencies. These programs collect data on groundwater elevation, groundwater
10 quality, and subsidence at varying temporal frequencies.¹⁸⁹

11 The GSP uses multiple regions for Sustainable Management Criteria (**Figure 10-15**). The
12 Sustainable Management Criteria include Measurable Objectives and Minimum Thresholds. The
13 discussion herein focuses on one Sustainable Management Criterion, chronic lowering of
14 groundwater levels in the Northwestern Threshold Region, the Western Threshold Region, and
15 the Central Threshold Region (as defined in the GSP). The Minimum Thresholds and Measurable
16 Objectives are based on depth to water, not groundwater elevation. Each of these three regions
17 uses different protocols to establish Measurable Objectives and Minimum Thresholds.

18 Undesirable results for reduction of groundwater storage use groundwater levels as a proxy, as
19 the groundwater level Sustainable Management Criteria are protective of groundwater in
20 storage.¹⁹⁰

21 **10.8.2.1 Northwestern Threshold Region**

22 The Northwestern Threshold Region is located within the Russell Subbasin. Groundwater levels
23 are stable in the Northwestern Threshold Region, with some minor declines in the area where
24 new agriculture is established. The Minimum Threshold for this region was found by
25 *“determining the region’s total average saturated thickness for the primary storage area, and*
26 *calculating 15 percent of that depth. This value was then set as the [Minimum Threshold]. The*
27 *[Measurable Objective] for this region was calculated using 5 years of storage. Because*
28 *historical data reflecting new operations in this region are limited, 50 feet was used as 5 years of*
29 *storage based on local landowner input.”¹⁹¹*

¹⁸⁹ Woodard & Curran (2022). Cuyama Valley Groundwater Basin Groundwater Sustainability Plan. Prepared for Cuyama Basin Groundwater Sustainability Agency, 453 p. (PDF p. 68)

¹⁹⁰ Woodard & Curran (2022). Cuyama Valley Groundwater Basin Groundwater Sustainability Plan. Prepared for Cuyama Basin Groundwater Sustainability Agency, 453 p. (PDF p. 375)

¹⁹¹ Woodard & Curran (2022). Cuyama Valley Groundwater Basin Groundwater Sustainability Plan. Prepared for Cuyama Basin Groundwater Sustainability Agency, 453 p. (PDF p. 368)

OPT Well #110

Groundwater Elevation - Estimated Surface Elevation
 Well ID: OPT Well #110 - Station: WADSWORTH 1218 - Date: 02-13-23

Year	Elevation (ft)	Depth to Water (ft)
2013	1022	100
2014	1013	200
2015	1015	400
2016	1019	500
2017	1017	500
2018	1013	500
2019	1012	500
2020	1012	500
2021	1012	500
2022	1012	500
2023	1012	500

OPT Well #111

Groundwater Elevation - Estimated Surface Elevation
 Well ID: OPT Well #111 - Station: WADSWORTH 1218 - Date: 02-13-23

Year	Elevation (ft)	Depth to Water (ft)
2013	1012	100
2014	1013	200
2015	1015	400
2016	1019	500
2017	1017	500
2018	1013	500
2019	1012	500
2020	1012	500
2021	1012	500
2022	1012	500
2023	1012	500

OPT Well #143

Groundwater Elevation - Estimated Surface Elevation
 Well ID: OPT Well #143 - Station: WADSWORTH 1218 - Date: 02-13-23

Year	Elevation (ft)	Depth to Water (ft)
2013	1015	100
2014	1016	200
2015	1019	300
2016	1021	400
2017	1022	500
2018	1021	500
2019	1021	500
2020	1021	500
2021	1021	500
2022	1021	500
2023	1021	500

OPT Well #144

Groundwater Elevation - Estimated Surface Elevation
 Well ID: OPT Well #144 - Station: WADSWORTH 1218 - Date: 02-13-23

Year	Elevation (ft)	Depth to Water (ft)
2013	1013	100
2014	1013	200
2015	1015	400
2016	1019	500
2017	1017	500
2018	1013	500
2019	1012	500
2020	1012	500
2021	1012	500
2022	1012	500
2023	1012	500

OPT Well #121

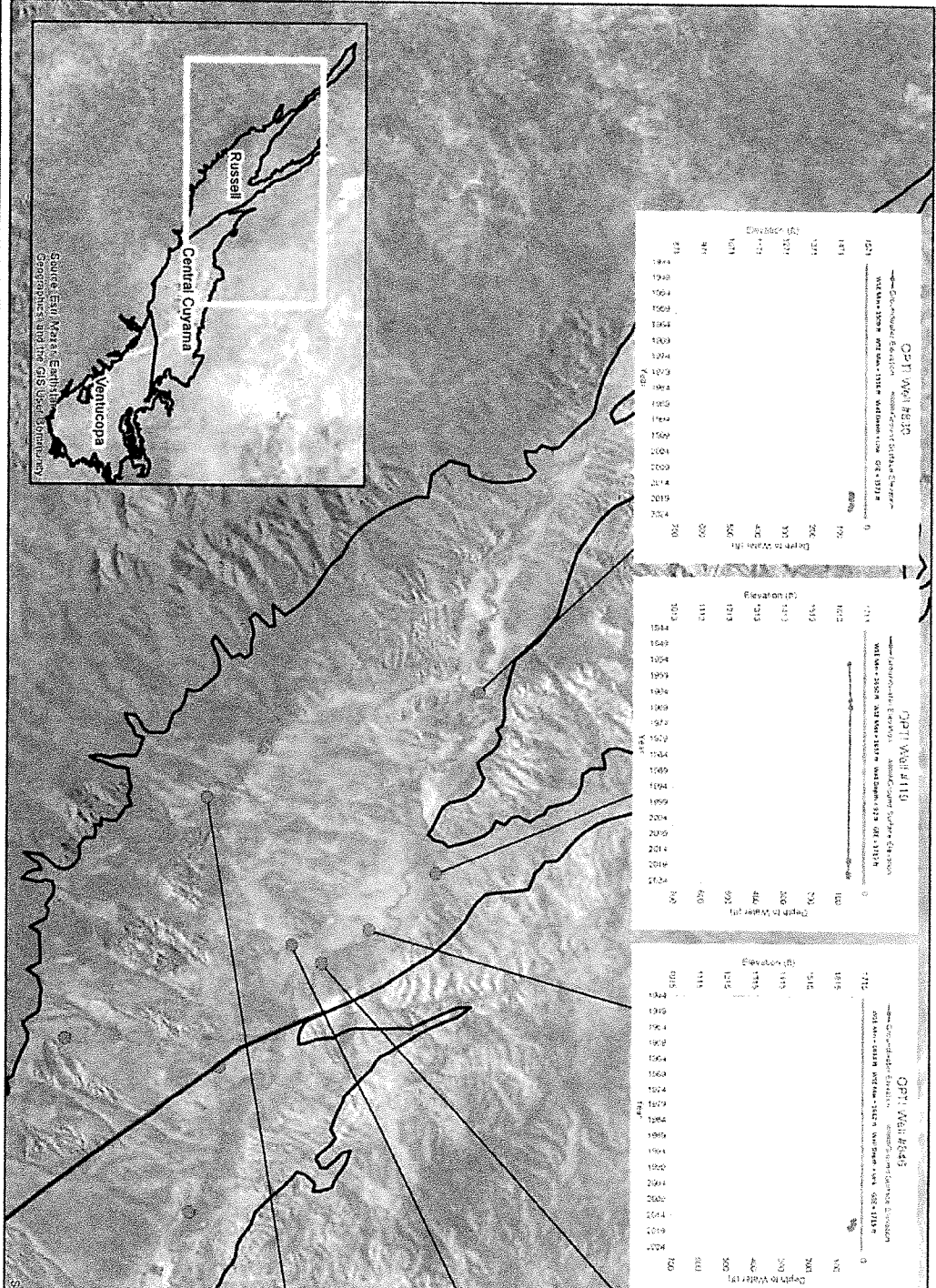
Groundwater Elevation - Estimated Surface Elevation
 Well ID: OPT Well #121 - Station: WADSWORTH 1218 - Date: 02-13-23

Year	Elevation (ft)	Depth to Water (ft)
2013	1024	100
2014	1024	200
2015	1024	300
2016	1024	400
2017	1024	500
2018	1024	500
2019	1024	500
2020	1024	500
2021	1024	500
2022	1024	500
2023	1024	500

OPT Well #571

Groundwater Elevation - Estimated Surface Elevation
 Well ID: OPT Well #571 - Station: WADSWORTH 1218 - Date: 02-13-23

Year	Elevation (ft)	Depth to Water (ft)
2013	1027	100
2014	1027	200
2015	1027	300
2016	1027	400
2017	1027	500
2018	1027	500
2019	1027	500
2020	1027	500
2021	1027	500
2022	1027	500
2023	1027	500



Well Locations **Cuyama Basin with Subbasin Boundaries**

Faults **Cuyama River**

Note: Groundwater data obtained from Cuyama Valley Basin Data Management System - <https://opa.wadsworth.com/cuyamavalley> - Obtained February 27, 2023

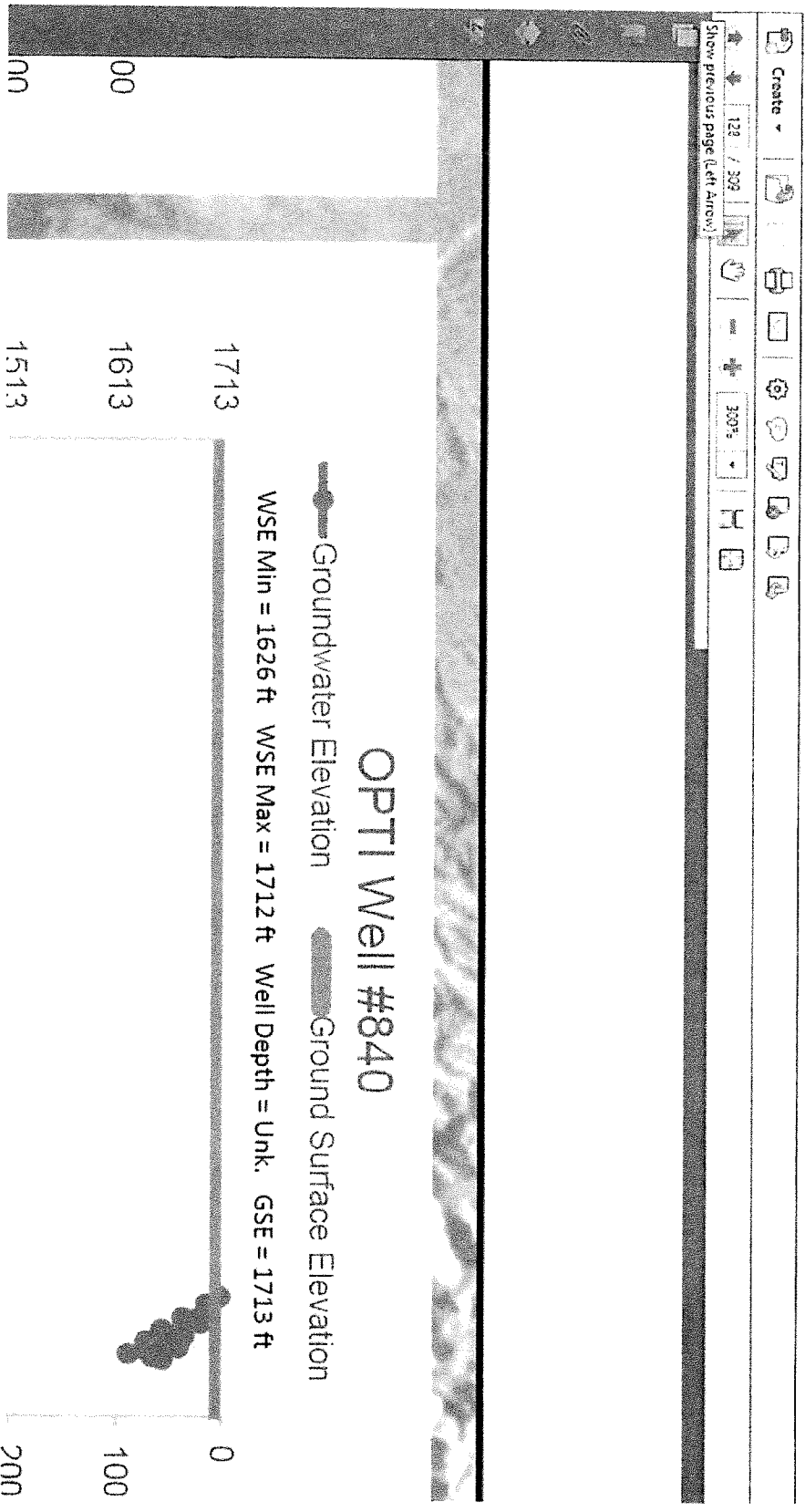
Hydrologic, Inc. **BK Cuyama Aquifer**

Cuyama Valley Hydrographs - Russell Subbasin

Date: 3/15/2023 Project #: 024-03A Figure 3-11

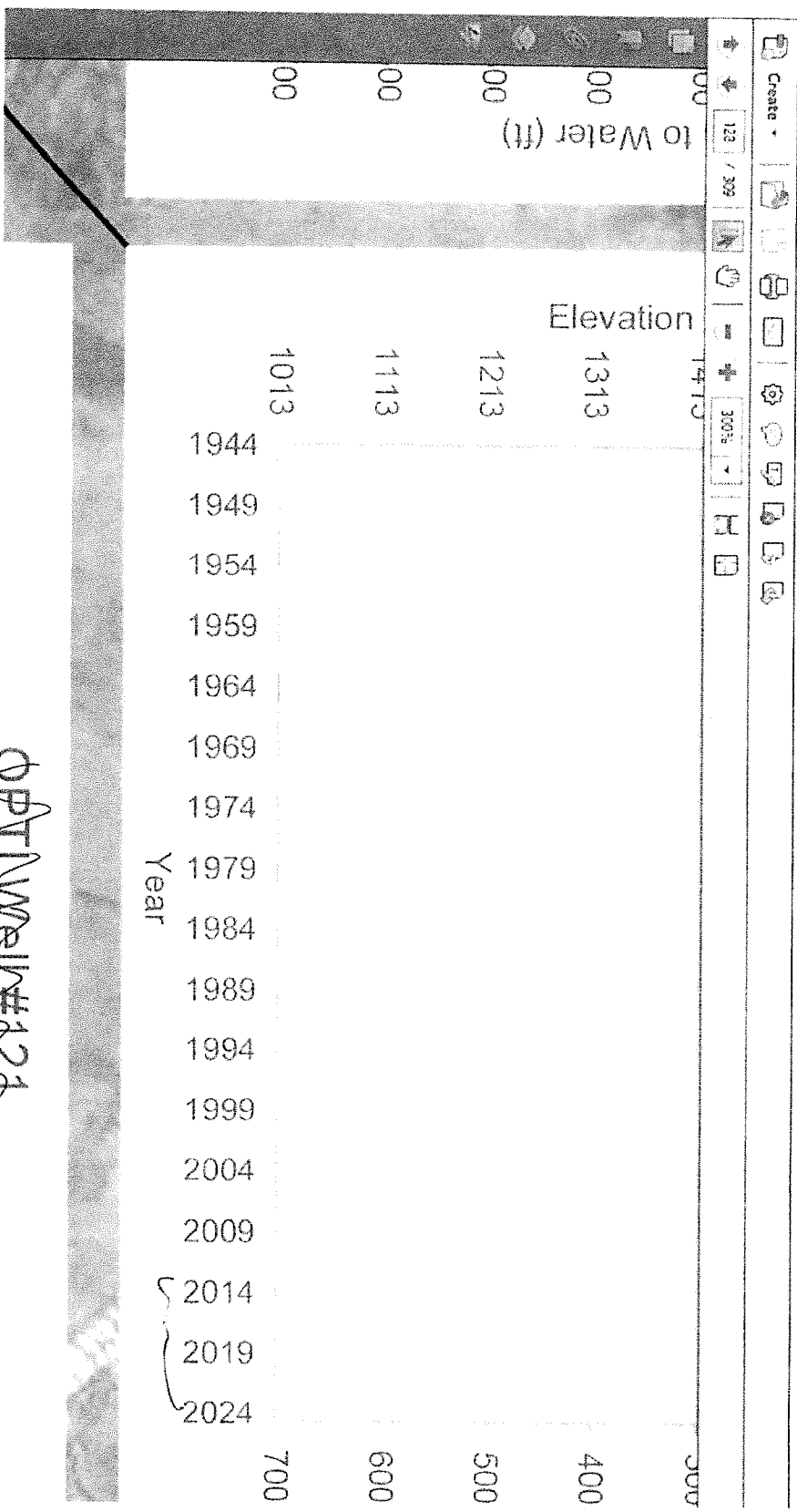
Handwritten: Russell Well P123 of 319 pages

Refer to 3/22
Figure 3/22

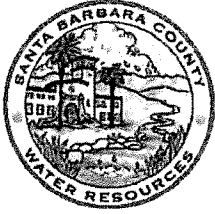


2014-2024

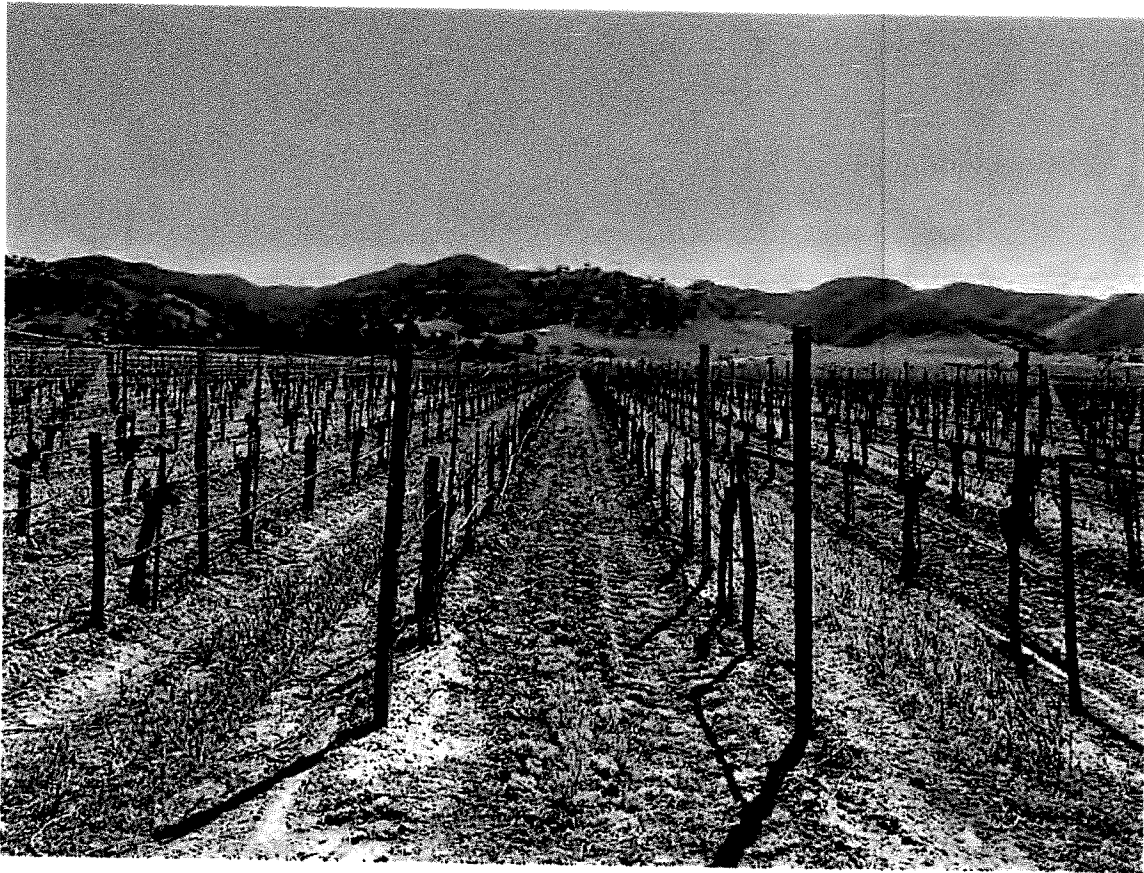
Soft on
well #127



APT Well #127



Santa Barbara County 2021 Groundwater Basins Summary Report



Vineyard in San Antonio Creek Valley Groundwater Basin

Public Works Department
Water Resources Division, Water Agency
September 2021

**Exhibit
WUR 0003**

Exhibit B to Walking U Ranch LLC Public Comment

(5 pages)

during the last 80 years have exceeded recharge in many parts of the basin and reduced storage within the aquifer.

The Cuyama Basin is defined by DWR as a high priority, critically overdrafted basin. The Cuyama Basin GSA submitted a GSP to DWR for review in 2020. DWR completed its June 2021 and determined that the GSP is in need of additional modifications. As part of GSP development, six “threshold regions”, illustrated in Figure E, were defined within the basin based on geology, land use, and groundwater conditions for the purpose of setting minimum water level thresholds. The hydraulic response within each region to natural and anthropogenic activity varies, although each region may be at least partially connected hydraulically.

Attachment E illustrates the active monitoring network from 2020 and representative hydrographs for wells within the Cuyama Valley aquifer system. Links to locate water level data are provided in Table 10.

Table 10: General Cuyama Valley Groundwater Basin information and associated links

CUYAMA VALLEY GROUNDWATER BASIN INFORMATION: <i>(Data from DWR SGMA Basin Prioritization Dashboard (https://ais.water.ca.gov/app/bp-dashboard/final/))</i>	
Groundwater Basin Surface Area (m ²)	230.0
DWR Basin Population in 2010:	1,259
Irrigated acres	15,279
GW Percent of Supply	100%
LINKS TO AVAILABLE BASIN INFORMATION AND WATER LEVEL DATA:	
<ul style="list-style-type: none"> • DWR Basin ID No. 3-013 Information • CASGEM Water Data Library • National Water Information System (NWIS) interactive map for Hydrologic Unit 18060007 Cuyama • Santa Barbara County Water Agency - Cuyama Valley • Cuyama Valley Basin Data Management System • Cuyama Valley Water Availability Study • Cuyama Basin Groundwater Sustainability Agency (GSA) 	

Additional data are available in the files of the following agencies and may be available upon request:

- [Santa Barbara County Water Agency](#)
- [Cuyama Community Services District](#)

Northwestern Threshold Region

The Northwestern Threshold Region has historically been characterized by rangeland with limited development. In 2015, a new vineyard was developed within the eastern portion of this sub-basin on both sides of the Cuyama River. A limited data set of shallow wells indicates that water levels have historically remained fairly stable throughout this region, and remain stable in the western portion of this region. However, deep wells within the eastern portion of this region have experienced continued declines, with water levels dropping 40 feet on average since pumping began in 2016. It



should be noted however, that although water levels continue to decline in this area, stable and static water level measurements are difficult to obtain. The aquifer never fully recovers as a result of pumping.

Western Threshold Region

There is little agricultural use in the Western Threshold Region and minimal use of groundwater. Water levels in shallow wells are close to land surface and based on a limited data set, have generally remained stable for decades.

Central Threshold Region

The majority of the basin's agricultural use is located within the Central Threshold Region. Water levels within this region have been steadily declining since the late 1940s, with long term hydrographs showing declines of nearly 300 feet. Recent monitoring indicates that levels continue to decline in this region, with levels at historic lows.

Eastern Threshold Region

There is moderate agricultural groundwater use in the Eastern Threshold Region. Water levels within this region tend to react quickly to precipitation, showing rapid recharge during times of increased precipitation. Groundwater storage has responded favorably to recent precipitation and are above historic lows.

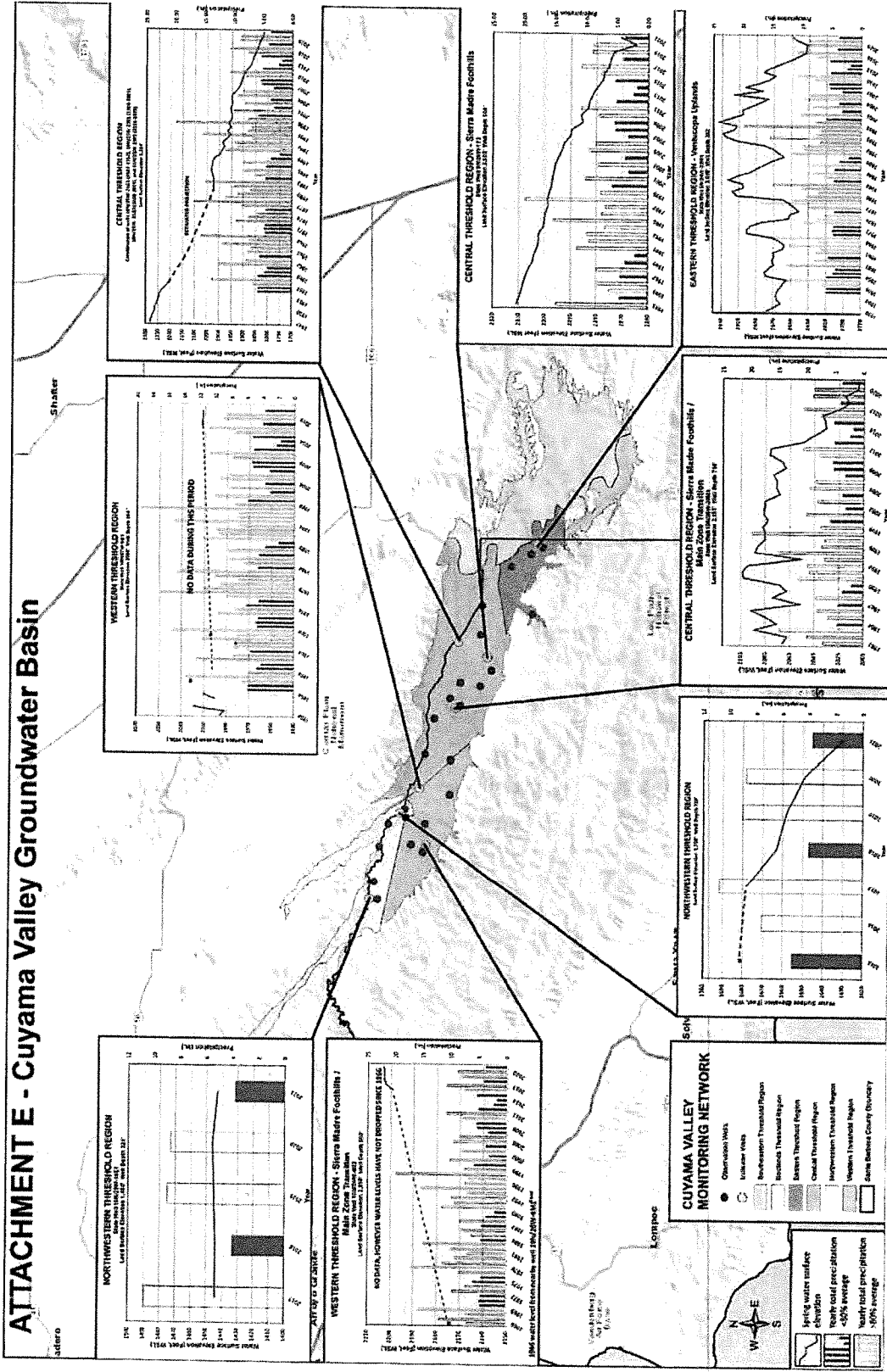
Southeastern Threshold Region

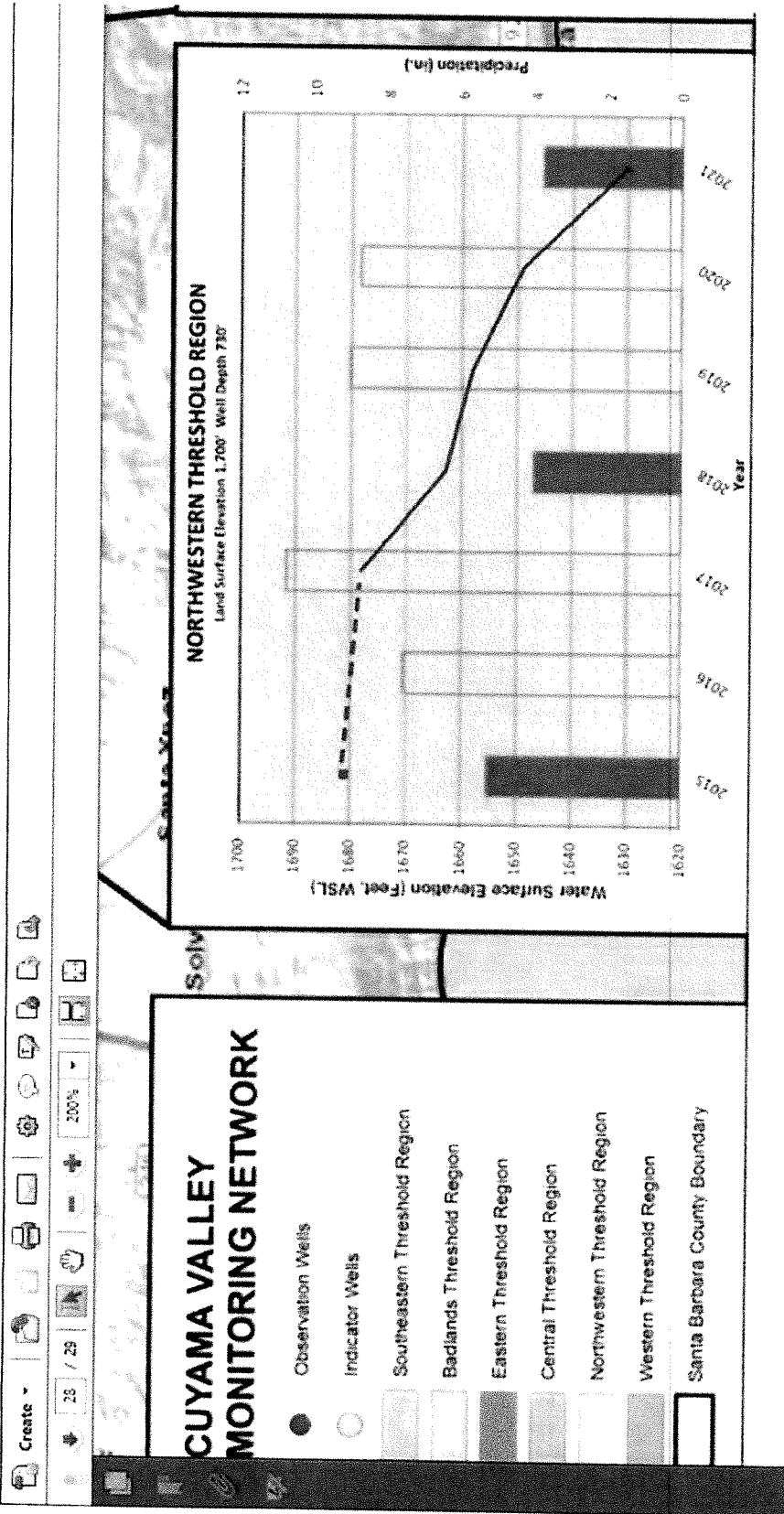
A small area of the Southeastern Threshold Region is located within Santa Barbara County, with the remainder located within Ventura County. Water levels within this region are shallow, with depth to water about 50 feet.

Badlands Threshold Region

The Badlands Threshold Region is not located within Santa Barbara County. There is little agriculture or development in this area and groundwater use is therefore minimal. No water level data are available for this region.

ATTACHMENT E - Cuyama Valley Groundwater Basin





Prepared in cooperation with the Santa Barbara County Water Agency

Geology, Water-Quality, Hydrology, and Geomechanics of the Cuyama Valley Groundwater Basin, California, 2008–12



Scientific Investigations Report 2013–5108

U.S. Department of the Interior
U.S. Geological Survey

Exhibit
WUR 0004

formations could have different sources of recharge (fig. 10A). The isotopic composition of the sample from the shallow well (CVKR-4) was similar to the composition of a surface-water sample collected from the nearby Cuyama River (SW-02), indicating a larger contribution from surface-water sources to this shallower depth interval than to the deeper wells at this site.

The isotope samples from the four CVBR wells were, in general, lighter in deuterium than the CVKR wells (fig. 10A). The range in values among the four wells also indicated that groundwater does not move freely between the older alluvium and the Morales Formation and that the units could have different sources of recharge.

The isotope samples from the four CVFR wells were the heaviest (least negative) from the three multiple-well monitoring sites (fig. 10A). The slightly different isotopic composition of the sample from the deep well (CVFR-1) indicated that groundwater might not move freely between units within the Morales Formation. The isotopic compositions of the four samples were between the compositions of the two surface-water samples collected from the nearby Cuyama River (SW-02 and SW-04), indicating the source of recharge could be the Cuyama River. The substantial difference in isotopic values between the SW-02 and SW-04 sites, which were relatively near each other on the Cuyama River, could reflect that SW-04 was sampled in late August, when evaporative effects on surface water would be expected to be greatest; in contrast, SW-02 was sampled in early April. Evaporation causes isotopic values to move to the right of the meteoric water line, and the isotopic composition of SW-04 is consistent with evaporative modification (fig. 10A). Because streamflow is higher in the spring, when evaporative effects are less, it is logical that recharge from Cuyama River water would have an isotopic composition closer to SW-02, a spring value, than SW-04, a summer value.

Restricted movement of water between units was also supported by the wide variability among the isotope samples from the other supply wells in the basin (fig. 10B). Samples from the Central Sierra Madre Foothills tended to be heavier (less negative) than most of the other samples. Samples from the Southern Ventucopa Uplands were similar to each other, indicating the same source of recharge. Samples from the Southern-Main and Northwestern Sierra Madre zone were typically lighter than samples from the Southern Ventucopa Uplands zone and trended along or below the meteoric water line, with the latter zone being lighter in deuterium. Isotope ratios for most samples from the Southern-Main zone were between the lightest samples from the Central Sierra Madre Foothills and most of the samples from the Southern Ventucopa Uplands, indicating that water in most of the Southern-Main zone could include a mixture of sources of recharge from the other two zones. Samples from the Southern-Main zone showed greater variation in isotope values than the other zones (fig. 10B), which is consistent with groundwater in this zone being derived from a variety of upgradient recharge sources.

Age Dating

Water samples from all of the wells at the CVKR, CVBR, and CVFR sites were analyzed for tritium and carbon-14. Ten other wells (CUY-01 through -08, -11, and -12) were analyzed for tritium, and twenty wells (CUY-01 through -08, -11, -12, and -17 through 26) and one spring (SP-01) were analyzed for carbon-14 (table 9). Tritium and carbon-14 activities provide information about the age (time since recharge) of groundwater. Tritium is a short-lived radioactive isotope of hydrogen; therefore, tritium concentrations above the detection level (0.3 picocuries per liter) indicate the presence of water recharged since the early 1950s, or recent recharge (Plummer and others, 1993; Clark and Fritz, 1997).

Samples from CVKR-3, CVKR-4, and CVBR-3 contained tritium concentrations near the detection level of 0.3 pCi/L, indicating recent recharge. Samples from CVKR-1, CVKR-2, CVBR-1, CVBR-2 and CVBR-4 contained concentrations less than 0.3 pCi/L, indicating that the water from these wells was recharged prior to the early 1950s. Post-1950s recharge in CVKR-3 and CVKR-4 was supported by relatively high $\text{NO}_3\text{-N}$ concentrations in samples from these wells (table 9). Samples from all four wells at the CVFR site contained relatively high concentrations of tritium, indicating that the water from these wells contains water recharged since the 1950s. Tritium concentrations at the CVFR site increased with depth. The presence of modern water throughout the depth profile is most likely caused by local pumping. Pumping at depth can alter the natural flow paths and draw younger water from the edges of the basin under the shallower, non-pumped units or can draw younger water down to the pumped depths from above. Greater groundwater flows in the deeper depth intervals are consistent with the measured temperature gradients at CVKR and CVBR; however, fluctuations in temperature gradients at CVFR were greatly subdued relative to these sites, indicating lateral groundwater fluxes at CVFR are relatively modest. However, the isotopic data from CVFR were consistent with recharge derived from Cuyama River water at all depths. Because the CVFR site has an unsaturated zone that is nearly 570 ft thick with some clay layers (fig. 5), it is most likely that recharge from the Cuyama River followed horizontal and vertical flow paths through the saturated aquifer between the river and CVFR to reach these monitoring wells.

Tritium was detected in 14 of the 20 water samples collected from other wells (table 9). Tritium concentrations in these samples ranged from 0.43 to 9.0 pCi/L. The presence of tritium in most of the wells indicated that recent recharge contributes to the water resources in all zones in the Cuyama Valley groundwater basin.

Carbon-14 is a radioactive isotope of carbon with a half-life of about 5,700 years (Godwin, 1962). Carbon-14 activities are used to determine the age (time since recharge) of groundwater on time scales ranging from recent to more than 20,000 years before present (Izbicki and Michel, 2003). Carbon-14 ages presented in this report do not account for changes in carbon-14 activities resulting from chemical

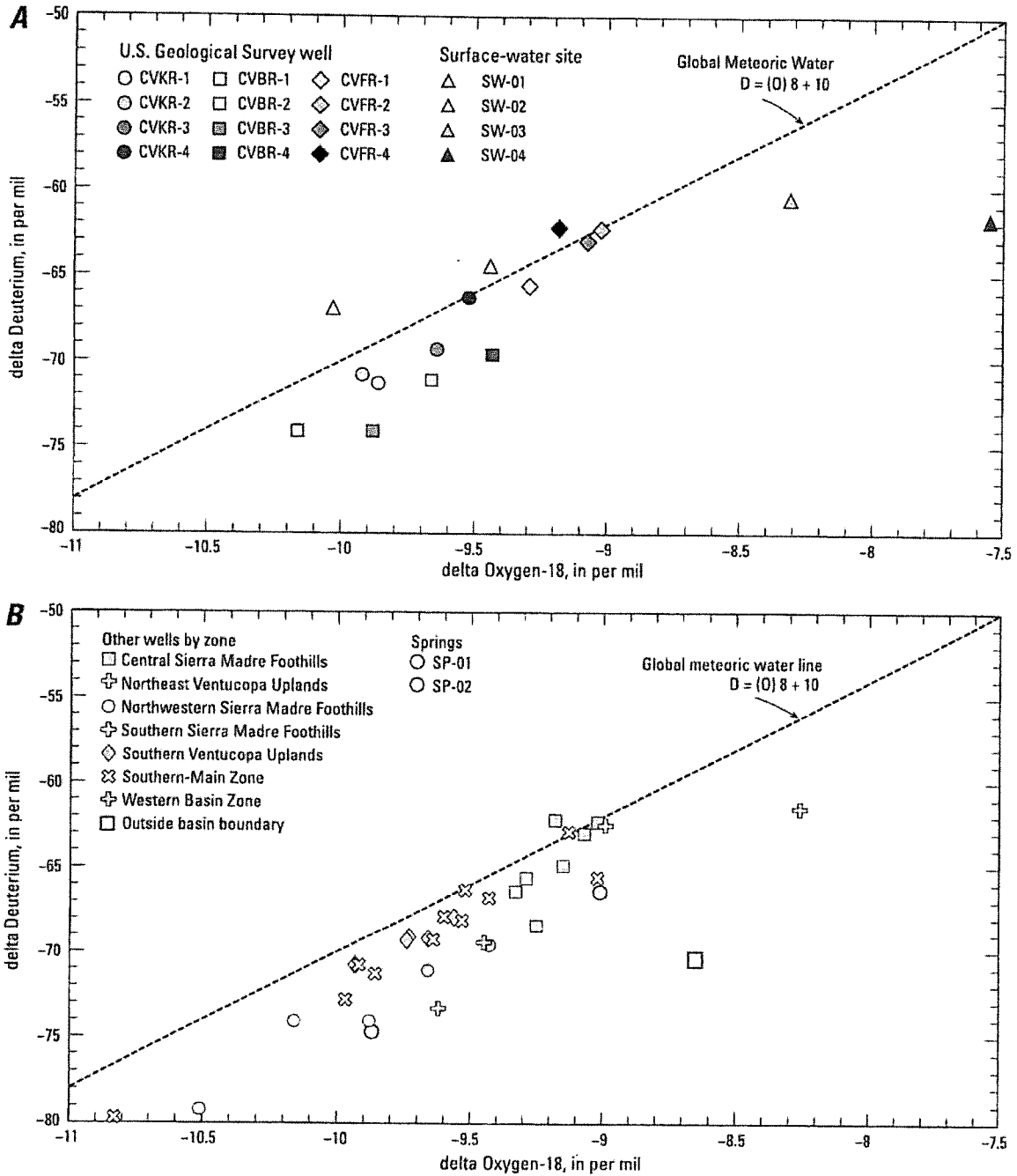


Figure 10. Isotopic composition of water samples, Cuyama Valley, California, collected from A, selected multiple-well monitoring sites and surface-water sites, and B, multiple-well monitoring sites, domestic and supply wells, grouped by zone and springs.

reactions or mixing and, therefore, are considered uncorrected ages. In general, uncorrected carbon-14 ages are older than the actual ages of the water after correction. Uncorrected ages (in years before present) were calculated by multiplying 8,033 by the natural log (ln) of the percent modern carbon expressed as a decimal as shown in the following equation (Stuiver and Polach, 1977):

$$\text{Estimated age} = 8,033 * \ln (\text{percent modern carbon}/100 \text{ percent})$$

Uncertainties in the initial value of carbon-14 in recharge waters add uncertainties to the groundwater-age estimations using carbon-14; without more comprehensive geochemical modeling, the carbon-14 ages are to be treated as relative estimates of age rather than accurate, absolute estimates of age. Water from the CVKR and CVFR monitoring wells (near the Cuyama River) was found to be younger than the water from the CVBR monitoring wells (4 miles away from the Cuyama River). Estimated carbon-14 ages for the CVKR, CVBR, and CVFR sites ranged from 3,600 to 6,400, 20,900 to 31,200, and 2,700 to 3,100 years before present, respectively. Estimated ages increased with depth at the CVKR and CVBR sites. The samples from CVKR-3 and -4, CVBR-3, and CVFR-1, -2, -3, and -4 contained water with detectable tritium (recent recharge) and an uncorrected carbon-14 age of more than 2,700 years before present, indicating that these wells receive groundwater of different ages that are mixed in the sampled groundwater. In these mixed samples, tritium activities were less than 0.55 pCi/L in CVKR-3, and -4, and CVBR-3; these samples could contain relatively small amounts of modern water. The carbon-14 value in CVBR-3 was an order of magnitude less than in CVKR-3, -4; this comparison indicated that the water at CVBR-3 is primarily very old with a small fraction of modern water and that CVKR-3 and -4 could contain mixtures of water that do not span as wide a range of ages. The samples from CVFR had tritium activities that were an order of magnitude higher than CVKR-3, and -4, and CVBR-3; consequently, fractions of modern water in CVFR wells are likely to be much larger than in CVKR-3, and -4, and CVBR-3.

Estimated carbon-14 ages for the other 20 sites ranged from 600 (CUI-03) to 38,300 (CUI-23) years before present (table 9). In general, the youngest water was found in wells in the Southern Ventucopa Uplands; this zone is a source of recharge for the Cuyama Valley and the presence of younger water is expected. The oldest water was found in wells in the Southern-Main, Northwestern Sierra Madre Foothills, and Central Sierra Madre Foothills zones. This is in contrast to the observation of Singer and Swarzenski (1970) that a substantial component of regional flow was northward from the Sierra Madre Mountains. If a significant portion of the flow is from the Sierra Madres, water in this flow path would be expected to be younger than what was observed, unless formations deeper than the Morales Formation, previously thought to be non-water-bearing, are contributing to groundwater discharge from the Sierra Madres toward the Southern-Main zone.

Arsenic, Iron, and Chromium Species

Arsenic, chromium, and iron can be different species depending on the oxidation-reduction state of the groundwater. The oxidized and reduced species have different solubilities in groundwater and can have different effects on human health. The relative proportions of the oxidized and reduced species of each element can be used to aid in interpretation of the oxidation-reduction conditions of the aquifer, which affect the mobility of many constituents. Concentrations of dissolved arsenic, chromium, and iron, and the dissolved concentration of either the reduced or the oxidized species of the element are reported in table 10. The concentration of the other species can be calculated by difference. The concentrations measured by the NWQL are considered to be more accurate determinations of dissolved arsenic, iron, and chromium. For some samples, the concentrations of total arsenic, total iron, and total chromium were measured by the TML and the NWQL using different sample collection and analytical methods; therefore, the total concentrations reported from the TML in table 10 could be different than those reported by the NWQL. The data from TML were primarily used to identify the predominant oxidation-reduction species present in the samples, which is useful for understanding the geochemical environment and processes affecting trace-element concentrations in the system.

Concentrations of total arsenic [As(T)] were greater than the MCL-US of 10 micrograms per liter ($\mu\text{g/L}$) in well samples analyzed at the NWQL from 4 of 33 wells. The highest concentration of arsenic, 67.1 $\mu\text{g/L}$, was in well CUI-23, which is in the Southern-Main zone and screened in both the younger and older alluvium; this sample had the oldest groundwater age in the study area, with no detected tritium, and an uncorrected carbon-14 age of 38,300 years before present (table 9), as well as the deepest bottom of perforations at 2,120 ft bls (table 2). Concentrations of arsenic in the CVBR-2 and CVBR-1 samples were 58.1 and 37.7 $\mu\text{g/L}$, respectively. The CVBR multiple-well monitoring site is in the Northwestern Sierra Madre Foothills zone, and both wells are screened in the Morales Formation and have uncorrected carbon-14 ages older than 25,000 years before present. An arsenic concentration of 44.0 $\mu\text{g/L}$ was observed in well CUI-02, which is in the Northwestern Sierra Madre Foothills, is screened in both the older alluvium and Morales Formation, and contained water that had an uncorrected carbon-14 age of 33,400 years before present. The next highest concentrations of arsenic in groundwater—8.6 and 5.6 $\mu\text{g/L}$ —were measured for CVBR-3, which is in the Northwestern Sierra Madre Foothills and screened in the older alluvium, followed by CUI-21, with a total arsenic concentration of 3.5 $\mu\text{g/L}$, which is in the Central Sierra Madre Foothills and screened in the Morales. The surface-water sample collected from the Cuyama River at site SW-04 in the southern end of the Southern Ventucopa Uplands contained a total concentration of 0.51 $\mu\text{g/L}$, indicating that surface-water recharge potentially is not a source of the arsenic. The four highest concentrations of arsenic were found in water that is

older than 25,000 years, indicating that arsenic concentrations are higher in groundwater that has had more time to mobilize the arsenic.

Concentrations of total chromium [Cr(T)] ranged from no detections to 2.2 µg/L, less than the MCL-CA threshold 50 µg/L. The highest concentration of Cr(T), 2.2 µg/L, was observed in well CUY-20, which is outside of the basin boundary (fig. 8). All of the wells inside the basin had concentrations of Cr(T) less than or equal to 1.3 µg/L. Concentrations of hexavalent chromium [Cr(VI)], however, were greater than the OEHHA-PHG of 0.02 µg/L in 20 of the samples. Concentrations of Cr(VI) ranged from 0.1 to 1.7 µg/L. Concentrations of Cr(VI) were greater than the concentrations of Cr(T) in five of the samples. The difference in values can be attributed to the different methods of analysis used and the level of error (0.1 µg/L for each method) in the laboratory analysis. In these five samples, all concentrations of Cr(VI) and Cr(T) were very near the detection limit (0.1 µg/L), and the laboratory measurement error can account for the differences. The three remaining samples had detections of Cr(VI) below the reporting limit of 0.1 µg/L.

Hydrology

Hydrologic data analyzed as part of this study included rainfall records, stream-discharge records, water-level records, and estimates of hydraulic properties. Rainfall records include monthly and annual rainfall totals and provide information on seasonal and annual variability in precipitation. Stream-discharge records include daily mean discharge measurements from three stream gaging stations and provide information on seasonal variability in surface-water flows and the potential stream losses (recharge) to the groundwater system. Water-level records include quarterly manual depth-to-water measurements collected from the 12 monitoring wells and 55 domestic and supply wells and time-series data collected from the monitoring wells and 8 domestic and supply wells. Water-level measurements, manual and time-series, provide information on the seasonal responses of the aquifer system to pumping. Estimates of hydraulic properties include hydraulic conductivity and transmissivity estimated from aquifer tests performed on the 12 monitoring wells and 51 domestic and supply wells. Estimates of hydraulic properties of the Cuyama Valley aquifer provide insight into the rates of groundwater movement.

Rainfall Gaging Stations

The annual rainfall data in this report are presented by “water year.” A water year is defined as the 12-month period from October 1 of any given year through September 30 of the following year. The water year is designated by the calendar year in which it ends. Thus, the year ending September 30, 1999, is called the “water year 1999.” Historical yearly and monthly rainfall totals from three rainfall gages operating

in Santa Barbara County and one rainfall gage operating in Ventura County are shown in figures 11 and 12, respectively. The Caltrans, New Cuyama gage (Station 402), and the Cuyama Fire Station gage (Station 436) are near the city of New Cuyama; the Santa Barbara Canyon gage (Station 347) is in Santa Barbara County; and the Ozena Guard Station (NWS) gage (Station 174A) is near the Cuyama River in the southern half of the Southern Ventucopa Uplands (fig. 2). Rainfall records for Stations 402 and 436 are available from water-year 1955 to the present. Records for Station 347 are available from water-year 1905 through water-year 1980, and from water-year 1997 to the present. Rainfall records for Station 174A are available from water-year 1980 through July 2008. The official monthly and yearly rainfall records for the Santa Barbara County stations are published by the Santa Barbara County Flood Control District. The data are available for public access at <http://www.countyofsb.org/pwd/>. The monthly and yearly rainfall records for the Ventura County stations are published by the Ventura County Watershed Protection District and are available for public access at <http://www.vcwatershed.net/hydrodata>.

Analysis of the annual rainfall showed that Stations 402 and 436, in the valley, received less rainfall than Stations 347 and 174A in the uplands to the south (fig. 11). Stations 402 and 436 received approximately the same amount of rainfall. Annual totals for the two sites averaged 8 inches and range from less than 2 inches (Station 436) to over 20 inches (Station 402) per year. Station 174A typically received the most rainfall. Annual rainfall totals at Stations 174A averaged almost 19 inches and ranged from about 5 to over 44 inches per year. Annual rainfall totals at Stations 347 averaged over 12 inches and ranged from about 4 to over 32 inches per year.

Averaging the total annual rainfall from all stations since records began at multiple sites in 1954 indicated that the highest annual rainfall in the Cuyama Valley was during water-years 1958, 1969, 1978, 1983, 1995, and 1998 (fig. 11). Records from the only station to exist prior to 1954 (Station 347) showed an annual rainfall of over 32 inches during water year 1941, the highest observed at that station.

Streamflow Gaging Stations

Daily discharge data from three streamflow gaging stations in the Cuyama Valley drainage are available (figs. 13–14). Two gaging stations are on the Cuyama River: one is south of Ventucopa and measures surface-water flow into the valley from the Cuyama River, and the second site is near Buckhorn Canyon, west of the valley, and measures all surface flow out of the valley. The third gaging station is in Santa Barbara Canyon. The station on the Cuyama River near Ventucopa (SW-04) has historic data from October 1945 through September 1958. The site was reestablished on August 24, 2009. The station near Buckhorn Canyon (SW-05) was established on October 1, 1959. The station in Santa Barbara Canyon (SW-03) was established on October 1, 2009.



Wendy Y. Wang
Of Counsel
(213) 787-2554
wendy.wang@bbklaw.com

July 12, 2023

VIA CASE ANYWHERE (SEE ATTACHED SERVICE LIST)

All Counsel and Unrepresented Parties

Re: Bolthouse Land Company, LLC et al., v. All Persons Claiming a Right to Extract or Store Groundwater In the Cuyama Valley Groundwater Basin et al., LASC, Case No. BCV-21-101927

Dear Counsel and Unrepresented Parties:

Attached please find the errata sheets and executed signature page for the transcript of Anthony Brown's deposition taken on June 19, 2023.

Sincerely,



Wendy Y. Wang
for BEST BEST & KRIEGER LLP

cc: Veritext Legal Solutions - calendar-la@veritext.com
Attachments

1 BOLTHOUSE LAND COMPANY, LLC vs. ALL PERSONS
2 CLIMAING A RIGHT TOEXTRACT OR STORE
3 GROUNDWATER
4 ANTHONY BROWN, VOLUME IV, JOB NO. 5970231

5 E R R A T A S H E E T

6 PAGE 697 LINE 17 REPLACE "and" WITH "than"
7 REASON Transcription error.

8 PAGE 698 LINE 21 REPLACE "going on" WITH "going
9 in"
10 REASON Transcription or typographical error.

11 PAGE 701 LINE 19 REPLACE "on" WITH "in"
12 REASON Transcription or typographical error.

13 PAGE 706 LINE 23 REPLACE "degree hydrologic" WITH
14 "degree of hydrologic"
15 REASON Transcription or typographical error.

16 PAGE 706 LINE 24 REPLACE "hydrology" WITH
17 "hydrologic"
18 REASON Transcription or typographical error.

19 PAGE 709 LINE 22 REPLACE "developed perform" WITH
20 "developed and perform"
21 REASON Transcription or typographical error.

22 PAGE 718 LINE 8 INSERT AFTER "That is correct.",
23 "Part of that line is the Santa Barbara Fault.....The rest
24 of that line is projected from the last mapped location
25 of that fault."

26 REASON Clarity.

27

1 PAGE 731 LINE 15 REPLACE "foot" WITH "feet"

2 REASON Transcription or typographical error.

3 PAGE 738 LINE 23 REPLACE "fiscal" WITH "physical"

4 REASON Transcription error.

5 PAGE 749 LINE 2 REPLACE "falls a" WITH "follows
6 a"

7 REASON Transcription error.

8 PAGE 751 LINE 16 REPLACE "approximate" WITH
9 "proximate"

10 REASON Transcription error.

11 PAGE 751 LINE 21-22 REPLACE "pumping agriculture"
12 WITH "agricultural pumping"

13 REASON Clarity.

14 PAGE 759 LINE 13 REPLACE "there's water flowing
15 down the sediments" WITH "groundwater flows in the
16 sediments"

17 REASON Transcription error.

18 PAGE 759 LINE 16 REPLACE "fault because" WITH
19 "fault in the Ventucopa Subbasin as a whole because of"

20 REASON Clarity.

21

22



23

July 12, 2023

24 WITNESS

DATE

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Wood & Randall, A Veritext Company

28

661-395-1050

1 STATE OF CALIFORNIA)
2) ss
3 COUNTY OF ORANGE)
4

5 I, ANTHONY BROWN, hereby certify under
6 penalty of perjury under the laws of the State of
7 California that the foregoing is true and correct.

8 Executed this 12th day of July ,
9 2023, at San Francisco , California.

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14 ANTHONY BROWN
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EXHIBIT 2

WALKING U RANCH, LLC, a California LLC
C/O Kathleen P. March, Esq., sole managing member
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12/14/22

To Travis Seawards, Deputy Development Review Division to tseawards@countyofsb.org

PLEASE REPLY TO KMARCH@BKYLAWFIRM.COM TO CONFIRM RECEIPT. THX.

From Walking U Ranch LLC a California Limited Liability Company (“LLC” herein), by Kathleen P. March, Esq., sole managing member of LLC.

RE: This is the Public Comment of Walking U Ranch LLC **opposing** the 3 water storage reservoirs, filled with groundwater which would be pumped out of the reservoirs, and sprayed on baby grapes, as “frost protection system”, in an attempt to keep the baby grapes from freezing, proposed by Brodiaea, Inc.’s (aka North Fork Vineyards) application for those water storage reservoirs, described in the October 2022 Draft Environmental Impact Report (“**DEIR**” herein). This Public Comment identifies **fatal defects** in the October 2022 **DEIR** for the 3 reservoirs (of five acres each), which in the 4/8/22 EIR were referred to as 3 “frost ponds,” but now are referred to as reservoirs. The fatal defects in the October 2022 **DEIR** should result in the **DEIR NOT** being approved, and in County of Santa Barbara **vetoing** the proposed Brodiaea, Inc. reservoirs with their so called “frost protection systems.”

Walking U Ranch LLC (“LLC”) **opposes** Brodiaea, Inc., aka North Fork Vineyards, being allowed to build and use the requested 3 “water storage reservoirs” with the so called “frost protection systems,” at North Fork Vineyards, in the northwestern region of Cuyama Valley, CA, because those “water storage reservoirs” with “frost control systems” would **further deplete** the **already unsustainably falling groundwater table** in the area where the reservoirs would be built. Further depletion of the already falling, **critically overdrafted** water table in the Cuyama Valley would violate both SIGMA and CEQA.

LLC is the owner of a 1000 acre cattle ranch located approximately 5 miles west of the “reservoirs” proposed by Brodiaea, Inc. aka North Fork Vineyards’ **DEIR**.

Walking U Ranch, LLC additionally **incorporates** Walking U Ranch LLC’s public comment—emailed to Travis Seaward of County of Santa Barbara on 5/26/22—which pointed out defects in Brodiaea, Inc.’s **Revised EIR** (of 4/8/22, SCH 2017061009), as also opposing the present October 2022 DEIR, because the present October 2022 DEIR has NOT eliminated the fatal defects present in the 4/8/22 Revised EIR, major defects which should result in the **DEIR**

NOT being approved, and which require **vetoing** the proposed “reservoirs with “frost control systems”:

1. Brodiaea, Inc. (aka “North Fork Vineyards” herein) does NOT need to build reservoirs, with “frost control systems”, which admittedly would have to be refilled constantly, as groundwater is taken from the “reservoirs” to spray on the grapevines/grape buds/baby grapes, to try to keep buds/baby grapes from freezing each spring.

2. DEIR does NOT deny that North Fork Vineyards is already using **wind turbines** to keep the grapevines/buds/baby grapes from freezing in the spring, and can use additional wind turbines, instead of using reservoirs with “frost control systems”. The DEIR (page 6-3) just takes Brodiaea Inc.’s word—untested, unchecked—that wind turbines aren’t sufficient, where revised EIR states:

“The applicant has conducted trials of these machines [wind turbines] within the existing vineyard. **Based upon feedback from the applicant**, on-site microclimates and topographic barriers prevented sufficient airflow mixing for these devices to be effective.”

As was the case in the 4/8/22 revised EIR, no data from any supposed trials is supplied in DEIR, despite Walking U Ranch LLC’s public comment to 4/8/22 EIR having pointed out this significant defect. Just taking Brodiaea’s unverified word, with no data, and no verification, **is a major defect in DEIR, just as it was a major defect in the 4/8/22 EIR**. Stantec/Cardno, the company producing the revised EIR, **should have independently tested** whether using wind turbines is a sufficient alternative to the proposed reservoirs with “frost control systems.” Wind turbines use NO water, thereby avoiding the further, cumulative, depletion of groundwater levels that would be caused by allowing Vineyard’s proposed reservoirs with “frost control systems”.

Stantec/Cardno should **not** just have taken the word of the Applicant Brodiaea, Inc. that additional wind turbines cannot be used instead of the proposed reservoirs with groundwater depleting “frost control systems.” Brodiaea, Inc. saying turbines are not a sufficient alternative just means Brodiaea would rather use reservoirs with “frost control systems”, than use wind turbines. Brodiaea’s saying this is NOT sufficient or credible evidence that wind turbines are not a viable alternative to the proposed reservoirs with “frost control systems”. In fact, Brodiaea’s preference is not evidence at all.

3. The DEIR does **NOT attach any test results** from Brodiaea, or anyone, showing, or even suggesting, that wind turbines are not a feasible alternative to the proposed reservoirs with groundwater depleting “frost control systems”. Wind turbines are a better alternative than reservoirs with groundwater depleting “frost control systems”, because wind turbines do not use up groundwater (ie **do not cumulatively further deplete the already unsustainably depleted groundwater**).

4. There are also additional possibilities in the “alternatives” section of DEIR (p.6-4), such as use of vegetation barriers, or soil “berm” barriers, to keep cold air from flowing down

onto the grapevines. The revised EIR admits that no one has tested the promising “barrier” alternative, to determine whether it is feasible, stating:

”...the effectiveness of this method [use of barriers] cannot be determined with existing information. Studies on airflow patterns would be required. Therefore, it cannot be determined if this is a feasible alternative to the Project.”

Failure to test whether barriers can be used is an additional major defect in the DEIR. North Fork Vineyards has bulldozers and skiploaders; it could have made some earth berms, to test their beneficial effect. It didn’t bother doing so. DEIR is inadequate because Stantec/Cardno has not had wind turbines, or other alternatives, such as barriers of vegetation or wood, **independently tested**. In fact, **none of those alternatives have been tested, at all**. The DEIR does not claim that Brodiaea, Inc. has supplied any evidence, such as test results, that wind turbines, or barriers, are not sufficient alternatives to the proposed reservoirs with groundwater depleting “frost control systems”.

Turbines or barriers would be **superior alternatives** to the proposed reservoirs with “frost control systems,” because turbines and barriers do NOT require further overdrafting the already overdrafted water table.

5. The DEIR cannot be approved, because it is fatally defective for **failure to properly consider** the **cumulative effect** of the water use by the proposed “reservoirs with frost protection systems” ponds” on the water table and on the environment/ecosystem, in light of existing water uses.

6. DEIR (section 3.9.4) admits that the Cuyama Basin, has been determined by the California Department of Water Resources to be “**critically overdrafted**.” DEIR fails to admit that the Cuyama Basin is either the 5th or 6th most critically overdrafted water basin in the whole state of California. Yet this critically overdrafted Cuyama Basin is where Brodiaea seeks to build, and then operate reservoirs with “frost control systems,” by constantly pumping large amounts of groundwater out of the 3 reservoirs **5 acres each in size**, and spraying that groundwater on the baby grapes, to try to keep the baby grapes from freezing. DEIR, at p.2-13, admits that:

“As stated above, it is estimated that **overdraft conditions** in the Cuyama Valley Groundwater Basin are approximately **25,000 acre feet per year**. This estimated level of overdraft is slightly lower than the **overdraft conditions** reported by the County of Santa Barbara *Environmental Thresholds and Guidelines Manual* (1992), which estimated an annual overdraft condition of **28,525 acre feet per year**.”
(from Second Revised Draft EIR, October 2022, page 2-13)

7, DEIR (.p.3-42) says that as a mitigation, Brodiaea could put covers on is reservoirs, and that the amount of groundwater to be pumped out of the 3 reservoirs each year, **could be limited to 103.1 Acre Feet per Year (“AFY”)**: “(2) a requirement to limit the amount of groundwater used for frost protection to 103.1 AFY...”. DEIR does NOT say that Brodiaea **would limit** the groundwater pumped out of the reservoirs to spray on baby grapes to 103.1 acre feet per year. So DEIR, if approved, would leave Brodiaea free to pump much **more than 103.1**

acre feet per year. Brodiaea could, and doubtless would, pump as much water out of reservoirs, as it wished to pump.

8. DEIR is illusory in saying that as a mitigation, Brodiaea could only build one reservoir, or 2 reservoirs, instead of 3 reservoirs. But that would NOT result in less water being pumped out to be sprayed on baby grapes, because with fewer reservoirs, Brodiaea would just pump out more water, per reservoir. DEIR shows that Brodiaea would do just that, because the DEIR says it would pump water from the 2 reservoirs, or from a single reservoir, to the grapes that would otherwise have been served by 3 or 3 reservoirs.

9. The 2 test well charts (DEIR p.2-27), of 2 wells located on North Fork land, show that from when North Fork started irrigating vines in 2016, to 2022, the groundwater level has fallen 100 feet in the deep well (Well No.841) and has fallen approximately 40 feet in the more shallow well (Well No.845).

10. DEIR is fatally defective for failing to tell the reader how many additional feet per year, the groundwater level in those wells can be expected to fall, for each year that Brodiaea's "frost control system" is allowed to pump out an additional 103.1 acre feet per year of groundwater from those wells, in addition to the groundwater already being pumped out for irrigation, which from 2016 to 2022 has already caused the groundwater level in the deeper test well to drop 100 feet, and has already caused the groundwater level in the less deep test well to drop approximately 40 feet.

11. Taking out (even with maximum mitigation) an additional 103.1 acre fees of groundwater, per year, to spray on baby grapes, is only going to make the groundwater overdrafting in the Cuyama Basin, which is already critically overdrafted, worse.

12. Walking U Ranch LLC pointed out, in LLC's Public Comment to Brodiaea's 4/8/22 EIR, that the level of groundwater at North Fork has been falling from when North Fork planted, and started irrigating its grape vines, in 2016, to present. The *Santa Barbara County 2012 Groundwater Basins Summary Report*—an official government report—reports that the groundwater level in deep wells at North Fork Vineyards has been falling from 2016 (when Brodiaea aka Harvard aka North Fork Vineyards) began planting and irrigating the 500,000 grape vines at North Fork Vineyards, to present, and states that the aquifer cannot recover from the existing pumping. See Exhibit B to this Comment, attaching relevant pages of the *Santa Barbara County 2012 Groundwater Basins Summary Report* that state these things.

13. As this government report (Exhibit B to this comment) states, the aquifer cannot recover from the existing pumping. Therefore, the aquifer obviously cannot recover from even more groundwater pumping (103.1 acre feet per year---and up) to run the proposed "frost control systems" each year.

14. Both **SGMA** and **CEQA** **require** considering the **cumulative effect** that reservoirs with groundwater depleting “frost control systems”, would cause to the water table, and to the environment/ecosystem, when considered in light of the unsustainable depletion in the water table that has already been caused, and continues to be caused, by North Fork Vineyards’ **present irrigation** of its 500,000 grape vines. The proposed “reservoirs with frost prevention pumping” cannot properly be approved, because they would **further deplete** the **already unsustainably falling groundwater level** in the area of North Fork Vineyard (and would further deplete groundwater west of North Fork Vineyards, because the aquifer in the Cuyama Valley flows from east to west).

15. **SGMA** (the California Sustainable Groundwater Management Act), California Water Code §10736.6(a) states:

“(a) The board may order a person that extracts or uses water from a basin that is subject to an investigation or proceeding under this chapter to prepare and submit to the board any technical or monitoring program reports related to that person’s or entity’s extraction or use of water as the board may specify. The costs incurred by the person in the preparation of those reports shall bear a reasonable relationship to the need for the report and the benefit to be obtained from the report. If the preparation of individual reports would result in a duplication of effort, or if the reports are necessary to **evaluate the cumulative effect of several diversions or uses of water**, the board may order any person subject to this subdivision to pay a reasonable share of the cost of preparing reports.”

16. SGMA requires all of California—which includes the Cuyama Valley where the North Fork Vineyard is located—to have **sustainable water use** by 2040. North Fork Vineyards’ water use (even without the proposed reservoirs with groundwater depleting “frost control systems”) already violates SGMA, because the amount of groundwater North Fork is pumping to irrigate its 500,000 grapevines is has, from 2015 to present, **caused the groundwater levels to drop 40 to 100 feet (depending on whether well is shallow or deep), where the vineyard is located**. That situation establishes that the present groundwater use for irrigation is already UNSUSTAINABLE, and therefore is already in violation of SGMA—**without the additional significant groundwater depletion that would result if Brodiaea’s proposed reservoirs, with “frost protection systems,” proposed in DEIR, were allowed to be built and operated**. Allowing more water to be pumped, for “reservoirs with frost protection systems,” will cause the water table to drop further and faster. **That is the direct OPPOSITE of what SGMA requires**. The County of Santa Barbara/its agencies should VETO the proposed reservoirs with groundwater depleting “frost control systems”, because the amount of groundwater those reservoirs with “frost control systems” would use (to fill and then constantly refill the reservoirs as groundwater is pumped out to spray the grape buds/baby grapes) violates SGMA, and violates CEQA.

17. Like SGMA, **CEQA** (the California Environmental Quality Act), California Public Resources Code §§21000–21189, requires consideration of **cumulative effects**, including that

Section 15064(h)(1) of CEQA [*Determining the Significance of the Environmental Effects Caused By a Project*] states:

“(h) (1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the **cumulative impact may be significant** and the **project’s incremental effect**, though **individually limited**, is **cumulatively considerable**. ‘Cumulatively considerable’ means that the incremental **effects of an individual project are significant** when viewed in connection with the **effects of past projects, the effects of other current projects, and the effects of probable future projects.**”

18. The October DEIR (p.3-33, and p.3-40) repeats the error of law that the 4/8/22 revised EIR (p3-33) made, in claiming that the large--**already unsustainable**--amount of water Brodiaea is presently using to irrigate its 500,000 grape vines is **not required to be considered**, in deciding whether the reservoirs with “frost control systems,” would further deplete the groundwater.

See DEIR Oct, 2022, which states, contrary to SGMA and CEQA: “Irrigation water is **not** considered an impact of this project because it is an existing agricultural operation.” (from Draft EIR, October 2022, page 3-33).

See DEIR p.3-40, which states, contrary to SGMA and CEQA: “Therefore, **irrigation water used directly or indirectly for the vineyard was excluded from the analysis**, in terms of County Thresholds.” (from Draft EIR, October 2022, page 3-40).

19. Both these quoted DEIR statements are **error of law**, because both SGMA and CEQA-- quoted supra--expressly require considering cumulative impact on groundwater, **from adding additional water use**, and the reservoirs with “frost protection systems” would be a significant, detrimental, additional groundwater use, **cumulative to (i.e., in addition to)** the existing irrigation. Therefore, both SGMA and CEQA require Santa Barbara County to consider the **cumulative effect** of this additional water use.

20. Both SGMA and CEQA require considering **cumulative impact** on groundwater sustainability and on the environment/ecosystem, **of adding additional water use** (here the proposed reservoirs with “frost protection systems”) **to the existing irrigation**, which is already causing the groundwater levels to **drop unsustainably** in the wells at North Fork Vineyards.

21. The question the DEIR is required to answer--and which the DEIR lies about, and fails to answer, is whether there would be an **unsustainable impact on groundwater** when the **cumulative effect** of the additional water the proposed reservoirs with frost control systems would use--constantly sucking out groundwater from the reservoirs, to spray on baby grapes, during frost months—is added to the **existing irrigation** of the 500,000 grapevines (existing pumping which has already caused the groundwater level to drop unsustainably, where the North Fork Vineyards are located).

22. The answer is obvious: more groundwater use would make the already unsustainable groundwater depletion from irrigation even worse. Therefore, **the DEIR cannot be approved.** Brodiaea can use wind turbines to keep its budding grapes from freezing. It doesn't need to use the proposed reservoirs with "frost protection systems.

23. DEIR is fatally defective for making the error of law of claiming, contrary to SGMA and CEQA, that the existing irrigation use does **not** have to be considered. It does have to be considered. That is what SGMA's, and CEQA's requirement, of considering **cumulative effect** of additional water use, means.

24. The DEIR does not claim that the cumulative effect could be mitigated to below a significant negative impact. DEIR only claims—contrary to SGMA and CEQA—that cumulative effect, from adding MORE groundwater depletion, to the groundwater depletion being caused by the existing irrigation—is not required to be considered.

25. If DEIR honestly answered the question of whether the **cumulative effect** of adding the additional water use of the proposed reservoirs with "frost protection systems," to the existing large amount of irrigation water use, would produce an **unsustainable negative effect on groundwater levels**, that could not be sufficiently mitigated to below significant negative effect, the **answer would be that the proposed reservoirs, with frost protection systems, cannot be approved.**

26. With the existing irrigation causing the water table to drop, the **cumulative water use**, if the "reservoirs with "frost protection systems" were allowed, would be far more than the 31 water feet per acre that DEIR says is maximum to avoid significant negative impact. In fact, it appears the 31 Water feet figure is also **error**, as cumulative effect was not considered in calculating it.

27. There is no way to refill the water table, except rain, and there is not enough rain to come close to refilling the water table from water being pumped out at present to irrigate 500,000 grape vines, much less to refill additional depletion of the water table that would occur if the North Fork Vineyards proposed reservoirs with "frost protection systems, were allowed to be built and operated. See **Exhibit B** to this Comment, which is relevant pages of the *Santa Barbara County 2021 Groundwater Basins Summary Report*, which states the **aquifer** [under North Fork Vineyards, which North Fork Vineyards has been pumping from, from 2016 to present, to irrigate its 500,000 grapevines] **never fully recovers as a result of pumping.**"

28. The combination of the **present** irrigation of the 500,000 grape vines, **plus use of the proposed reservoirs with "frost control systems"** (reservoirs which must be constantly refilled as groundwater is drawn out of the reservoirs to spray on the grape vines to keep the grape buds/tiny grapes from freezing), will use so much water that it will deplete how much water is left in the aquifer to flow west from the North Fork Vineyards, toward cattle ranches such as Walking U Ranch, LLC, and to Santa Maria, CA.

29. Even the cover photos of grapes and grapevines, on the revised EIN, shows Stantec/Cardno (the company producing the revised EIR) is blatantly **biased in favor of Brodiaea/North Fork Vineyards**. To be accurate, the cover photos should be cattle water troughs that have gone dry, and cattle dying of thirst, because that would be the long term **cumulative effect** of allowing North Fork Vineyard's proposed reservoirs with "frost protection systems" to further deplete the groundwater, if that additional groundwater depletion is added to the depletion in the water table that is already **unsustainable**, violating both SGMA and CEQA, because just that irrigation has already caused the groundwater table to drop 40-100 feet, from 2016 to 2022 at North Fork Vineyards

30. **Exhibit B** to this Comment are relevant pages of the *Santa Barbara County 2021 Groundwater Basin Summary Report*. North Fork Vineyards is located in the "northwestern" area of Cuyama Valley in this government report, which at, p. 18-19 states:

"The Northwestern Threshold Region [of the Cuyama Valley] has historically been characterized by rangeland with limited development. **In 2015, a new vineyard [North Fork Vineyards] was developed within the eastern portion of this sub-basin on both sides of the Cuyama River**. A limited data set of shallow wells indicates that water levels have historically remained fairly stable throughout this region, and remain stable in the western portion of this region. **However, deep wells within the eastern portion of this region [where North Fork Vineyards is located] have experienced continued declines, with water levels dropping 40 feet on average since pumping began in 2016**. It should be noted however, that although water levels continue to decline in this area, stable and static water level measurements are difficult to obtain. **The aquifer never fully recovers as a result of pumping**."

This extremely ominous "**The aquifer never fully recovers as a result of pumping**" conclusion of this government Report should convince any reasonable person that it would be extremely, and impermissibly, detrimental to add additional water pumping from the aquifer beneath North Fork Vineyards (to operate the proposed reservoirs with "frost control systems"), when that aquifer can **never fully recover** from the water North Fork Vineyards is **already pumping** to irrigate its 500,000 grapevines.

This *Santa Barbara County 2021 Groundwater Basin Summary Report* is a publicly available government report, from the Santa Barbara County Water Agency. Walking U Ranch LLC obtained a copy, at no charge, simply by requesting a copy from the Santa Barbara County Water Agency. Obviously, Stantec/Cardno, which prepared the original and revised EIR, would be aware of this Report, as would North Fork Vineyards. The fact that Stantec/Cardno has been dishonest enough to conceal this Report, and to conceal this Report's above vitally important, "water level falling from 2016 to present" and "**The aquifer never fully recovers as a result of pumping**" (pumping is already being done by North Fork Vineyards, from 2016 to present, to irrigate its 500,000 grapevines) conclusion, should--without more--be sufficient to completely discredit Stantec/Cardno's EIN and revised EIN, to require **disapproval** of the revised EIN.

30. Walking U Ranch LLC is west of North Fork Vineyard. Ranch LLC, and all other ranches and properties west of North Fork Vineyard, will suffer from having **excessive water used by North Fork Vineyard**, so less (maybe only minimal) water in the aquifer flows west of North Fork Vineyards to cattle ranches and other properties west of North Fork Vineyards, onward west to Twitchell reservoir. Further “overdrafting” (i.e., taking out more groundwater than is sustainable water use) by the vineyard will eventually cause wells to the west of the vineyard to run dry, making it impossible to run our cattle ranches, because there will be no water for cattle, and no water for the personnel who live on our cattle ranches to care for the cattle.

31. Brodiaea, Inc. is a Delaware Corporation which is wholly owned by Harvard University. Brodiaea (aka Harvard University) should never have planted those 500,000 grape vines, to start with. There was never going to be enough water for that vineyard, and it was always going to be too cold for the grapevines/grape buds/baby grapes in the spring. Only a big university would have been arrogant (aka stupid) enough to plant that vineyard where they planted it. Harvard has a reputation for creating, then selling, projects which cause major problems for the people who actually live and work where Harvard locates its projects. Harvard sells the project, so Harvard is gone, but everyone else is stuck with dealing with the problems the project has caused, forever-after.

The County of Santa Barbara, and whoever else is in charge of approving or vetoing reservoirs with the “frost control systems” refuse to approve the defective DEIR, for all reasons stated in this Public Comment, and should **veto** the reservoirs with the “frost control systems.”

The government should NOT allow making the (already) unsustainably falling water table where the North Fork Vineyard is located fall even further and faster, by allowing Brodiaea to build and use ANY of the 3 proposed reservoirs with “frost control systems”. This is particularly true when the proposed reservoirs with “frost control systems” are **not** necessary, because wind turbines can be used instead (and some wind turbines are already being used at the vineyard) to keep the grapevines/grape buds/baby grapes from freezing.

Exhibit B hereto, relevant pages of the Santa Barbara County 2021 Groundwater Basins Summary Report, is attached hereto and incorporated as part of this Public Comment.

Submitted by: Walking U Ranch LLC by Kathleen P. March, Esq. for LLC
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Santa Barbara County 2021 Groundwater Basins Summary Report



Vineyard in San Antonio Creek Valley Groundwater Basin

Public Works Department
Water Resources Division, Water Agency
September 2021

Exhibit B to Walking U Ranch LLC Public Comment

(5 pages)

during the last 80 years have exceeded recharge in many parts of the basin and reduced storage within the aquifer.

The Cuyama Basin is defined by DWR as a high priority, critically overdrafted basin. The Cuyama Basin GSA submitted a GSP to DWR for review in 2020. DWR completed its June 2021 and determined that the GSP is in need of additional modifications. As part of GSP development, six “threshold regions”, illustrated in Figure E, were defined within the basin based on geology, land use, and groundwater conditions for the purpose of setting minimum water level thresholds. The hydraulic response within each region to natural and anthropogenic activity varies, although each region may be at least partially connected hydraulically.

Attachment E illustrates the active monitoring network from 2020 and representative hydrographs for wells within the Cuyama Valley aquifer system. Links to locate water level data are provided in Table 10.

Table 10: General Cuyama Valley Groundwater Basin information and associated links

CUYAMA VALLEY GROUNDWATER BASIN INFORMATION: (Data from DWR SGMA Basin Prioritization Dashboard (https://gis.water.ca.gov/gsp/ba-dashboard/final/))	
Groundwater Basin Surface Area (m ²)	230.0
DWR Basin Population in 2010:	1,259
Irrigated acres	15,279
GW Percent of Supply	100%
LINKS TO AVAILABLE BASIN INFORMATION AND WATER LEVEL DATA:	
<ul style="list-style-type: none"> • DWR Basin ID No. 3-013 Information • CASGEM Water Data Library • National Water Information System (NWIS) interactive map for Hydrologic Unit 18060007 Cuyama • Santa Barbara County Water Agency - Cuyama Valley • Cuyama Valley Basin Data Management System • Cuyama Valley Water Availability Study • Cuyama Basin Groundwater Sustainability Agency (GSA) 	

Additional data are available in the files of the following agencies and may be available upon request:

- [Santa Barbara County Water Agency](#)
- [Cuyama Community Services District](#)

Northwestern Threshold Region

The Northwestern Threshold Region has historically been characterized by rangeland with limited development. In 2015, a new vineyard was developed within the eastern portion of this sub-basin on both sides of the Cuyama River. A limited data set of shallow wells indicates that water levels have historically remained fairly stable throughout this region, and remain stable in the western portion of this region. However, deep wells within the eastern portion of this region have experienced continued declines, with water levels dropping 40 feet on average since pumping began in 2016. It



should be noted however, that although water levels continue to decline in this area, stable and static water level measurements are difficult to obtain. The aquifer never fully recovers as a result of pumping.

Western Threshold Region

There is little agricultural use in the Western Threshold Region and minimal use of groundwater. Water levels in shallow wells are close to land surface and based on a limited data set, have generally remained stable for decades.

Central Threshold Region

The majority of the basin's agricultural use is located within the Central Threshold Region. Water levels within this region have been steadily declining since the late 1940s, with long term hydrographs showing declines of nearly 300 feet. Recent monitoring indicates that levels continue to decline in this region, with levels at historic lows.

Eastern Threshold Region

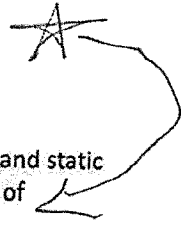
There is moderate agricultural groundwater use in the Eastern Threshold Region. Water levels within this region tend to react quickly to precipitation, showing rapid recharge during times of increased precipitation. Groundwater storage has responded favorably to recent precipitation and are above historic lows.

Southeastern Threshold Region

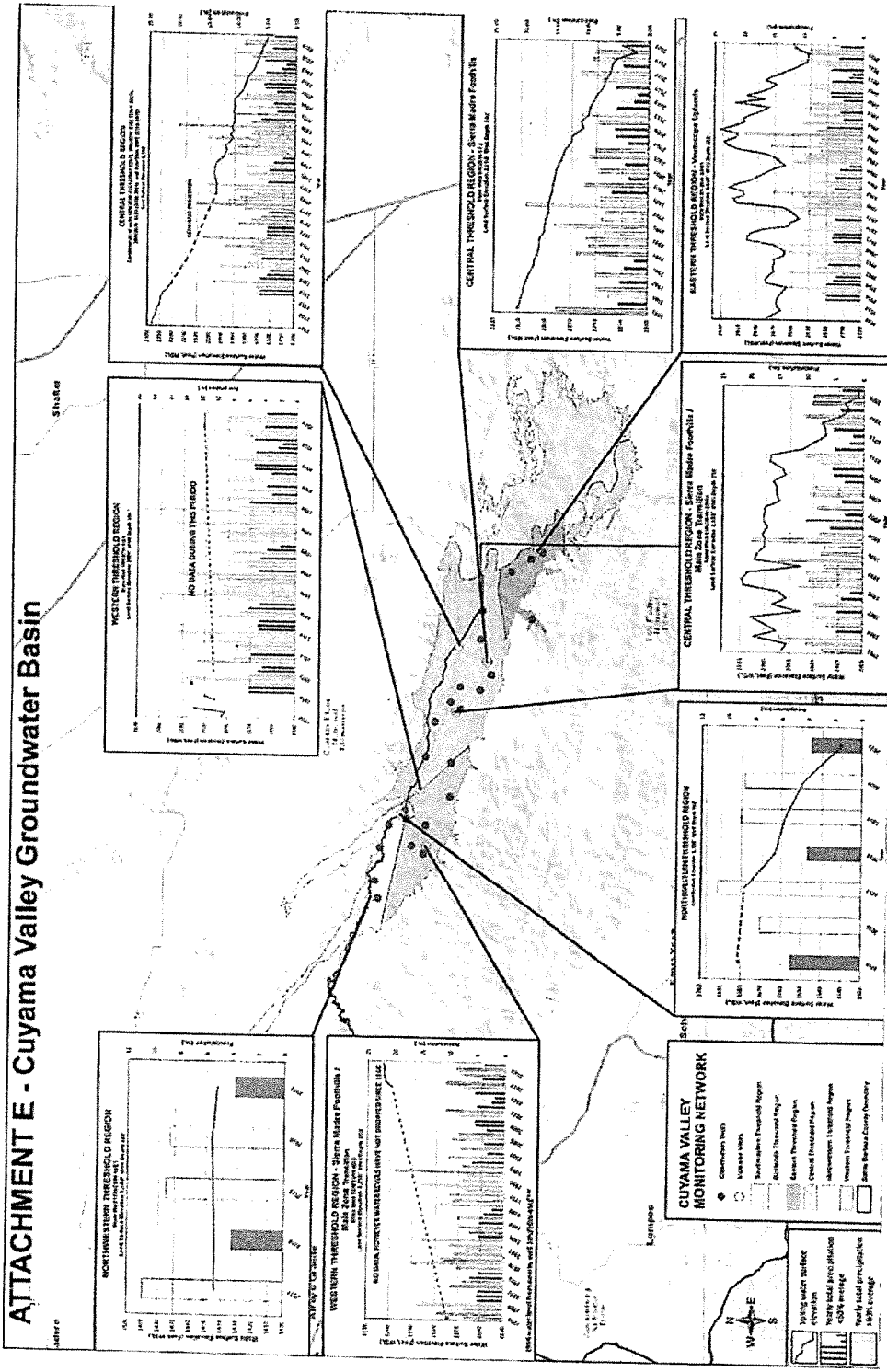
A small area of the Southeastern Threshold Region is located within Santa Barbara County, with the remainder located within Ventura County. Water levels within this region are shallow, with depth to water about 50 feet.

Badlands Threshold Region

The Badlands Threshold Region is not located within Santa Barbara County. There is little agriculture or development in this area and groundwater use is therefore minimal. No water level data are available for this region.



ATTACHMENT E - Cuyama Valley Groundwater Basin



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CUYAMA VALLEY MONITORING NETWORK

- Observation Wells
- Indicator Wells
- Southeastern Threshold Region
- Badlands Threshold Region
- Eastern Threshold Region
- Central Threshold Region
- Northwestern Threshold Region
- Western Threshold Region
- Santa Barbara County Boundary

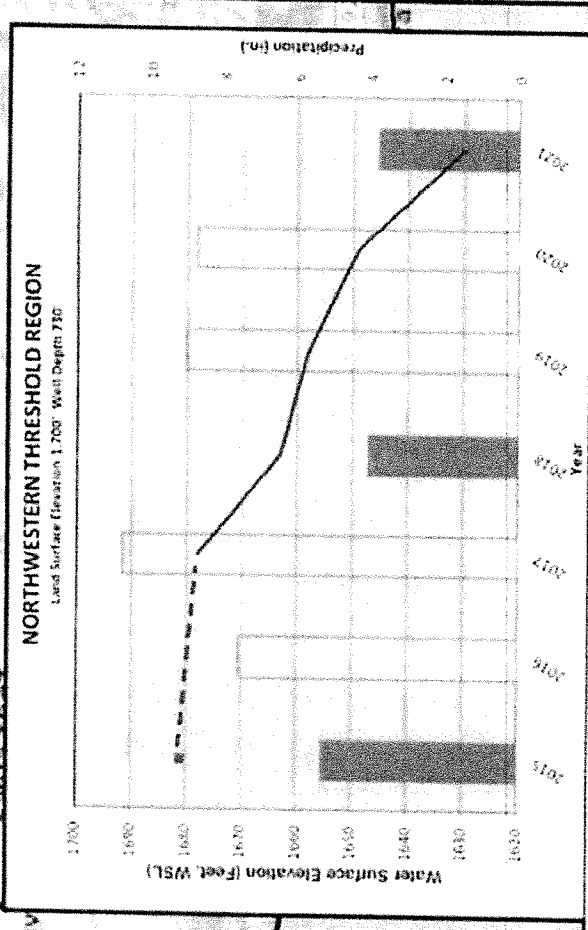


EXHIBIT 3

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1/13/23

To Travis Seawards, Deputy Development Review Division to tseawards@countyofsb.org

PLEASE REPLY TO KMARCH@BKYLAWFIRM.COM TO CONFIRM RECEIPT. THX.

From Walking U Ranch LLC a California Limited Liability Company ("LLC" herein), by Kathleen P. March, Esq., sole managing member of LLC.

Re: This is a SUPPLEMENT to the Public Comment of Walking U Ranch, LLC, submitted 12/14/22, OPPOSING Brodiaea, Inc. being allowed to build 3 reservoirs (or ANY reservoirs) to be constantly drained for "frost protection" of baby grapes.

Attached hereto as Exhibit A is the verified CCP 842 Disclosure of groundwater use, filed by Brodiaea, Inc., aka North Fork Vineyards, on 1/13/23, in the Bolthouse et al. groundwater adjudication Superior Court suit, BCV-21-101927.

This verified groundwater use disclosure attests that Brodiaea, Inc. has been using over 700 acre feet of water per year, from 2017 through 2021 (760 acre feet of water in 2021 alone), whereas, as the Brodiaea Disclosure admits, before the vineyard was planted, the cattle ranching on the same land used "one acre foot or less" of water per year.

This huge water use by Brodiaea's vineyard is why the groundwater level has been dropping unsustainably in the area of the vineyard, since the vineyard was planted. This Brodiaea, Inc. verified groundwater use disclosure pleading is an admission of unsustainable water use by Brodiaea, Inc. and is **further evidence why Brodiaea's proposed frost reservoirs should NOT be approved.**

This pleading was only filed by Brodiaea, Inc. today, 1/13/23, in Superior Court, and therefore, could not be sent to you by Walking U Ranch, LLC, until today.

Submitted by: Walking U Ranch LLC by Kathleen P. March, Esq. for LLC
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8 Attorneys for Defendant
9 BRODIAEA, INC.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES

12 BOLTHOUSE LAND COMPANY, LLC, a
13 California limited liability company; WM.
BOLTHOUSE FARMS, INC., a Michigan
14 corporation;
and

15 GRIMMWAY ENTERPRISES, INC., a
16 Delaware corporation, DIAMOND FARMING
COMPANY, a California corporation; LAPIS
17 LAND COMPANY, LLC, a California limited
liability company; RUBY PROPERTY
18 HOLDINGS, LLC, a Delaware corporation,

Plaintiffs,

19 v.

20 ALL PERSONS CLAIMING A RIGHT TO
EXTRACT OR STORE GROUNDWATER IN
21 THE CUYAMA VALLEY GROUNDWATER
BASIN (NO. 3-013); ALL PERSONS
22 UNKNOWN, CLAIMING ANY LEGAL OR
EQUITABLE RIGHT, TITLE, ESTATE,
23 LIEN, OR INTEREST IN THE PROPERTY
DESCRIBED IN THE COMPLAINT
24 ADVERSE TO PLAINTIFF'S TITLE, OR
ANY CLOUD UPON PLAINTIFF'S TITLE
25 THERETO; DOES 1 THROUGH 5000 and
THE PERSONS NAMED AS DEFENDANTS
26 IDENTIFIED ON EXHIBIT D TO THIS
COMPLAINT as may be amended from time
27 to time,

28 Defendants.

Case No. BCV-21-101927
Complex Action

Judge: Hon. Yvette M. Palazuelos
Dept.: 9

**DEFENDANT BRODIAEA, INC.'S
VERIFIED INITIAL DISCLOSURES
PURSUANT TO C.C.P. RULE 842**

Action Filed: 08/17/2021
First Amended Complaint Filed: 03/08/2022
Trial Date: None

**EXHIBIT A
TO THIS COMMENT**

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
300 SOUTH GRAND AVENUE, 25TH FLOOR
LOS ANGELES, CALIFORNIA 90071

1 Defendant Brodiaea, Inc. ("Brodiaea"), by and through its undersigned counsel, hereby
2 submits the following as its initial disclosures pursuant to Code of Civil Procedure section 842 in
3 connection with the above-referenced Complaint filed by Plaintiffs Bolthouse Land Company,
4 LLC; WM. Bolthouse Farms, Inc.; Grimmway Enterprises, Inc.; Diamond Farming Company;
5 Lapis Land Company, LLC; and Ruby Property Holdings, LLC.

6 By providing the information set forth herein, Brodiaea does not waive any privileges or
7 protections that may be related to any information or documents discussed herein, including, but
8 not limited to, the attorney-client privilege, attorney work-product doctrine, and the right of
9 privacy, all of which are expressly claimed and reserved.

10 **1. Party Information (C.C.P. § 842(a)(1))**

11 Pursuant to Code of Civil Procedure section 842, subdivision (a)(1), Brodiaea provides the
12 following information:

13 Party: Brodiaea, Inc.
14 c/o Matt Turrentine - President
15 Grapevine Capital Partners
16 444 Higuera Street, Suite 200
17 San Luis Obispo, CA 93401
18 805-312-1828
19 matt@grapevinecap.com

18 Brodiaea should be contacted through counsel:

19 Counsel: Best Best & Krieger LLP
20 300 South Grand Avenue, 25th Floor
21 Los Angeles, CA 90071
22 Telephone: (213) 617-8100
23 Eric L. Garner: eric.garner@bbklaw.com
24 Jeffrey V. Dunn: jeffrey.dunn@bbklaw.com
25 Wendy Y. Wang: wendy.wang@bbklaw.com
26 Sarah Christopher Foley: sarah.foley@bbklaw.com

27 **2. Groundwater Quantity (C.C.P. § 842(a)(2))**

28 **A. Quantity of Any Groundwater Extracted**

The quantity of groundwater Brodiaea, or its agents, extracted from the Cuyama Valley
Groundwater Basin ("Basin") from 2011 to 2021 is as follows:

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Year	Amount of Groundwater Pumped (AFY)
2011	Unknown
2012	Unknown
2013	Unknown
2014	Unknown
2015	Unknown
2016	Unknown
2017	703.956
2018	657.553
2019	703.187
2020	759.076
2021	759.971

B. Method of Measurement

Brodiaea's estimates of groundwater extraction from 2017 through 2021 are based upon water meters. From 2011 through 2016, estimated groundwater extractions were one (1) acre-foot per year or less for cattle ranching operations.

3. Water Rights (C.C.P. § 842(a)(3))

Brodiaea claims the following rights and interest to extract groundwater from the Basin:

- a) Overlying right of the landowner to pump, produce, extract, and use groundwater from and within the Basin;
- b) Riparian rights to any subsurface flow that may exist on or appurtenant to its property;
- c) Rights to use groundwater from the Basin under the self-help doctrine, in the event that other parties to this case prove they possess prescriptive rights to extract the groundwater from the Basin.

4. Groundwater Use (C.C.P. § 842(a)(4))

Brodiaea uses Basin groundwater for domestic, irrigation, and livestock purposes.

- 1 **5. Well Locations or Extraction Source (C.C.P. § 842(a)(5))**
2 Brodiaea’s wells and points of diversion are shown in Exhibit A attached hereto.
- 3 **6. Area of Groundwater Usage (C.C.P. § 842(a)(6))**
4 A list of parcels owned by Brodiaea where groundwater is put to use is attached hereto as
5 Exhibit B.
- 6 **7. Claims for Increased or Future Use of Groundwater (C.C.P. § 842(a)(7))**
7 Brodiaea’s pumping, diversion, production, extraction and use of water from and/or within
8 the Basin is subject to fluctuation and need with respect to its uses described above. Brodiaea
9 claims the right to a reasonable and beneficial amount of water in the future for the uses described
10 above. Brodiaea reserves the right to amend or otherwise modify this response.
- 11 **8. Beneficial Alternative Use (C.C.P. § 842(a)(8))**
12 None to Brodiaea’s knowledge at this time. Brodiaea reserves its right to supplement,
13 amend, or otherwise modify its response to this initial disclosure upon further discovery and
14 investigation.
- 15 **9. Surface Water Rights (C.C.P. § 842(a)(9))**
16 Brodiaea holds several surface water claims, including but not limited to those identified by
17 the following statements of diversion and use: S017333, S017425, S017428, S017324, S017434,
18 and S017321.
19 To the extent surface water becomes an issue, Brodiaea reserves its right to seek and assert
20 a claim of entitlement thereto, to the extent such a right may exist. Brodiaea also reserves its right
21 to assert a riparian water right claim to the extent any of its groundwater extractions are deemed or
22 established to be underflow from the Cuyama River and/or its tributaries.
- 23 **10. Quantity of Water Replenishment (C.C.P. § 842(a)(10))**
24 None to Brodiaea’s knowledge at this time. Brodiaea reserves its right to supplement,
25 amend, or otherwise modify its response to this initial disclosure upon further discovery and
26 investigation.
- 27
28

1 **11. Individuals Likely to Have Discoverable Information (C.C.P. § 842(a)(11))**

2 Matt Turrentine
3 President - Brodiaea
4 Grapevine Capital Partners
5 444 Higuera Street, Suite 200
6 San Luis Obispo, CA 93401
7 805-312-1828
8 matt@grapevinecap.com

9 Matthew Newhall
10 Grapevine Capital
11 444 Higuera Street, Suite 200
12 San Luis Obispo, CA 93401
13 805.952.3096
14 newhall@grapevinecap.com

15 The persons identified herein do not include expert witnesses, which are subject to
16 disclosure under Code of Civil Procedure section 843. Brodiaea will identify any experts in
17 accordance with orders of this Court and/or the rules of civil procedure. Experts also may be
18 retained to rebut any testimony provided by an expert on behalf of another party in this litigation.
19 In addition, there may be other individuals currently unknown to Brodiaea who have discoverable
20 information supporting its claims, and Brodiaea reserves the right to supplement this disclosure if
21 and when those individuals are identified.

22 **12. Other Facts Supporting Brodiaea's Water Rights Claims (C.C.P. § 842(a)(12))**

23 None at this time. Brodiaea reserves its right to supplement, amend, or otherwise modify
24 its response to this initial disclosure upon further discovery and investigation.

25 **13. Reservation of Rights**

26 Brodiaea reserves the right to supplement or amend these disclosures to include information
27 hereafter acquired, or as otherwise provided by Code of Civil Procedure section 842, subdivision
28 (d).

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Dated: January 13, 2023

BEST BEST & KRIEGER LLP

By: 

ERIC E. GARNER
JEFFREY V. DUNN
WENDY Y. WANG
SARAH CHRISTOPHER FOLEY
Attorneys for Defendant
BRODIAEA, INC.

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VERIFICATION

I, Matt Turrentine, declare:

I am the President of Brodiaea, Inc., a party in the above-entitled action, and I have been authorized to make this verification on its behalf.

I have read the foregoing DEFENDANT BRODIAEA, INC.'S VERIFIED INITIAL DISCLOSURES PURSUANT TO CCP RULE 842 on file herein and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

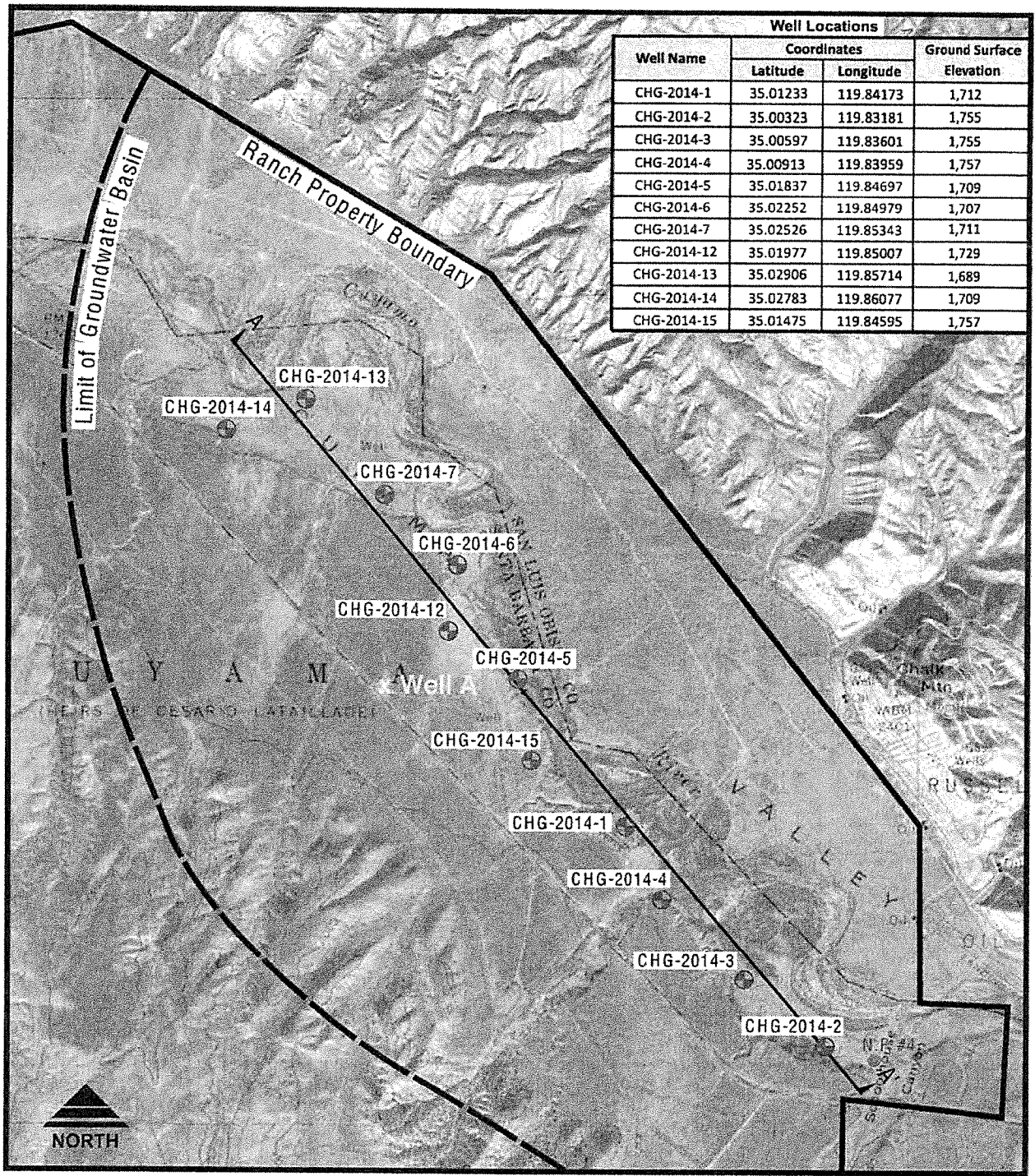
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Luis Obispo, California on January 13, 2023.

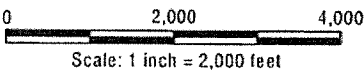


Matt Turrentine

EXHIBIT A



Base map: U.S.G.S. 7.5 minute topographic, Caliente Mountain Quadrangle, California 1959



- Explanation**
- Completed well location
 - Test well location
 - Cross Section alignment

Figure 1
 Well Locations
 North Fork Ranch
 (December 1, 2015)
 Grapevine Capital Partners
 Cleath-Harris Geologists

EXHIBIT B

APN	COUNTY
147-020-045	Santa Barbara
147-020-046	Santa Barbara
096-141-002	San Luis Obispo
096-141-003	San Luis Obispo
096-141-004	San Luis Obispo
096-131-004	San Luis Obispo

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PROOF OF SERVICE

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 300 South Grand Avenue, 25th Floor, Los Angeles, California 90071. On January 13, 2023, I served a copy of the within document(s):

DEFENDANT BRODIAEA, INC.'S VERIFIED INITIAL DISCLOSURES PURSUANT TO C.C.P. RULE 842

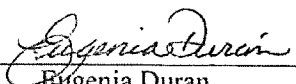
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Los Angeles, California addressed as set forth below.
- by placing the document(s) listed above in a sealed _____ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for delivery.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.
- by uploading to the Case Anywhere website pursuant to Court Order Authorizing Electronic Service, dated March 22, 2022, thereby servicing the parties on the Service List maintained on the Case Anywhere website at www.caseanywhere.com.

SEE ATTACHED CASE ANYWHERE SERVICE LIST

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 13, 2023, at San Jacinto, California.



Eugenia Duran

65464.00001\40428694.3

Case Anywhere Electronic Service List

Case Name: **Bolthouse Land Company, LLC, et al. v. All Persons Claiming a Right to Extract or Store Groundwater in the Cuyama Valley Groundwater Basin (No.3-013), et al.**

Case Info: **BCV-21-101927, Los Angeles Superior Court**

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Moon 1987 Trust Restated 4/14/99

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Billy L. Harrington
Ceferino Cheng as Trustee of the Cheng Family Trust
Christine and James Wegis as Trustees of the James and Christine Wegis Family Trust
Cuyama Orchards
James and Dorothy Menzies as Trustees of the Menzies Living Trust
James and Dorothy Menzies as Trustees of the Thomas O. Menzies Trust
Karam Pistachio Farm, Inc.
Marvin and Christine Rahe
Triangle E Farms

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Orion Keith Ray
Rancho Lataillade, LLC
Reyes Family Trust
Sam Reed
Sleepy Creek Ranch Trust
Wayne Goldwyn

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Ruby Property Holdings, LLC

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Phone: (310) 820-7100

Representing:

Morteza Ghasemzadeh, Trustee for Aghdas Touriey Trust, Parcel No. 149-180-016

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Representing:

California Department of Fish and Wildlife

Price Postel & Parma

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Richards, Watson & Gershon

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Representing:

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Santa Barbara County Counsel

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Representing:

Tim Murphy

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Representing:

Bolthouse Land Company, LLC
Wm. Bolthouse Farms, Inc.

The Service List is compiled from information provided to Case Anywhere and is not independently reviewed for accuracy.
Only attorneys are listed. Other authorized users may also receive case notifications by email.

EXHIBIT 4

North Fork Ranch Frost Ponds Project

Proposed Final Environmental Impact Report March, 2023

SCH No. 2017061009

Prepared by

County of Santa Barbara
Planning and Development Department
123 Anapamu Street
Santa Barbara, CA 93101

Prepared with the assistance of

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Suite 203
Santa Barbara, CA 93101
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www.stantec.com

Rodriguez Consulting, Inc.
Santa Barbara, CA
rodriguezaiqp@aol.com



one
COUNTY
one
FUTURE

COUNTY of SANTA BARBARA
PLANNING & DEVELOPMENT

Letter No. 8. Kathleen P. March, Esq., January 18, 2022

Comment No. 8.1

Response:

This comment presents introductory information and expresses opposition to the proposed project. No additional response is required.

Comment No. 8.2

Response:

This comment expresses opinions that the existing vineyard located on the project site is “ecologically unsound” and is contributing to the “water depletion problem in the Cuyama Valley.” These comments do not address the adequacy of the impact analysis included in the EIR. Please note that the EIR’s analysis of the Project’s impacts to groundwater resources is based on adopted County thresholds of significance, which are used to assess a project’s project-specific and cumulative impacts. Water used for agricultural irrigation at the project site and in the Project region is not subject to CEQA review.

Comment No. 8.3

Response:

This comment refers to the Sustainable Groundwater Management Act (SGMA) and a lawsuit related to the Groundwater Sustainability Plan being prepared for the Cuyama Groundwater Basin. This comment will be made available to County decision-makers when they consider taking an action on the proposed Project. However, information regarding the referenced lawsuit does not pertain to the adequacy of the impact analysis included in the EIR.

Comment No. 8.4

Response:

The proposed reservoirs were reviewed by the California Department of Water Resources (DWR), Division of Safety of Dams. DWR determined that the proposed reservoirs will not be under State jurisdiction. Reservoir design recommendations included in the Comment from DWR (Final EIR Appendix B.12) have been incorporated into the proposed Project plans dated 2/1/21, which are included in Final EIR Appendix B.13.

Potential evaporation impacts from all three proposed reservoirs were evaluated by EIR. That analysis determined that potential evaporation impacts can be reduced to a less than significant level with the implementation of proposed mitigation measure WAT-01.

Comment No. 8.5

Response:

The analysis of the Project's groundwater use has evaluated Project-related impacts that are subject to the County's adopted groundwater use threshold of significance. Groundwater used to irrigate the vineyard located on the project site property is not subject to the groundwater use threshold of significance adopted for the Cuyama Groundwater Basin because raising crops is a use allowed by right and not subject to CEQA review.

The operation of the proposed reservoirs and associated frost protection system, however, would result in evaporative losses of produced groundwater as water would evaporate from the surface of the reservoirs; and a portion of the water used by the existing spray irrigation frost protection system that will be connected directly to the proposed reservoirs will also evaporate. Produced groundwater lost to evaporation cannot be used to irrigate the vineyard, therefore, Project-related evaporative water losses are considered to be an impact of the proposed discretionary Project and subject to the groundwater use threshold of significance adopted for the Cuyama Groundwater Basin. With the implementation of evaporation reduction measures identified by EIR mitigation measure WAT-01, Project-related evaporative losses of groundwater would be reduced to below the adopted significance threshold of 31-acre feet per year.

Comment No. 8.6

Response:

This comment suggests that the Project applicant use other frost control methods at the project site. The EIR did not evaluate an alternative to the proposed frost protection system because the environmental impacts of operating the proposed system (water storage reservoirs and associated spray irrigation) can be reduced to a less than significant level with the implementation of proposed mitigation measure WAT-01. In addition, requiring the Project applicant to revise the proposed project to implement an alternative frost protection method at the project site would be inconsistent with the County Agricultural Element (2009) Policy I.B, which states "The County shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions." Therefore, alternative methods of frost control were not evaluated in the EIR.

Comment No. 8.7

Response:

This comment expresses opinions regarding Harvard University and their involvement with the proposed Project. These comments do not address the adequacy of the analysis included in the EIR and no response is required.

EXHIBIT 5

K. P. March

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Wednesday, March 15, 2023 11:46 AM
To: 'rodriguezai@cp@aol.com'
Subject: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and tel

031523

Steve Rodriguez, contract planner, county of santa barbara,

From KPMarch,, Esq for Walking U Ranch LLC:

By this email, I request to be given a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs).

My law firm submitted comments of Walking U Ranch LLC against the proposed project.

Please REPLY and tell me how to make a reservation to speak.

Second, what the EIR says is ERROR OF LAW, about the Walking U Ranch LLC comment, and about other comments against the project, and that EIR needs to be corrected, for several reasons:

1. SGMA and CEQA require analyzing cumulative impact, and when the cumulative effect of the groundwater use of the proposed project is added to the existing irrigation of vineyard, which is already unsustainably depleting the water table I area of vineyard, the project cannot be approved as it would violate both SGMA and CEQA.
2. SGMA and CEQA require considering alternatives, and the Walking U Ranch LLC comments, plus the Robbie Jaffe et al comments, point out North Fork Vineyard is using wind turbines, and can use wind turbines instead of the proposed project, and wind turbines are a better alternative, because wind turbines will NOT further deplete the groundwater. Therefore, the EIR is error of law in saying that the EIR does not have to, and therefore, did not, examine alternatives. Controlling law requires examining alternatives, and wind turbines are a much better alternative than more groundwater depletion.

3. Page 286 of EIR about Walking U Ranch LLC comments, is absolutely contrary to law, and knowingly false, where it says that Brodiaea (aka North Fork Vineyards) can choose to use building reservoirs and draining/filling those constantly for frost control, instead of using wind turbines (which use no water), because Brodiaea gets to pick which agricultural methods to use. NOT true, and directly contrary to SGMA and CEQA, where EIR p.286 says that "ERI did not evaluate an alternative to the proposed frost protection system.....because requiring alternative frost protection method "would be inconsistent with the County Agricultural Element (2009) Policy I.B. which states "The county shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions." And that therefore alternative methods of frost control [like wind turbines] were not evaluated I the EIR".
4. SGMA and CEQA are both California state statutes, and a County of Santa Barbara Regulation/Policy cannot be overrule or change or excuse compliance with SGMA and CEQA. Counties cannot overrule state statutes. Brodiaea (and of the County of Santa Barbara and its planning commission), are required to comply with SGMA and CEQA. In addition, the 2009 county of Santa Barbara 2009 policy is out of date, because 2009 is years before SGMA, which became law in 2015, and which took effect on 1/1/2016.
5. The County of Santa Barbara and its planning agency are both subject to being sued in Court, if they violate SGMA or CEQA, and allowing the frost ponds (aka giant reservoirs) would violate BOTH SGMA and CEQUA. Walking U Ranch LLC, which is nearby, west of the North Fork vineyards, would be directly harmed by this further depletion of groundwater, and so would other nearby properties, such as Jaffe's Ranch, which also advocates for wind turbines as an alternative that would comply with SGMA and CEQA. . It would be a mistake to think that the County of Santa Barbara can proceed with this project, in violation of SGMA and CEQA, and not get sued for doing so. You deserve to be sued if you do so, and the EIR's absolutely illegal refusal to analyze alternatives to the proposed ponds, such as wind turbines--when wind turbines do NOT use water--will get you sued. The absolutely false statement in the EIR, at page 286, that a County Regulation/Policy allows Brodiaea to use whatever methods it wants (ie, frost ponds that further deplete groundwater), is absolutely contrary to law, and shows this EIR is extremely biased in favor of Brodiaea, and against compliance with SGMA and CEQA.
6. Please add this email to Walking U Ranch LLCs comments filed previously, opposing the "frost ponds" and advocating that Brodiaea/NorthFork/Harvard University can and should be required to use wind turbines if they want to control frost, not "frost ponds".

Please REPLY to confirm that county of santa Barbara planning commission will add this email to Walking U Ranch LLC's comments filed previously.

Please sign me up (ie register me to speak) at the hearing to be held on 3/29/23.

Please tell me what time that hearing is on 3/29/23.

Please tell me the zoom sign up information, including any necessary zoom password.

Please comply with SGMA and CEQA.

Please direct that the EIR is error of law, for the reasons stated above and direct that it must be fixed, so the errors of law are removed, before the EIR is considered.

Thank you.

Walking U Ranch LLC

By Kathleen P. March, Esq.

Bankruptcy Law Firm, PC

Kathleen P. March, Esq.

The Bankruptcy Law Firm, PC

10524 W. Pico Blvd, Suite 212

Los Angeles, CA 90064

Phone: 310-559-9224

Fax: 310-559-9133

E-mail: kmarch@BKYLAWFIRM.com

Website: www.BKYLAWFIRM.com

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K. P. March

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Wednesday, March 15, 2023 3:06 PM
To: 'Wilson, Jeffrey'
Cc: 'jplowman@countyofsb.org'; 'daleel@countyofsb.org'; 'Seawards, Travis'
Subject: Assistant Director Jeffrey wilson from KPMarch Esq., counsel for Walking U Ranch LLC:
Please read below and REPLY. Thx. Director Plowman, assistant director Dale and Travis Seawards please and REPLY also. Thx

031523

To Jeffrey Wilson, assistant director of Santa Barbara Planning and Development

From KPMarch, Esq., counsel for Walking U Ranch LLC

Cc to Director Plowman and Assistant Director Dale, and Deputy Director Travis Seawards

Re: Proposed North Fork Vineyard aka Brodiaea, Inc. "frost ponds" project should be rejected

Assistant Director Wilson:

Thank you for responding, as NO ONE ELSE responded (not Steve Rodriguez, not director Plowman, not Assistant Director Dale.

If the letter about your department about the 3/29/23 hearing had said to send email to Travis Seawards, my firm would have done that. It didn't.

Thank you for forwarding my law firm's email to Travis Seawards.

It is dysfunctional where Rodriguez (outside contractor with no phone number given in letter and none given when I called your office this morning) does not respond.

As my law firm's email of this morning details, the EIR on the North Fork proposed "frost ponds" project has serious errors of law, and should NOT be allowed to proceed any further until those errors of law are fixed. If the errors of law are fixed, the EIR should propose that North Fork Vineyards aka Brodiaea, Inc. aka Harvard University should use Wind Turbines if it wants to/needs to protect its grape vines from frost events, because Wind Turbines do NOT use ground water, which is already, unsustainably, depleting the groundwater in the area of the vineyard to irrigate the vineyard, and the proposed frost ponds being built and used to spray the baby grapes, would be an additional, cumulative, depletion of the groundwater, contra to SGMA and CEQA. I suggest your Office should not leave this EIR in the hands of a "contract" person who is obviously biased in favor of the vineyard, to the point of massively misstating controlling law in the EIR. Your office should insist your contractor fix the EIR, before it is considered at the 3/29/23 meeting. I point out that now what my law firm has emailed Director Plowman, Dale and you directly, that you folks, the heads of the Santa Barbara County Planning and Development department/agency, will be the ones liable if you allow this error of law EIR to move forward, before the errors of law are fixed.

Please REPLY to confirm receipt. Thx.

Kathleen P. March, Esq.
The Bankruptcy Law Firm, PC

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Fax: 310-559-9133
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From: Wilson, Jeffrey [mailto:jewilson@countyofsb.org]
Sent: Wednesday, March 15, 2023 1:29 PM
To: K. P. March <kmarch@bkylawfirm.com>; Plowman, Lisa <lplowman@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>
Cc: Rodriguez, Terry <Trodrigu@countyofsb.org>; Seawards, Travis <tseawards@countyofsb.org>
Subject: RE: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and

Good afternoon,

I am forwarding your information to Travis Seawards, Deputy Director of the Development Review Division. He will be able to provide you with the assistance requested.

Respectfully,



Jeff Wilson
Assistant Director
Planning & Development
123 E. Anapamu St.
Santa Barbara, CA 93101
805-568-2085
jewilson@co.santa-barbara.ca.us
<http://www.countyofsb.org/plndev/home.sbc>

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Wednesday, March 15, 2023 12:04 PM
To: Plowman, Lisa <lplowman@countyofsb.org>; Wilson, Jeffrey <jewilson@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>
Cc: Rodriguez, Terry <Trodrigu@countyofsb.org>
Subject: FW: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and

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031523

Lisa Plowman, Dirctor of county of Santa Barbara Planning and Development; Jeff Wison, Assistant Diretor and Elise Dale, Assistant Director

From KPMarch, Esq, on behalf of client Walking U Ranch LLC

I am forwarding you my law firm's below email, sent to Steve Rodriguez this morning, because Steve Rodriguez has not responded, and the letter from your Office about the 3/29/23 hearing on the North Fork Ranch frost ponds project has no phone number for Steve Rodriguez, and when I phoned your Office this morning, they told me they did not have a phone number for him.

Therefore, Please YOU, Ms. Director, and your Assistant Directors, respond to answer the questions my below email asks. Thank you in advance.

The major errors of law in the EIR need to be ordered corrected by your Office, before that EIR goes any further, as I explain below.

KPMarch

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6. Please add this email to Walking U Ranch LLCs comments filed previously, opposing the "frost ponds" and advocating that Brodiaea/NorthFork/Harvard University can and should be required to use wind turbines if they want to control frost, not "frost ponds".

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Thank you.

Walking U Ranch LLC

By Kathleen P. March, Esq.
Bankruptcy Law Firm, PC

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EXHIBIT 6

Kathleen March

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Wednesday, March 15, 2023 1:42 PM
To: 'Kathleen March'
Subject: FW: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and

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From: K. P. March [mailto:kmarch@bkylawfirm.com]
Sent: Wednesday, March 15, 2023 12:04 PM
To: 'lplowman@countyofsb.org' <lplowman@countyofsb.org>; 'jewilson@countyofsb.org' <jewilson@countyofsb.org>; 'daleel@countyofsb.org' <daleel@countyofsb.org>
Cc: 'trodrigu@countyofsb.org' <trodrigu@countyofsb.org>
Subject: FW: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and

031523

Lisa Plowman, Director of county of Santa Barbara Planning and Development; Jeff Wison, Assistant Director and Elise Dale, Assistant Director

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KPMarch

Kathleen P. March, Esq.

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Please REPLY to confirm that county of santa Barbara planning commission will add this email to Walking U Ranch LLC’s comments filed previously.

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Please tell me what time that hearing is on 3/29/23.

Please tell me the zoom sign up information, including any necessary zoom password.

Please comply with SGMA and CEQA.

Please direct that the EIR is error of law, for the reasons stated above and direct that it must be fixed, so the errors of law are removed, before the EIR is considered.

Thank you.

Walking U Ranch LLC

By Kathleen P. March, Esq.
Bankruptcy Law Firm, PC

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EXHIBIT 7

K. P. March

From: Seawards, Travis <tseawards@countyofsb.org>
Sent: Tuesday, January 17, 2023 1:31 PM
To: K. P. March
Subject: RE: Travis Seawards of County of Santa Barbara, from Walking U Ranch LLC, by KPMarch, Esq.: Sending you SUPPLEMENT to the 12/14/22 Public comment of Walking U Ranch LLC, opposing Brodiaea, Inc. 's(aka North Fork Vineyards) proposed "frost ponds" (reservoir)

Confirming receipt.

Thanks



Travis Seawards
Deputy Director, Development Review Division
Planning & Development
123 E. Anapamu St.
Santa Barbara, CA 93101
805-568-2518
tseawards@co.santa-barbara.ca.us
<http://www.countyofsb.org/plndev/home.sbc>

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Friday, January 13, 2023 5:46 PM
To: Seawards, Travis <tseawards@countyofsb.org>
Subject: Travis Seawards of County of Santa Barbara, from Walking U Ranch LLC, by KPMarch, Esq.: Sending you SUPPLEMENT to the 12/14/22 Public comment of Walking U Ranch LLC, opposing Brodiaea, Inc. 's(aka North Fork Vineyards) proposed "frost ponds" (reservoirs)

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011323

Travis Seawards of County of Santa Barbara, from Walking U Ranch LLC, by KPMarch, Esq.:

Sending you attached SUPPLEMENT to the 12/14/22 Public Comment of Walking U Ranch LLC, opposing Brodiaea, Inc. 's(aka North Fork Vineyards) proposed "frost ponds" (reservoirs).

This SUPPLEMENT is to send you the verified CCP 842 groundwater use Disclosure that Brodiaea, Inc. filed today, 1/13/23, in the Bolthouse Superior court water adjudication suit, admitting that Brodiaea, Inc.'s North Fork Vineyards has been using an UNSUSTAINABLE 700 acre feet per year or more (760 acre feet per year in 2021) to irrigate its vineyard, whereas before the Vineyard, cattle ranching on the same land used 1 acre foot per year, OR LESS groundwater.

Allowing Brodiaea, Inc. to build (and constantly drain for "grape protection") THREE (or any) "frost ponds" (now admitted to be large reservoirs, not ponds) would be even more UNSUSTAINABLE water use, violating SGMA and CEQA, and should NOT be allowed by the County of Santa Barbara.

Please REPLY to confirm receipt. Thx.

Kathleen P. March, Esq.
The Bankruptcy Law Firm, PC
10524 W. Pico Blvd, Suite 212
Los Angeles, CA 90064
Phone: 310-559-9224
Fax: 310-559-9133
E-mail: kmarch@BKYLAWFIRM.com
Website: www.BKYLAWFIRM.com
"Have a former bankruptcy judge for your personal bankruptcy attorney"

K. P. March

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Tuesday, January 17, 2023 1:38 PM
To: 'Seawards, Travis'
Subject: Travis Seawards of County of Santa Barbara, from Walking U Ranch LLC, by KPMarch, Esq.: Thx for confirming receipt of Walking U Ranch LLC's supplement to public comment opposing Brodiaea, Inc.'s "frost ponds" (aka major reservoirs) request.

011723

To Travis Seaward from Walking U Ranch LLC by KPMarch, Esq.

Thx for confirming receipt of Walking U Ranch LLC's supplement to public comment opposing Brodiaea, Inc.'s "frost ponds" (aka major reservoirs) request.

It is already major unsustainable groundwater use, that Brodiaea, Inc. is using 760 acre feet of groundwater a year, to irrigate its 500,000 grapevines. Using more groundwater, for "frost protection" is even more unsustainable, violating SGMA and CEQA, and should NOT be allowed. Brodiaea, Inc. can use smudge pots to keep the baby grapes from freezing. They don't need to use water.

KPMarch

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From: Seawards, Travis [mailto:tseawards@countyofsb.org]
Sent: Tuesday, January 17, 2023 1:31 PM
To: K. P. March <kmarch@bkylawfirm.com>
Subject: RE: Travis Seawards of County of Santa Barbara, from Walking U Ranch LLC, by KPMarch, Esq.: Sending you SUPPLEMENT to the 12/14/22 Public comment of Walking U Ranch LLC, opposing Brodiaea, Inc.'s(aka North Fork Vineyards) proposed "frost ponds" (reservoir)

Confirming receipt.

Thanks



Travis Seawards
Deputy Director, Development Review Division
Planning & Development
123 E. Anapamu St.
Santa Barbara, CA 93101
805-568-2518
tseawards@co.santa-barbara.ca.us
<http://www.countyofsb.org/plndev/home.sbc>

From: K. P. March <kmarch@bkylawfirm.com>

Sent: Friday, January 13, 2023 5:46 PM

To: Seawards, Travis <tseawards@countyofsb.org>

Subject: Travis Seawards of County of Santa Barbara, from Walking U Ranch LLC, by KPMarch, Esq.: Sending you SUPPLEMENT to the 12/14/22 Public comment of Walking U Ranch LLC, opposing Brodiaea, Inc. 's(aka North Fork Vineyards) proposed "frost ponds" (reservoirs)

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011323

Travis Seawards of County of Santa Barbara, from Walking U Ranch LLC, by KPMarch, Esq.:

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This SUPPLEMENT is to send you the verified CCP 842 groundwater use Disclosure that Brodiaea, Inc. filed today, 1/13/23, in the Bolthouse Superior court water adjudication suit, admitting that Brodiaea, Inc.'s North Fork Vineyards has been using an UNSUSTAINABLE 700 acre feet per year or more (760 acre feet per year in 2021) to irrigate its vineyard, whereas before the Vineyard, cattle ranching on the same land used 1 acre foot per year, OR LESS groundwater.

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K. P. March

From: Seawards, Travis <tseawards@countyofsb.org>
Sent: Wednesday, March 15, 2023 3:11 PM
To: K. P. March; Wilson, Jeffrey
Cc: Plowman, Lisa; Dale, Elise
Subject: RE: Assistant Director Jeffrey wilson from KPMarch Esq., counsel for Walking U Ranch LLC: Please read below and REPLY. Thx. Director Plowman, assistant director Dale and Travis Seawards please and REPLY also. Thx
Attachments: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch... (28.5 KB)

Ms. March

I have already responded to your email – see attached. I am waiting for you to respond with a time to speak.

Thanks



Travis Seawards
Deputy Director, Development Review Division
Planning & Development
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Santa Barbara, CA 93101
805-568-2518
tseawards@co.santa-barbara.ca.us
<http://www.countyofsb.org/plndev/home.sbc>

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Wednesday, March 15, 2023 3:06 PM
To: Wilson, Jeffrey <jewilson@countyofsb.org>
Cc: Plowman, Lisa <lplowman@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>; Seawards, Travis <tseawards@countyofsb.org>
Subject: Assistant Director Jeffrey wilson from KPMarch Esq., counsel for Walking U Ranch LLC: Please read below and REPLY. Thx. Director Plowman, assistant director Dale and Travis Seawards please and REPLY also. Thx

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031523

To Jeffrey Wilson, assistant director of Santa Barbara Planning and Development

From KPMarch, Esq., counsel for Walking U Ranch LLC

Cc to Director Plowman and Assistant Director Dale, and Deputy Director Travis Seawards

Re: Proposed North Fork Vineyard aka Brodiaea, Inc. "frost ponds" project should be rejected

Assistant Director Wilson:

Thank you for responding, as NO ONE ELSE responded (not Steve Rodriguez, not director Plowman, not Assistant Director Dale.

If the letter about your department about the 3/29/23 hearing had said to send email to Travis Seawards, my firm would have done that. It didn't.

Thank you for forwarding my law firm's email to Travis Seawards.

It is dysfunctional where Rodriguez (outside contractor with no phone number given in letter and none given when I called your office this morning) does not respond.

As my law firm's email of this morning details, the EIR on the North Fork proposed "frost ponds" project has serious errors of law, and should NOT be allowed to proceed any further until those errors of law are fixed. If the errors of law are fixed, the EIR should propose that North Fork Vineyards aka Brodiaea, Inc. aka Harvard Univeristy should use Wind Turbines if it wants to/needs to protect its grape vines from frost events, because Wind Turbines do NOT use ground water, which is already, unsustainably, depleting the groundwater in the area of the vineyard to irrigate the vineyard, and the proposed frost ponds being built and used to spray the baby grapes, would be an additional, cumulative, depletion of the groundwater, contra to SGMA and CEQA. I suggest your Office should not leave this EIR in the hands of a "contract" person who is obviously biased in favor of the vineyard, to the point of massively misstating controlling law in the EIR. Your office should insist your contractor fix the EIR, before it is considered at the 3/29/23 meeting. I point out that now what my law firm has emailed Director Plowman, Dale and you directly, that you folks, the heads of the Santa Barbara County Planning and Development department/agency, will be the ones liable if you allow this error of law EIR to move forward, before the errors of law are fixed.

Please REPLY to confirm receipt. Thx.

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From: Wilson, Jeffrey [mailto:jewilson@countyofsb.org]

Sent: Wednesday, March 15, 2023 1:29 PM

To: K. P. March <kmarch@bkylawfirm.com>; Plowman, Lisa <lplowman@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>

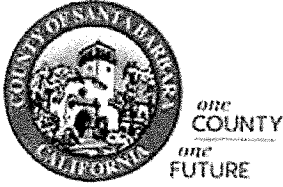
Cc: Rodriguez, Terry <Trodrigu@countyofsb.org>; Seawards, Travis <tseawards@countyofsb.org>

Subject: RE: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and

Good afternoon,

I am forwarding your information to Travis Seawards, Deputy Director of the Development Review Division. He will be able to provide you with the assistance requested.

Respectfully,



Jeff Wilson
Assistant Director
Planning & Development
123 E. Anapamu St.
Santa Barbara, CA 93101
805-568-2085
jewilson@co.santa-barbara.ca.us
<http://www.countyofsb.org/plndev/home.sbc>

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Wednesday, March 15, 2023 12:04 PM
To: Plowman, Lisa <lpowman@countyofsb.org>; Wilson, Jeffrey <jewilson@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>
Cc: Rodriguez, Terry <Trodrigu@countyofsb.org>
Subject: FW: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and

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031523

Lisa Plowman, Director of county of Santa Barbara Planning and Development; Jeff Wilson, Assistant Director and Elise Dale, Assistant Director

From KPMarch, Esq, on behalf of client Walking U Ranch LLC

I am forwarding you my law firm's below email, sent to Steve Rodriguez this morning, because Steve Rodriguez has not responded, and the letter from your Office about the 3/29/23 hearing on the North Fork Ranch frost ponds project has no phone number for Steve Rodriguez, and when I phoned your Office this morning, they told me they did not have a phone number for him.

Therefore, Please YOU, Ms. Director, and your Assistant Directors, respond to answer the questions my below email asks. Thank you in advance.

The major errors of law in the EIR need to be ordered corrected by your Office, before that EIR goes any further, as I explain below.

KPMarch

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From: K. P. March [mailto:kmarch@bkylawfirm.com]

Sent: Wednesday, March 15, 2023 11:46 AM

To: 'rodriguezaicp@aol.com' <rodriguezaicp@aol.com>

Subject: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and tel

031523

Steve Rodriguez, contract planner, county of santa barbara,

From KPMarch,, Esq for Walking U Ranch LLC:

By this email, I request to be given a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs).

My law firm submitted comments of Walking U Ranch LLC against the proposed project.

Please REPLY and tell me how to make a reservation to speak.

Second, what the EIR says is ERROR OF LAW, about the Walking U Ranch LLC comment, and about other comments against the project, and that EIR needs to be corrected, for several reasons:

1. SGMA and CEQA require analyzing cumulative impact, and when the cumulative effect of the groundwater use of the proposed project is added to the existing irrigation of vineyard, which is already unsustainably depleting the water table I area of vineyard, the project cannot be approved as it would violate both SGMA and CEQA.
2. SGMA and CEQA require considering alternatives, and the Walking U Ranch LLC comments, plus the Robbie Jaffe et al comments, point out North Fork Vineyard is using wind turbines, and can use wind turbines instead of the proposed project, and wind turbines are a better alternative, because wind turbines will NOT further deplete the groundwater. Therefore, the EIR is error of law in saying that the EIR does not have to, and therefore, did not, examine alternatives. Controlling law requires examining alternatives, and wind turbines are a much better alternative than more groundwater depletion.
3. Page 286 of EIR about Walking U Ranch LLC comments, is absolutely contrary to law, and knowingly false, where it says that Brodiaea (aka North Fork Vineyards) can choose to use building reservoirs and draining/filling those constantly for frost control, instead of

using wind turbines (which use no water), because Brodiaea gets to pick which agricultural methods to use. NOT true, and directly contrary to SGMA and CEQA, where EIR p.286 says that “ERI did not evaluate an alternative to the proposed frost protection system.....because requiring alternative frost protection method “would be inconsistent with the County Agricultural Element (2009) Policy I.B. which states “The county shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions.” And that therefore alternative methods of frost control [like wind turbines] were not evaluated I the EIR”.

4. SGMA and CEQA are both California state statutes, and a County of Santa Barbara Regulation/Policy cannot be overrule or change or excuse compliance with SGMA and CEQA. Counties cannot overrule state statutes. Brodiaea (and of the County of Santa Barbara and its planning commission), are required to comply with SGMA and CEQA. In addition, the 2009 county of Santa Barbara 2009 policy is out of date, because 2009 is years before SGMA, which became law in 2015, and which took effect on 1/1/2016.
5. The County of Santa Barbara and its planning agency are both subject to being sued in Court, if they violate SGMA or CEQA, and allowing the frost ponds (aka giant reservoirs) would violate BOTH SGMA and CEQUA. Walking U Ranch LLC, which is nearby, west of the North Fork vineyards, would be directly harmed by this further depletion of groundwater, and so would other nearby properties, such as Jaffe’s Ranch, which also advocates for wind turbines as an alternative that would comply with SGMA and CEQA. . It would be a mistake to think that the County of Santa Barbara can proceed with this project, in violation of SGMA and CEQA, and not get sued for doing so. You deserve to be sued if you do so, and the EIR’s absolutely illegal refusal to analyze alternatives to the proposed ponds, such as wind turbines--when wind turbines do NOT use water--will get you sued. The absolutely false statement in the EIR, at page 286, that a County Regulation/Policy allows Brodiaea to use whatever methods it wants (ie, frost ponds that further deplete groundwater), is absolutely contrary to law, and shows this EIR is extremely biased in favor of Brodiaea, and against compliance with SGMA and CEQA.
6. Please add this email to Walking U Ranch LLCs comments filed previously, opposing the “frost ponds” and advocating that Brodiaea/NorthFork/Harvard University can and should be required to use wind turbines if they want to control frost, not “frost ponds”.

Please REPLY to confirm that county of santa Barbara planning commission will add this email to Walking U Ranch LLC’s comments filed previously.

Please sign me up (ie register me to speak) at the hearing to be held on 3/29/23.

Please tell me what time that hearing is on 3/29/23.

Please tell me the zoom sign up information, including any necessary zoom password.

Please comply with SGMA and CEQA.

Please direct that the EIR is error of law, for the reasons stated above and direct that it must be fixed, so the errors of law are removed, before the EIR is considered.

Thank you.

Walking U Ranch LLC

By Kathleen P. March, Esq.
Bankruptcy Law Firm, PC

Kathleen P. March, Esq.
The Bankruptcy Law Firm, PC
10524 W. Pico Blvd, Suite 212
Los Angeles, CA 90064
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Fax: 310-559-9133
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K. P. March

From: Seawards, Travis <tseawards@countyofsb.org>
Sent: Wednesday, March 15, 2023 4:33 PM
To: K. P. March; Wilson, Jeffrey
Cc: Plowman, Lisa; Dale, Elise
Subject: RE: Assistant Director Jeffrey wilson from KPMarch Esq., counsel for Walking U Ranch LLC: Please read below and REPLY. Thx. Director Plowman, assistant director Dale and Travis Seawards please and REPLY also. Thx

Ms. March

Confirming receipt, and your comment will be added to the public record. As discussed, by confirming receipt we do not agree with assertions in your email.

Thanks, please feel free to call or email if you have any further questions on this project.

Travis



Travis Seawards
Deputy Director, Development Review Division
Planning & Development
123 E. Anapamu St.
Santa Barbara, CA 93101
805-568-2518
tseawards@co.santa-barbara.ca.us
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031523

To Jeffrey Wilson, assistant director of Santa Barbara Planning and Development

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Cc to Director Plowman and Assistant Director Dale, and Deputy Director Travis Seawards

Re: Proposed North Fork Vineyard aka Brodiaea, Inc. "frost ponds" project should be rejected

Assistant Director Wilson:

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Sent: Wednesday, March 15, 2023 1:29 PM

To: K. P. March <kmarch@bkylawfirm.com>; Plowman, Lisa <lplowman@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>

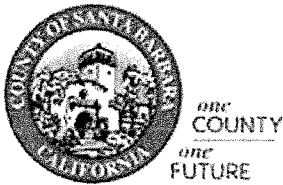
Cc: Rodriguez, Terry <Trodrigu@countyofsb.org>; Seawards, Travis <tseawards@countyofsb.org>

Subject: RE: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and

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Respectfully,



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Assistant Director
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To: Plowman, Lisa <lpowman@countyofsb.org>; Wilson, Jeffrey <jewilson@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>
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KPMarch

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From: K. P. March [<mailto:kmarch@bkylawfirm.com>]

Sent: Wednesday, March 15, 2023 11:46 AM

To: 'rodriguezaiCP@aol.com' <rodriguezaiCP@aol.com>

Subject: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and tel

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Steve Rodriguez, contract planner, county of santa barbara,

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3. Page 286 of EIR about Walking U Ranch LLC comments, is absolutely contrary to law, and knowingly false, where it says that Brodiaea (aka North Fork Vineyards) can choose to use building reservoirs and draining/filling those constantly for frost control, instead of using wind turbines (which use no water), because Brodiaea gets to pick which agricultural methods to use. NOT true, and directly contrary to SGMA and CEQA, where EIR p.286 says that "ERI did not evaluate an alternative to the proposed frost protection system.....because requiring alternative frost protection method "would be inconsistent with the County Agricultural Element (2009) Policy I.B. which states "The county shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions." And that therefore alternative methods of frost control [like wind turbines] were not evaluated I the EIR".
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5. The County of Santa Barbara and its planning agency are both subject to being sued in Court, if they violate SGMA or CEQA, and allowing the frost ponds (aka giant reservoirs) would violate BOTH SGMA and CEQUA. Walking U Ranch LLC, which is nearby, west of the North Fork vineyards, would be directly harmed by this further depletion of groundwater, and so would other nearby properties, such as Jaffe's Ranch, which also advocates for wind turbines as an alternative that would comply with SGMA and CEQA. . It would be a mistake to think that the County of Santa Barbara can proceed with this project, in violation of SGMA and CEQA, and not get sued for doing so. You deserve to be sued if you do so, and the EIR's absolutely illegal refusal to analyze alternatives to the proposed ponds, such as wind turbines--when wind turbines do NOT use water--will get you sued. The absolutely false statement in the EIR, at page 286, that a County Regulation/Policy allows Brodiaea to use whatever methods it wants (ie, frost ponds that further deplete groundwater), is absolutely contrary to law, and shows this EIR is extremely biased in favor of Brodiaea, and against compliance with SGMA and CEQA.
6. Please add this email to Walking U Ranch LLCs comments filed previously, opposing the "frost ponds" and advocating that Brodiaea/NorthFork/Harvard University can and should be required to use wind turbines if they want to control frost, not "frost ponds".

Please REPLY to confirm that county of santa Barbara planning commission will add this email to Walking U Ranch LLC's comments filed previously.

Please sign me up (ie register me to speak) at the hearing to be held on 3/29/23.

Please tell me what time that hearing is on 3/29/23.

Please tell me the zoom sign up information, including any necessary zoom password.

Please comply with SGMA and CEQA.

Please direct that the EIR is error of law, for the reasons stated above and direct that it must be fixed, so the errors of law are removed, before the EIR is considered.

Thank you.

Walking U Ranch LLC

By Kathleen P. March, Esq.

Bankruptcy Law Firm, PC

Kathleen P. March, Esq.

The Bankruptcy Law Firm, PC

10524 W. Pico Blvd, Suite 212

Los Angeles, CA 90064

Phone: 310-559-9224

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"Have a former bankruptcy judge for your personal bankruptcy attorney"

K. P. March

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Wednesday, March 15, 2023 7:06 PM
To: 'Seawards, Travis'
Cc: 'lplowman@countyofsb.org'; 'daleel@countyofsb.org'; 'Wilson, Jeffrey'; 'rodriguezaiqp@aol.com'
Subject: To Travis Seawards, from KPMarch, Esq, counsel for Walking U Ranch LLC, opposing the North Fork/Brodiaaea, Inc. "frost ponds" project: Thx for your below email confirming you will add my law firm's emails of today to Walking U Ranch LLC's previous comments

031523

To Travis Seawards, from KPMarch, Esq, counsel for Walking U Ranch LLC, opposing the North Fork/Brodiaaea, Inc. "frost ponds" project.
From KPMarch, Esq of BkyLF, counsel for Walking U Ranch LLC
Cc to to EIR contractor Steve Rodriguez, to Director Plowman, and to Assistant Directors Dale and Wilson

Mr. Seawards:

Thank you for your below email confirming that my law firm's emails of today (3/15/23), on behalf of my firm's client, Walking U Ranch, LLC--sent to EIR contractor Steve Rodriguez, and to you, to Director Plowman, and to Assistant Directors Dale and Wilson--will be added to the previous Walking U Ranch LLC comments opposing the North Fork/Brodiaaea, Inc. "frost ponds".

Yes, Walking U Ranch, LLC understands you are just adding this material to Ranch LLC's previous comments, not endorsing these comments.

However, I suggest Director Plowman and you and contractor Rodriguez all check the law my emails cite, which is correct law, before saying you don't agree with that law. Government officials are required to be informed regarding, and to follow, controlling California law, and both SGMA and CEQA, are controlling California law governing groundwater use. A 2009 Santa Barbara County Agricultural policy, which does not mention groundwater use, cannot trump or overrule that controlling California law.

KPMarch

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From: Seawards, Travis [mailto:tseawards@countyofsb.org]
Sent: Wednesday, March 15, 2023 4:33 PM
To: K. P. March <kmarch@bkylawfirm.com>; Wilson, Jeffrey <jewilson@countyofsb.org>
Cc: Plowman, Lisa <lplowman@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>

Subject: RE: Assistant Director Jeffrey wilson from KPMarch Esq., counsel for Walking U Ranch LLC: Please read below and REPLY. Thx. Director Plowman, assistant director Dale and Travis Seawards please and REPLY also. Thx

Ms. March

Confirming receipt, and your comment will be added to the public record. As discussed, by confirming receipt we do not agree with assertions in your email.

Thanks, please feel free to call or email if you have any further questions on this project.

Travis



Travis Seawards
Deputy Director, Development Review Division
Planning & Development
123 E. Anapamu St.
Santa Barbara, CA 93101
805-568-2518
tseawards@co.santa-barbara.ca.us
<http://www.countyofsb.org/plndev/home.sbc>

From: K. P. March <kmarch@bkylawfirm.com>

Sent: Wednesday, March 15, 2023 3:06 PM

To: Wilson, Jeffrey <jewilson@countyofsb.org>

Cc: Plowman, Lisa <lpowman@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>; Seawards, Travis <tseawards@countyofsb.org>

Subject: Assistant Director Jeffrey wilson from KPMarch Esq., counsel for Walking U Ranch LLC: Please read below and REPLY. Thx. Director Plowman, assistant director Dale and Travis Seawards please and REPLY also. Thx

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

031523

To Jeffrey Wilson, assistant director of Santa Barbara Planning and Development

From KPMarch, Esq., counsel for Walking U Ranch LLC

Cc to Director Plowman and Assistant Director Dale, and Deputy Director Travis Seawards

Re: Proposed North Fork Vineyard aka Brodiaea, Inc. "frost ponds" project should be rejected

Assistant Director Wilson:

Thank you for responding, as NO ONE ELSE responded (not Steve Rodriguez, not director Plowman, not Assistant Director Dale.

If the letter about your department about the 3/29/23 hearing had said to send email to Travis Seawards, my firm would have done that. It didn't.

Thank you for forwarding my law firm's email to Travis Seawards.

It is dysfunctional where Rodriguez (outside contractor with no phone number given in letter and none given when I called your office this morning) does not respond.

As my law firm's email of this morning details, the EIR on the North Fork proposed "frost ponds" project has serious errors of law, and should NOT be allowed to proceed any further until those errors of law are fixed. If the errors of law are fixed, the EIR should propose that North Fork Vineyards aka Brodiaea, Inc. aka Harvard University should use Wind Turbines if it wants to/needs to protect its grape vines from frost events, because Wind Turbines do NOT use ground water, which is already, unsustainably, depleting the groundwater in the area of the vineyard to irrigate the vineyard, and the proposed frost ponds being built and used to spray the baby grapes, would be an additional, cumulative, depletion of the groundwater, contra to SGMA and CEQA. I suggest your Office should not leave this EIR in the hands of a "contract" person who is obviously biased in favor of the vineyard, to the point of massively misstating controlling law in the EIR. Your office should insist your contractor fix the EIR, before it is considered at the 3/29/23 meeting. I point out that now what my law firm has emailed Director Plowman, Dale and you directly, that you folks, the heads of the Santa Barbara County Planning and Development department/agency, will be the ones liable if you allow this error of law EIR to move forward, before the errors of law are fixed.

Please REPLY to confirm receipt. Thx.

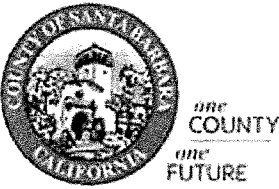
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From: Wilson, Jeffrey [<mailto:jewilson@countyofsb.org>]
Sent: Wednesday, March 15, 2023 1:29 PM
To: K. P. March <kmarch@bkylawfirm.com>; Plowman, Lisa <lplowman@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>
Cc: Rodriguez, Terry <Trodriagu@countyofsb.org>; Seawards, Travis <tseawards@countyofsb.org>
Subject: RE: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and

Good afternoon,

I am forwarding your information to Travis Seawards, Deputy Director of the Development Review Division. He will be able to provide you with the assistance requested.

Respectfully,



Jeff Wilson
Assistant Director
Planning & Development
123 E. Anapamu St.
Santa Barbara, CA 93101
805-568-2085
jewilson@co.santa-barbara.ca.us
<http://www.countyofsb.org/plndev/home.sbc>

From: K. P. March <kmarch@bkylawfirm.com>
Sent: Wednesday, March 15, 2023 12:04 PM
To: Plowman, Lisa <lpowman@countyofsb.org>; Wilson, Jeffrey <jewilson@countyofsb.org>; Dale, Elise <daleel@countyofsb.org>
Cc: Rodriguez, Terry <Trodrigu@countyofsb.org>
Subject: FW: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and

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031523

Lisa Plowman, Director of county of Santa Barbara Planning and Development; Jeff Wilson, Assistant Director and Elise Dale, Assistant Director

From KPMarch, Esq, on behalf of client Walking U Ranch LLC

I am forwarding you my law firm's below email, sent to Steve Rodriguez this morning, because Steve Rodriguez has not responded, and the letter from your Office about the 3/29/23 hearing on the North Fork Ranch frost ponds project has no phone number for Steve Rodriguez, and when I phoned your Office this morning, they told me they did not have a phone number for him.

Therefore, Please YOU, Ms. Director, and your Assistant Directors, respond to answer the questions my below email asks. Thank you in advance.

The major errors of law in the EIR need to be ordered corrected by your Office, before that EIR goes any further, as I explain below.

KPMarch

Kathleen P. March, Esq.
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From: K. P. March [mailto:kmarch@bkylawfirm.com]

Sent: Wednesday, March 15, 2023 11:46 AM

To: 'rodriguezai cp@aol.com' <rodriguezai cp@aol.com>

Subject: Steve Rodriguez, contract planner, county of santa barbara, from KPMarch,, Esq for Walking U Ranch LLC; I want to make a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs). Please REPLY and tel

031523

Steve Rodriguez, contract planner, county of santa barbara,

From KPMarch,, Esq for Walking U Ranch LLC:

By this email, I request to be given a reservation to speak at the 3/29/23 hearing on the North fork ranch frost ponds project (aka large reservoirs).

My law firm submitted comments of Walking U Ranch LLC against the proposed project.

Please REPLY and tell me how to make a reservation to speak.

Second, what the EIR says is ERROR OF LAW, about the Walking U Ranch LLC comment, and about other comments against the project, and that EIR needs to be corrected, for several reasons:

1. SGMA and CEQA require analyzing cumulative impact, and when the cumulative effect of the groundwater use of the proposed project is added to the existing irrigation of vineyard, which is already unsustainably depleting the water table I area of vineyard, the project cannot be approved as it would violate both SGMA and CEQA.
2. SGMA and CEQA require considering alternatives, and the Walking U Ranch LLC comments, plus the Robbie Jaffe et al comments, point out North Fork Vineyard is using wind turbines, and can use wind turbines instead of the proposed project, and wind turbines are a better alternative, because wind turbines will NOT further deplete the groundwater. Therefore, the EIR is error of law in saying that the EIR does not have to, and therefore, did not, examine alternatives. Controlling law requires examining alternatives, and wind turbines are a much better alternative than more groundwater depletion.
3. Page 286 of EIR about Walking U Ranch LLC comments, is absolutely contrary to law, and knowingly false, where it says that Brodiaea (aka North Fork Vineyards) can choose to use building reservoirs and draining/filling those constantly for frost control, instead of using wind turbines (which use no water), because Brodiaea gets to pick which

agricultural methods to use. NOT true, and directly contrary to SGMA and CEQA, where EIR p.286 says that "ERI did not evaluate an alternative to the proposed frost protection system.....because requiring alternative frost protection method "would be inconsistent with the County Agricultural Element (2009) Policy I.B. which states "The county shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions." And that therefore alternative methods of frost control [like wind turbines] were not evaluated I the EIR".

4. SGMA and CEQA are both California state statutes, and a County of Santa Barbara Regulation/Policy cannot be overrule or change or excuse compliance with SGMA and CEQA. Counties cannot overrule state statutes. Brodiaea (and of the County of Santa Barbara and its planning commission), are required to comply with SGMA and CEQA. In addition, the 2009 county of Santa Barbara 2009 policy is out of date, because 2009 is years before SGMA, which became law in 2015, and which took effect on 1/1/2016.
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Thank you.

Walking U Ranch LLC

By Kathleen P. March, Esq.

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