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LAW OFFICE OF MARC CHYTILO, APC

A PROFESSIONAL CORPORATION

ENVIRONMENTAL LAW

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July 9, 2021

Santa Barbara County Board of Supervisors  
123 E. Anapamu Street  
Santa Barbara, California 93101

**RE: Joint Applicant and Appellant Letter re Suarez Outdoor Cannabis Cultivation  
(19LUP-00000-00327), Item # 8, July 13, 2021**

*Dear Chair Nelson and Honorable Supervisors:*

Our offices represent Cuyama Farms, LLC (“Applicant”) and Mr. Jean Gaillard (“Appellant”) in the above-captioned matter. We are pleased to share that Mr. Jean Gaillard (“Appellant”) and Cuyama Farms, LLC (“Applicant”) (collectively, “the Parties”) have reached a Settlement Agreement regarding the appeal of 19LUP-00000-00327 (“the Suarez Project”), which is based on a revised Project Description and a commitment to comply with the “Guidelines for Proposed Cuyama Cannabis Operations” (“Guidelines”), which were developed by the Cuyama Valley Cannabis Advisory Committee (“CVCAC”) to provide assurances to the community and others that rely on the overdrafted Cuyama Groundwater Basin (“Basin”) that the cannabis projects will not adversely impact the Basin or nearby wells.

Appellant acknowledges Cuyama Farm’s commitment to honor and incorporate the Guidelines into their Project, including, but not limited to, use of a water offset located in the Central Basin of the Cuyama Groundwater Basin, as memorialized in the July 8 Water Offset Memo and Updated Project Description. With these amendments, Appellant supports the Board of Supervisor’s approval of a Land Use Permit for the revised Cuyama Farms cannabis project at 2225 Foothill, Cuyama, CA (Assessor’s Parcel Number 149-160-033), Land Use Permit (“LUP”) 19LUP-00000-00327. Cuyama Farms acknowledges the efforts of Jean Gaillard and other members of the Cuyama community to support their community, protect the Basin and ensure the availability of water to meet the needs of current and future generations of residents.

The Guidelines and the amicable resolution of this appeal are much more than a settlement between two parties. The Guidelines are the result of a positive sum democratic process intended to serve as a framework by which future cannabis cultivation projects proposed in the Cuyama region should be planned, judged, managed, mitigated and held accountable. We are proud of this process, this framework, and this result and therefore respectfully request that you approve the Suarez Project, as amended, and give direction to County Planning Staff to disseminate these Guidelines to all applicants for cannabis entitlements in the Cuyama Valley, and to all others that express interest in Cuyama cannabis projects.

## **I. Background**

The Cuyama Valley Groundwater Basin (“Basin”) has been identified by the California Department of Water Resources (“DWR”) as subject to critical conditions of overdraft. As such, in accordance with California’s Sustainable Groundwater Management Act (“SGMA”), the Cuyama Basin Groundwater Sustainability Agency (“CBGSA”) was formed to develop and implement a basin-specific Groundwater Sustainability Plan (“GSP”). The Cuyama Basin GSP was completed and submitted to DWR in January 2020. The general purpose of the GSP is to facilitate a long-term groundwater withdrawal rate less than or equal to the sustainable yield of the Basin within the maximum 20-year implementation period mandated by SGMA. To accomplish this mandate, the GSP contemplates ongoing and progressive annual reductions in extractions from the Basin. The entire Cuyama GSP is available here: <https://cuyamabasin.org/resources#final-gsp>.

Over the course of 2020, members of the Cuyama community became increasingly concerned that the GSP would be undermined by several newly proposed cannabis cultivation projects. Their concern was that the County of Santa Barbara (“County”) would issue cannabis permits for projects on lands that had not been historically or recently irrigated, creating new groundwater demand before the GSA could fully implement SGMA within the already overdrafted Basin. To date the specifics of the final GSP and the actions and requirements that may be imposed SGMA are not fully known, and the Guidelines are intended to add to and complement any GSP requirements.

## **II. Conception of the Cuyama Valley Cannabis Advisory Committee and Approval of the Guidelines for Proposed Cuyama Cannabis Operations**

### **A. Conception, Process, and Goals of the Cuyama Valley Cannabis Advisory Committee**

Recognizing the urgency and importance of the concerns of the Cuyama community regarding the groundwater supply, First District Supervisor Das Williams and his Chief of Staff, Darcel Elliott, and Fifth District Supervisor Steve Lavagnino and his Chief of Staff, Cory Bantilan worked with the Cuyama community and several growers, including representatives of the Suarez Project, to design and implement a process to by which the Parties and stakeholders could attempt to reach a mutually amenable resolution. In February 2021, the process commenced as an informal workshop seeking to address the issues of concern in the community

regarding mitigating water use and other potential impacts of cannabis growth in Cuyama. That effort yielded the CVCAC.

Over the past five (5) months, the CVCAC, and their representatives, have been diligently working to develop a framework to identify required metrics and commitments by which cannabis cultivation projects (“Projects”) could provide assurances to the community and others that rely on the Cuyama Groundwater Basin that: (1) adverse impacts will be avoided to the maximum extent possible; (2) a robust data-gathering, sharing and analysis will occur to learn about and establish the specific water needs for cannabis cultivation in the Cuyama Valley and enhance understanding, promote optimal management of and avoid undesirable results to the Basin; (3) Project operations may be revised in the future in response to the Cuyama Basin GSA’s management directives, or as otherwise may be mutually agreed upon, as appropriate to reduce project impacts and/or water use; and (4) Projects will aim to address the adequacy of services and infrastructure to meet the community’s needs and demands created by cannabis in the Cuyama Valley. On July 7, 2021, this process culminated with the CVCAC’s unanimous approval of the Guidelines.

**B. Membership of the Cuyama Valley Cannabis Advisory Committee**

The CVCAC is not a formal arm of the County of Santa Barbara and is considered an unincorporated association under California law. There are two CVCAC subcommittees: the Grower Subcommittee formed of cannabis growers with applications to grow in the Cuyama Valley and the Community Subcommittee formed of Cuyama residents representing one Board member of the Cuyama Valley Community Association, one member who sets on the GSA Stakeholder Advisory Committee, one farmer using groundwater, one de minimis farmer, and one community member at large. CVCAC has nine voting members selected by Ms. Elliott, with four (4) from the cannabis community assigned to the Cannabis Subcommittee and five (5) from the greater Cuyama Community assigned to the Community Committee, who reside in the Cuyama Valley and represent specific interest groups within the Valley. The last member of the Committee is reserved for the Office of Santa Barbara County Fifth District Supervisor Steve Lavagnino as a non-voting capacity.

**III. Summary of Guidelines for Proposed Cuyama Cannabis Operations**

Under the Guidelines, the Suarez Project and every future Cuyama cannabis project that voluntarily agrees to be bound by and comply with the Guidelines will not be appealed by the CVCAC or individuals that are members of the CVCAC, and the Community Subcommittee will consider supporting these Projects based on the specific proposal and circumstances.

Once a Project agrees to adhere to the Guidelines and gains a land use entitlement (Land Use Permit, Conditional Use Permit, etc.), the Guidelines are binding against the Project for the life of that entitlement. The commitments reflected in the totality of the Guidelines will be integrated into the Project of each participating grower and landowner (“Grower”) for the life of the Project and so long as cannabis is cultivated under the land use entitlement. Certain Project revisions and additional Grower commitments, such as water offsets (described below), deemed acceptable to the County will be included in a revised Project Description for Projects that have

not been approved, be inserted and substituted for the Project Description for permits approved but under appeal for the Planning Commission or Board of Supervisors to adopt at a hearing, or be modified through an application for permit modification. Any Grower that agrees to the Guidelines by entering into an agreement with the Community Subcommittee for its Project is required to comply with each and every part of the Guidelines. Those portions of the Guidelines that are not adopted into the Project Description will be independently enforceable by the Community Subcommittee, any interested party and their successors.

A. Components of the Guidelines

The key components of the Guidelines are briefly summarized below.

(i) Project Description, Demonstration of Supply Adequacy, and Preparation of Comprehensive Hydrological Evaluation

Each participating grower will provide the Community Subcommittee with their proposed Project Description, Comprehensive Hydrological Evaluation any other publicly-submitted technical documents. Each such Grower will meet with the Community Subcommittee upon their request to describe the proposed Project and answer questions, and will provide additional available information upon request.

Applicants will demonstrate they have an adequate, sustainable supply of groundwater for their Projects by a qualified and certified hydrogeologist report that demonstrates sufficient water supplies for the life of the Project that will not cause undesirable results to the Basin, natural resources or other beneficial users of water. This report will include analysis of both the Project site and any water offset source site (as described below in Section C). To ensure integrity of hydrological analysis supporting utilization of these guidelines, each Comprehensive Hydrological Evaluation will be shared with all CVCAC participants with an opportunity for comment, and will be provided to the County.

(ii) Non-Interference With Surrounding Wells

No cannabis Project may substantially interfere with the availability of water from or performance of an existing third-party well. Growers that cause or contribute to well failures in existing proximate wells will immediately provide reparations (alternative supply of water, pay damages, etc.) to minimize adverse impacts and costs to the operator of the affected well fund all costs to rehabilitate, deepen, and replace such impacted well(s) or modify Project operations with a goal of minimizing adverse impacts to the Basin and surrounding wells and implementing sustainable solutions to local and regional problems.

(iii) Project Information Requirements and Notification

To better inform the community, notification of proposed cannabis permitting, including the Project Description and a summary of the water source, including any offsets, will be timely shared by the Project applicant with the Community Subcommittee. The Grower Subcommittee also will post a summary of this information, including notification that this Project has agreed to

comply with the Guidelines in designated public places that grant approval to post this information.

**B. Water Monitoring and Reporting**

The current lack of data concerning both the water demands and impacts of cannabis operations and the condition of the Basin necessitates a robust data gathering effort to inform interim and future permit decisions. Growers will demonstrate or establish, at their expense, adequate well level monitors on their wells, which are capable of detecting interference at existing non-cannabis wells on parcels within the Proximate Area at a cannabis parcel for the life of the Project, that can work in coordination with well level meters or monitors installed on existing non-cannabis wells. All participating cannabis operations are required to maintain adequate water data collection systems, conduct water recordkeeping and report water information to the CVCAC and the GSA, for the life of the project.

Cannabis operations must maintain well meters that record all consumption of water for the life of the cannabis operation no less frequently than monthly during the growing season. Consumption records must be supplied to the CVCAC and the GSA. Cannabis operations will further monitor, record and report water duty records for each crop produced.

**C. Water Offsets**

Because the Basin is in a state of sustained critical overdraft, aggressive reductions in pumping below the existing volumes of extraction are required to avoid undesirable results under SGMA and to allow the Basin to recover from such excessive pumping. The use of enforceable, measurable reductions of documented, historic groundwater extractions at a separate farm within the same Threshold Region to compensate for and offset increased water proposed for use for a new cannabis cultivation Project while maintaining progress towards achieving balance in the Basin requires careful oversight and documentation to ensure the offset (“Offset”) is actual, is adequate to compensate for the increased extractions, and will not interfere with timely progress in bringing the Basin into sustainability. Offsets required under the Guidelines are separate from and in addition to any pumping reductions that may be required by the GSA. No water offsets will be required for projects located on historically irrigated land, if the Project documents to the CVCAC that it is extracting an amount equal or less than historic water usage.

**IV. Conclusion**

As representatives of the Parties, we can attest that this process would not have succeeded if not for the patience and foresight displayed by Mr. Gaillard, Mr. Essa and Mr. Jawad (Cuyama Farms), Mr. Lee Pearson (SBC Farms, LLC), Mr. Todd Mehl (Salisbury Ranch), Ms. Robbie Jaffe, Ms. Pamela Baczuk, Mr. Gene Zannon, and Mr. Will Price. We are all proud of this result and believe the Guidelines are equitable and sustainable. Pursuant to the Project’s commitment to the Guidelines, the Appellant and other interested parties support the Suarez Project and encourage the Board of Supervisors’ approval of the amended LUP and the swift implementation of this Project.

Supervisor Nelson  
July 9, 2021  
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Please contact us if you have any questions.

Respectfully Submitted,

LAW OFFICE OF MARC CHYTILO, APC

A handwritten signature in black ink, appearing to read 'M. Chytilo', with a stylized flourish at the end.

Marc Chytilo  
Attorneys for Appellant  
And Advisors to the Community Subcommittee

BROWNSTEIN HYATT FARBER SCHRECK,  
LLP

A handwritten signature in black ink, appearing to read 'Amy Steinfeld', with a large, circular flourish.

Amy Steinfeld  
Attorneys for Applicant  
And Advisors to the Grower Subcommittee

**TO:** BOARD OF SUPERVISORS AND LISA PLOWMAN, PDD  
DIRECTOR

**FROM:** CUYAMA VALLEY CANNABIS ADVISORY COMMITTEE

**SUBJECT:** CVCAC ADOPTED GROUNDWATER GUIDELINES FOR CANNABIS  
OPERATIONS

**DATE:** JULY 7, 2021

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## I. INTRODUCTION

A number of legal cannabis cultivation projects ("**Projects**") have been proposed in the Cuyama Valley, each proposing to extract groundwater from the overdrafted Cuyama Groundwater Basin ("**Basin**"). The Cuyama Basin Groundwater Sustainability Agency ("**GSA**") program to manage the Basin and overcome overdraft pursuant to the Sustainable Groundwater Management Act ("**SGMA**") is in development and preliminary implementation stages. Before the GSA fully implements SGMA within the Basin, the County of Santa Barbara ("**County**") has and will approve cannabis permits if adequate information on water supply is provided, including California Environmental Quality Act ("**CEQA**") review applying the County's CEQA Thresholds for projects that increase extraction from groundwater basins and demonstrated conformity to the County's General Plan policies, in particular the Groundwater Resources Section of the Conservation Element and Land Use Development Policy # 4.

First District Supervisor Chief of Staff Darcel Elliot has convened an informal workshop group as the Cuyama Valley Cannabis Advisory Committee ("**CVCAC**") to seek to address the issues of concern in the community regarding mitigating water use and other potential impacts of cannabis growth in Cuyama. The CVCAC is made up of two subcommittees:

(1) The **Grower Subcommittee** formed of cannabis growers as a subcommittee of the CVCAC has and continues to do outreach in the Cuyama Valley and to participate in GSA and community meetings.

(2) The **Community Subcommittee** formed of Cuyama residents and community representatives as a subcommittee of the CVCAC.

The two subcommittees collaborated to develop the below described framework to minimize the impact of cannabis growing on further depleting the critically overdrafted Basin and improve the community infrastructure needed to support the impact of this crop.

This ad hoc process identified needed analysis, general principles, regional

standards for extractions, project revisions and binding grower and community commitments in the form of Guidelines for Proposed Cuyama Cannabis Operations ("**Guidelines**") that could provide assurances to the community and others that rely on the Basin that: (1) adverse impacts will be avoided; and (2) a robust data-gathering, sharing and analysis will occur; (3) cannabis growers' operations may be revised in the future in response to the GSA's management directives, or as otherwise may be mutually agreed upon, as appropriate to reduce project impacts and/or water use; and (4) that cannabis growers are responsible to remediate and/or compensate for impacts they cause to other wells.

If the Guidelines are approved by the requisite seventy percent (70%) vote of the CVCAC in accordance with its operating principles, those Projects that voluntarily agree to be bound by and comply with these Guidelines, regardless of whether they are members of the Grower's Subcommittee, will not be appealed by the CVCAC or individuals who are members of the CVCAC, and the Community Subcommittee will consider supporting these Projects based on the specific proposal and circumstances. Once a Project agrees to adhere to the Guidelines and gains a land use entitlement (Land Use Permit, Conditional Use Permit, etc.), the Guidelines are binding against the Project for the life of that entitlement. Upon request by the Grower Subcommittee, the Community Subcommittee will undertake efforts to inform other members of the community that have or may express concerns about a participating Project of the benefits of the Guidelines and the Guideline's treatment of issues of concern. Upon request by the Grower Subcommittee, the Community Subcommittee will submit letters of support to County decisionmakers, and at the Community Subcommittee's election, take other actions signaling support for Projects that agree to comply with the voluntary Guidelines. Projects that fail to meet the requirements of the Guidelines may be appealed by the Community subcommittee. If a participating Project is appealed by the Community Subcommittee, or a Community Subcommittee member, the Project applicant shall not be required to maintain compliance with these Guidelines. In the event of an unaffiliated third party's appeal, CVCAC and the Community Subcommittee will, through counsel if appropriate, support the Project against the appeal in writing and at the hearing(s) and in exchange, the Project will continue to adhere to the Guidelines.

The Parties intend, and this Agreement requires, that the commitments reflected in the totality of the Guidelines shall be integrated into the Project of each participating grower and landowner ("**Grower**") for the life of the Project and so long as cannabis is cultivated under the land use entitlement. Upon the finalization of these Guidelines, certain Project revisions and additional Grower commitments, such as water offsets (described below in Section V), deemed acceptable to the County shall be included in a revised Project Description for Projects that have not been approved, be inserted and substituted for the Project Description for permits approved but under appeal for the Planning Commission or Board of Supervisors to adopt at a hearing, or be modified through an application for permit modification. Any Grower that agrees to these Guidelines by entering into an agreement with the



Community Subcommittee for its Project shall comply with each and every part of the Guidelines. Those portions of the Guidelines that are not adopted into the Project Description shall be independently enforceable by the Community Subcommittee, any interested party and their successors. These Guidelines will be converted into or serve as an exhibit to a legally enforceable and binding agreement between the signatories. Additional or amended Guidelines can be agreed to by the CVCAC via a seventy percent (70%) vote of the CVCAC through the collaboration of the Grower Subcommittee and the Community Subcommittee as the need arises.

These Guidelines should be reviewed and updated, if needed, by the CVCAC annually for the first three (3) years and periodically thereafter as the individual and cumulative effects of cannabis projects become more understood, as technology advances and information expands, and as related processes, including the GSP and GSA management actions, progress.

It is commonly known that newly drilled wells can produce high volumes of water initially, but production declines and quality can decline as wells age, which may lead to changes to the sufficiency of a Project's water source that triggers CVCAC notification and potential review.

## II. GOALS OF THE GUIDELINES

The goal of these Guidelines is to identify required Project metrics and Grower commitments that provide assurances to the community and others that rely on the Basin that: (1) adverse impacts will be avoided to the maximum extent possible; (2) a robust data-gathering, sharing and analysis will occur to learn about and establish the specific water needs for cannabis cultivation in the Cuyama Valley and enhance understanding, promote optimal management of and avoid undesirable results to the Basin; (3) cannabis operations may be revised in the future as the GSA's management requirements are developed, refined and implemented, but the substantive requirements in these Guidelines for cannabis Projects shall continue to apply and not be relaxed, even if the GSA requirements are less stringent (e.g., no backsliding); and (4) the Growers will aim to address the adequacy of services and infrastructure to meet the community's needs and demands created by cannabis in the Cuyama Valley.

## III. GUIDELINE CORE CONCEPTS AND DEFINITIONS

### A. Project Description

Each participating grower shall provide the Community Subcommittee with their proposed Project Description, Comprehensive Hydrological Evaluation (including well logs) and, upon request, any other publicly-submitted technical documents, such as may address or define the development, installation and operational components of the project. Each such Grower shall meet with the Community Subcommittee upon their request to describe the proposed Project and answer

questions, and shall provide additional available information upon request.

B. Demonstration of Supply Adequacy – Preparation of Comprehensive Hydrological Evaluation

The County's Programmatic Environmental Impact Report ("PEIR") prepared for the Cannabis Ordinance recognized that within the Cuyama Groundwater Basin "extraction is currently occurring at double the rate of recharge to the basin, resulting in effects such as groundwater quality degradation and subsidence, which vary depending on the location and depth of withdrawals." (PEIR, p. 3.8-12.) The Basin is the most severely overdrafted groundwater basin in Santa Barbara County and among the highest priority Basins for management under SGMA. Net extractions must decrease dramatically for the Basin to facilitate a long-term groundwater withdrawal rate less than or equal to the sustainable yield of the Basin within the twenty-year implementation period mandated by SGMA.

The PEIR does not include project-level analysis of groundwater supply adequacy or assess Project-specific impacts. Therefore, Projects must conduct project-specific groundwater environmental review assessing, avoiding and/or mitigating any significant impacts from cannabis-related groundwater extraction and provide the analysis to the Community Subcommittee and the County.

**Demonstration of Supply Adequacy:** Applicants shall demonstrate they have an adequate, sustainable supply of groundwater for their Projects by a qualified and certified hydrogeologist report that demonstrates sufficient water supplies for the life of the Project that will not cause undesirable results to the Basin, natural resources or other beneficial users of water ("**Comprehensive Hydrological Evaluation**"). This report shall include analysis of both the Project site and any water offset source site (as described below in Section V).

The Comprehensive Hydrological Evaluation shall include, at a minimum, for the Proximate Area (defined below), all known elevations of groundwater, trends in groundwater elevation, direction and nature of subsurface flows, recharge and discharge characteristics, localized zones of depression, boundary conditions, hydrogeologic and geologic barriers, relevant Cuyama Basin Groundwater Sustainability Plan ("**GSP**") information and data, water quality data and trends, and a professional opinion supported by referenced publicly available facts and identified technical principles to assess the expected level of interference.

The Comprehensive Hydrological Evaluation must include an analysis of groundwater conditions in the "**Proximate Area.**" The Proximate Area is defined as lands located within a 2,000 foot radius of the well(s) used to supply the cannabis cultivation Project. The Comprehensive Hydrological Evaluation shall identify all wells in the Proximate Area, and describe, evaluate and assess the potential for Project extractions to impact the three closest active or "wet" non-cannabis water wells in the Proximate Area on parcels not owned, leased, or otherwise connected to the same individual or entity as the proposed Project. A landowner or tenant may

petition the CVCAC, who may approve the request or delegate analysis and action to the Technical Advisory Committee (“TAC”) to have their well(s) included in the Proximate Area beyond the 2,000 foot boundary by submitting substantial evidence of a potential Project impact or direct hydrogeological connection, such as a qualified hydrogeologist’s opinion. If the CVCAC approves the request to add a well to a Project’s Proximate Area without referral to the TAC, and the Grower disagrees with this decision, they may refer the matter to the TAC to make a final determination.

To ensure integrity of hydrological analysis supporting utilization of these guidelines, each Comprehensive Hydrological Evaluation shall be shared with all CVCAC participants with an opportunity for comment, and shall be provided to the County. Project hydrogeologists will present this reporting to the TAC, GSA and Santa Barbara County Water Agency (“SBCWA”) as appropriate.

The Comprehensive Hydrological Evaluation requires information concerning the three closest wells, such as records of well construction, pump design, installation details, pumping rates and durations, water levels and water quality. Landowners and tenants using these wells are expected to cooperate and provide these data. If they do not, and if this information is not otherwise publicly available, the Comprehensive Hydrological Evaluation is not required to speculate and offer opinions and conclusions without a factual foundation, and thus compliance with this requirement will be excused. The TAC may elect to conduct a peer review of the Comprehensive Hydrological Evaluation and submit comments thereon.

### C. Non-Interference With Surrounding Wells

No cannabis Project may substantially interfere with the availability of water from or performance of an existing third-party well (“**substantial interference**”). If a landowner or tenant believes their well has experienced substantial interference, they shall contact the Grower and the CVCAC Coordinator with any evidence or basis for their belief that such interference has occurred. If the Grower disputes the alleged interference, they shall commission a test by a hydrogeologist to determine if their operations are substantially interfering with the subject well. Substantial interference is evidenced by either: a) a pump test<sup>1</sup> demonstrating over a one (1)

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<sup>1</sup> To determine the presence or absence of drawdown interference, and to quantify the interference if present, between a pumping well that serves a cannabis project and a proximate observation (non-pumping production) well, project hydrogeologists will design and implement testing in accordance with industry standards. Of importance to the pumping testing will be continuous automated monitoring of water levels in the pumping and observation wells, and the establishment of baseline static conditions before the controlled portion of pumping begins. Hence, all wells should be continuously monitored for at least a week prior to pumping at 1-minute intervals and flow meter readings recorded to document non-pumping conditions. Any interference from other wells and trends in water levels can be noted and isolated in the analysis. Once pumping begins the production rates should be monitored with equal frequency, with monitoring both automatic and manual. Discharge of pumped water should be to active or planned irrigated lands. Upon completion of the pumping portion of testing, the recovery portion should be for at least a week, and any needed pumping in observation wells noted, including any reciprocal interference on the cannabis project

foot drawdown over a typical 12-hour pumping period; or b) an observable reduction in the quality of water that is caused by the cannabis well. Substantial interference from a cannabis supply well(s) to wells on an adjacent parcel, or to those wells that are within the Proximate Area is disallowed. Any well owners that contend that a cannabis project well is interfering with their well(s) shall provide the Grower and their consultant access to all current and historical information about the subject well(s) and each cannabis project well owner or operator shall provide all current and historical information about their wells to the well owners that contend interference and their consultants, and all such information shall be provided to the TAC upon request.

#### D. Changes to Baselines, Boundaries and New Information

The GSA has defined specific areas as Management Areas, based upon modeling for the Basin, in which specific management actions will be implemented. Because of the dynamic nature of groundwater use, the boundary of any identified Management Area is expected to shift over time in response to monitoring network data and updated modeling, as determined by the GSA. The region has experienced over a decade of drought conditions while well drilling and groundwater extractions have increased.

#### E. New Information

It is anticipated that the publication of new scientific studies of the Basin in the next few years will add substantially to the understanding of the Basin's groundwater resources. As a responsive measure to the development of new scientific data, the Community Subcommittee, TAC or the Oversight Monitoring Program should undertake a brief search for updates to literature on a regular basis.

#### F. Threshold Regions

The Basin is a complex geologic formation, consisting of numerous tectonic faults and ancient alluvial infill. The formations and sediments of the Basin are crossed and interrupted by fault lines which restrict underground water flow (USGS, 2014). These barriers have created regions through which groundwater does not flow as freely (USGS 2014). The GSP identifies six "**Threshold Regions**" that generally correspond to the USGS data, and for the purposes of this document, provide a framework for discussion of the various regions of the Cuyama Valley.

#### G. Project Information Requirements and Notification

**Notification:** The Cuyama Valley is a large, rural area with populations, homes, and work sites widely scattered throughout. A parcel development or permit

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wells. An example of industry standard aquifer testing includes USGS Publication "Aquifer test design, observation, and data analysis" (Stallman, 1971) available at [https://pubs.usgs.gov/twri/twri3-b1/pdf/twri\\_3-B1\\_a.pdf](https://pubs.usgs.gov/twri/twri3-b1/pdf/twri_3-B1_a.pdf).

notification placard placed on a remote parcel may never be seen by its nearest neighbors. To better inform the community, notification of proposed cannabis permitting, including the Project Description and a summary of the water source, including any offsets, shall be timely shared by the Project applicant with the Community Subcommittee. The Grower Subcommittee also shall post a summary of this information, including notification that this Project has agreed to comply with the Guidelines in designated public places that grant approval to post this information including: The Post Office, The Community Center, Cuyama Hardware and one Ventucopa location. This summary shall include a phone number for the applicant, with a note that additional project information is available upon request.

#### IV. WATER MONITORING AND REPORTING

##### A. Data and Reporting

The current lack of data concerning both the water demands and impacts of cannabis operations and the condition of the Basin necessitates a robust data gathering effort to inform interim and future permit decisions. All participating cannabis operations are required to maintain adequate water data collection systems, conduct water recordkeeping and report water information to the CVCAC and the GSA, for the life of the project.

All submitted data shall be submitted to CVCAC Program Coordinator and posted in a designated Dropbox (or sharefile) file or a website set up by the CVCAC.

##### B. Well Level Monitoring

Growers shall demonstrate or establish, at their expense, adequate water level monitors on their wells, which are capable of detecting interference at existing non-cannabis wells on Parcels within the Proximate Area at a cannabis parcel for the life of the project, when paired with water level monitors installed on existing non-cannabis wells. Well water level monitors include transducers that shall automatically report water levels in all wells producing water for cannabis operations, and any other wells with water level monitors in the units of mean sea level ("**MSL**") elevation. If a landowner or tenant within the Proximate Area believes its well is being impacted by a cannabis well based on documented evidence, the landowner or tenant may request that the grower install a water level monitor and transducer on their well at the grower's expense. If so requested, the grower must fund the installation of this transducer. If the TAC has determined that a non-cannabis well outside the Proximate Area is being impacted by a cannabis well, the non-cannabis landowner or tenant may request that the grower install a transducer on their well at the grower's expense. If so requested, the grower must fund the installation of this transducer. A pump test may be required to detect interference at existing non-cannabis wells on parcels within the Proximate Area (See Section III.C). Well level monitoring data shall be supplied to Community Subcommittee and GSA.

### C. Consumption Monitoring

Cannabis operations must maintain well meters<sup>2</sup> that record all consumption of water for the life of the cannabis operation no less frequently than monthly during the growing season. Consumption records must be supplied to the CVCAC and the GSA. The objective is to establish an average cumulative water demand for cannabis growing in the Cuyama Valley and compare it to other crops.

### D. Water Duty Monitoring

Cannabis operations must monitor, record and report water duty records for each crop produced (water used divided by acres of cannabis cultivated) on a quarterly basis to the CVCAC and GSA during the growing season. This will include: (1) the total volume of irrigation water required for crops to mature; (2) the total consumptive use; and (3) the total volume of water consumed by landscaping. Each grower shall produce and transmit to the CVCAC, SBCWA and TAC an annual report on water consumption, crops grown, landscaping and other water usage, and a calculated annual agricultural water duty for their cannabis crops for the preceding year no later than January 31 each year.

### E. Offsite and Other Wells – Monitoring For Non-Interference

Depletion and lowering of groundwater tables occur first within the vicinity of a well. This “cone of depression” may interfere with neighboring wells before an effect is noticed in the basin, sub-basin, or region, and interference may not be detected immediately. For cannabis operations on non-irrigated lands, Growers shall notify all landowners and occupiers within the Proximate Area radius of the well and offer to register any wells on such parcels within that radius as a “**Noninterference Well.**” Upon such designation, and if the landowner believes that the cannabis well is interfering with its well, the Grover or responsible party, in accordance with the following process, will offer to install a well level monitor and transducer on the noninterference well at their expense to be calibrated with the existing GSP monitoring system, and arrange data reporting to the GSA.

When a landowner or any other individual with an interest in the area believes there has been well interference from a well associated with a cannabis operation, such as by a short-term drop, sustained decline in water elevations, or degraded water quality, they will notify the CVCAC, the nearby Grower and any others with wells or interests in land near the wells. All involved parties shall provide all available well monitoring data and hydrographs germane to the wells at issue to the CVCAC.

The TAC, working with the Grower and the landowners and/or tenant with nearby and potentially affected wells shall investigate the situation, and may seek the

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<sup>2</sup> All wells in the Basin must be metered by the end of 2021 pursuant to GSA requirements. See <https://cuyamabasin.org/resources#final-gsp>.

opinion of a neutral hydrogeologist, County staff person, or other qualified individual. If the evidence supports a finding of substantial interference (as defined in Section III.C), the Grower shall develop and implement a plan for eliminating the substantial interference as soon as possible (see Section VI.D.3 below). Notification of this substantial well interference shall be provided to the Grower and GSA.

Growers that cause or contribute to well failures in existing proximate wells shall undertake a technical analysis of the well failure, consistent with the process section forth in Section III.C. If a hydrogeologist verifies that well failure was the result of a Grower's pumping, the Grower shall immediately provide reparations (alternative supply of water, pay damages, etc.) to minimize adverse impacts and costs to the operator of the affected well, fund all costs to rehabilitate, deepen, and replace such impacted well(s), or modify Project operations per Section VI.D.3.a below, at the impacted landowner's and/or tenant's reasonable direction, with a goal of minimizing adverse impacts to the Basin and surrounding wells and implementing sustainable solutions to local and regional problems.

## V. OFFSETS

The Basin is in a state of sustained critical overdraft, necessitating aggressive reductions in pumping below the existing volumes of extraction to avoid undesirable results under SGMA and to allow the Basin to recover from such excessive pumping. The use of enforceable, measurable reductions of documented, historic groundwater extractions at a separate farm within the same Threshold Region to compensate for and offset increased water proposed for use by a new cannabis cultivation Project while maintaining progress towards achieving balance in the Basin requires careful oversight and documentation to ensure the offset is actual, is adequate to compensate for the increased extractions, and will not interfere with timely progress in bringing the Basin into sustainability. No water offsets ("Offsets") shall be required for projects located on historically irrigated land, if the Project documents to the CVCAC that it is extracting an amount equal or less than historic water usage. The community and grower subcommittees both acknowledge that the County's required reduction of cannabis canopy to 51% of total acreage, combined with the estimated lower AF per acre water usage requirements of cannabis compared to the higher water requirements of carrots (and higher previous acreage) create a positive net benefit to the Basin.

A. The "Offset Source" (i.e., farm or other use of water providing water extraction offset to enable the Project's new extractions) must have a documented five (5) or more year quantified history of extraction for agricultural irrigation to qualify as an Offset. Non-irrigated lands and parcels that have been fallow for more than five (5) years cannot generate offsets. The Offset Source must provide evidence of the historical extractions for at least a five (5) year period, and the historical extraction quantity shall be used to quantify the baseline historical water extractions, to establish the amount of water that is being offset, and to quantify any specific reductions required by the GSA.

B. There must be a demonstrated, quantifiable hydrogeological connection from offset to receiving site location established in the Comprehensive Hydrological Analysis. The Offset must be located in the same Threshold Region as the Project site, unless they qualify under the exception identified in Section VI.D.3. below.

C. Offsets obtained from farms that engage in regular practices of multi-year rotation must calculate water use over all the lands in the rotation, in that routinely fallowed portions may not generate separate offsets during their usual, normal rotational schedule.

D. Offset Source credits are subject to depreciation based on the GSA's management actions (e.g., the GSP's "glide path") or other applicable authorities' pumping cutback requirements that would apply to the Offset Source.

E. Cannabis water extractions are also subject to depreciation based on the GSA's management actions or other applicable authorities' pumping cutback requirements that would apply to the cannabis well location. The Offset Source must reduce extractions in the amount necessary to supply the Project's water needs.

F. The Offsets shall have a minimum ratio of 1:1 with the Offset Source within the same Threshold Region. If a Project offsets more water than is necessary to offset one hundred percent (100%) of its groundwater use in one year, it may carry-over offset credits. This must be documented in the Annual Report (as defined in Section IV.A).

G. Under limited circumstances and when a Grower has demonstrated the inability to identify a reasonably available and sufficient Offset Source in the same Threshold Region, they may temporarily rely on an Offset Source from a farm located outside of the Project's Threshold Region. For offsets in a different Threshold Region, the ratio shall increase to 1:1.5 and shall include a payment of ten dollars (\$10) per month per cultivated acre to the CVCAC, paid quarterly until an Offset within the same Threshold Region is located. If an Offset is not located within the same Threshold Region within eighteen (18) months from the Project's Business License approval, or if the GSA does not make a market-based allocation trading program available, the Grower shall increase its monthly payment to fifteen dollars (\$15) per month per cultivated acre to the CVCAC for the next eighteen (18) months, and to twenty dollars (\$20) per month per cultivated acre to the CVCAC for the next eighteen (18) months. If no Offset is located in the same Threshold Region after this period, the Grower shall cease groundwater extraction until an Offset in the same Threshold Region is located. Only Growers who have signed a document to agree to the Guidelines within three (3) weeks of the effective date of this Agreement may propose an initial Offset outside of its Threshold Region. All other Growers that agree to the Guidelines after this date shall commit to an Offset within the same Threshold Region as the Project and promptly modify their applications or permits to reflect that.



H. In the event that the GSA creates a market-based allocation trading program, Growers that qualify under Section V.G above and any such allocation used by these Growers must provide for and ensure that the allocations will accomplish actual reductions in extractions in the same Threshold Region as the Grower's Project in an amount at least equivalent to the increased extractions required for Grower's operation.

## VI. OVERSIGHT AND ENFORCEMENT

### A. County Oversight

The County is responsible for enforcing and ensuring compliance with the Offset for each Project because the Offset requirement is part of the Project Description of the approved Cannabis Cultivation Land Use Permit proposed on non-irrigated land. The County will also enforce all other elements of the Project Description and Conditions of Approval. Pursuant to the County's Land Use and Development Code ("LUDC") and Cannabis Business License Ordinance, Growers must remain in compliance with Permit Project Descriptions and all conditions. (See LUDC, Ch. 35-42 (Cannabis Regulations); County of Santa Barbara Code, Section 50-26.) Each Grower shall submit an annual offset report ("**Annual Report**") to the County, GSA, CVCAC, the Oversight Monitoring Program and the TAC (described below). Annual Reports will include sufficient data to independently quantify and verify the amount of water conserved on the Offset Source and the amount of groundwater pumped annually by the Project. Further, participating Growers must submit their Comprehensive Hydrological Evaluation to the County as part of their application for permit or permit revision. Per Section III.B of the Guidelines, these Annual Reports and the underlying data will also be provided to the Community Subcommittee.

### B. Oversight Monitoring Program: Project Coordinator

1. CVCAC shall form, direct and oversee an Oversight Monitoring Program ("**Program**"), whose annual budget shall not exceed fifty percent (50%) of the annual CVCAC revenues. The Program may engage and utilize a non-governmental or other organization to hold and administer funds and to manage the Program. CVCAC shall appoint a person to administer this program, perform administrative tasks, maintain relevant data and documents, serve as a point of contact for the CVCAC, support the TAC, retain and manage technical consultants and such other oversight functions as needed to implement and administer these Guidelines ("**Project Coordinator**").

2. The Grower Subcommittee shall make an initial contribution of twenty five thousand dollars (\$25,000) to the CVCAC and assess such additional annual funds as approved by the Grower Subcommittee, on a pro rata acreage basis, as are needed for the Program to fulfil its responsibilities. Each Grower's initial contribution shall be paid within three (3) business days of the commencement of licensed operations and such supplemental funds as are

assessed by the Grower Subcommittee not later than thirty (30) days after assessment.

3. The CVCAC shall raise such additional funds as are needed to address these responsibilities.

#### C. Complaints

Any person owning or leasing land overlying the Basin, that believes it is aggrieved by the pumping of groundwater by a participating Grower or that is concerned that a Grower is in non-compliance with one or more of the Guidelines or any element of their permit, may submit a written complaint (“**Complaint**”) first to the Project Coordinator, copying the Community and Grower Subcommittees. A Complaint must include each of the following: (i) identification of the specific measure, action, well, farm or equipment that forms the basis for the Complaint, (ii) the harm the complainant believes has or will occur, and (iii) a statement or summary of the requested relief. If the Project Coordinator cannot resolve the Complaint, they shall refer it to the TAC (described below). If a complainant files more than two frivolous Complaints, as determined by the Project Coordinator or TAC, no additional Complaints will be accepted from the complainant.

#### D. Technical Advisory Committee

1. The CVCAC will establish a TAC. The CVCAC will appoint three (3) members to the TAC, one appointed by the Community Subcommittee, one appointed by the Grower Subcommittee and one appointed by a majority vote of the CVCAC. Each member shall hold a bachelors or advanced degree in a field related to groundwater, engineering, hydrology and at least four years of relevant professional experience.

2. The TAC shall function in an advisory role and as an independent body of experts that can provide transparent, credible, and timely advice to the CVCAC. The TAC will meet as required to perform the following actions: (i) review of complaints claiming interference with neighboring wells and determining whether “substantial interference” has occurred; (ii) review of complaints regarding compliance with the Guidelines; (iii) evaluating whether well failure or well declines experienced by a landowner or tenant in the Proximate Area was the result of a Grower’s groundwater pumping; (iv) suggesting modifications to the Project or neighboring well based upon Section VI.D.3.b of the Guidelines (Adaptive Management Strategies and Corrective Action Plans); and (v) taking any necessary actions related to the Guidelines, as directed by the CVCAC.

3. Next Steps Post-TAC Findings of Substantial Well Interference or Violation of Guidelines

a. If a Grower acknowledges that they have caused Substantial Well Interference, or if the TAC finds that a Grower has substantially interfered with a neighboring well, the Grower shall:

(i) Prepare a Remediation Plan (“**Remediation Plan**”) within ten (10) days of the acknowledgement or TAC finding of Substantial Well Interference to repair, replace, or otherwise compensate the landowner and/or tenant of well experiencing Substantial Well Interference at the Grower’s expense;

(ii) Secure the approval of the landowner and/or tenant of the well experiencing Substantial Well Interference for the Remediation Plan;

(iii) Within ten (10) days of landowner and/or tenant approval, initiate implementation of the Remediation Plan and complete it promptly; and

(iv) Prepare a Corrective Action Plan (described below) to avoid future Substantial Well Interference and protect the Basin, and submit it to the landowner and/or tenant of the well experiencing Substantial Well Interference, the CVCAC and the TAC for review and comment. The TAC shall consider all such comments and, within thirty (30) days of receipt, issue recommendations for action, which the Grower shall promptly implement, unless the Grower disagrees with the TAC’s findings and appeals pursuant to Section VI.F below.

b. Adaptive Management Strategies and Corrective Action Plans

If Substantial Well Interference is observed as defined in Section III.C and confirmed under Section VI.D.3.a above, the Grower must, in consultation with a qualified hydrogeologist, prepare, circulate to all affected parties for review and comment, then implement a “**Corrective Action Plan**” that is designed and reasonably likely to correct these effects and prevent their reoccurrence. Potential corrective actions to be considered include, but are not limited to:

- (i) Pumping reduction
- (ii) New irrigation techniques
- (iii) Adjusting timing of irrigation
- (iv) Adjusting crop or strain choice
- (v) Reducing acreage
- (vi) Reducing number of planting/harvest cycles

- (vii) Water conservation strategies
- (viii) Row-applied composts and mulches
- (ix) Applying new/advanced irrigation technology
- (x) Other water conservation strategies
- (xi) Water recycling technologies – e.g., water for washing equipment treated for use in landscape irrigation

E. If the Grower disagrees with the TAC's findings and/or recommendations, the Grower has the right to seek review of the TAC's findings and/or recommendations and request that the GSA provide a neutral second opinion. If the GSA does not or cannot provide a neutral second opinion, the parties shall hire a mutually agreeable third party independent hydrogeologist ("Independent Hydrogeologist") to provide a neutral second opinion. If the GSA agrees with the TAC or the Independent Hydrogeologist, the Grower must implement the TAC's recommended steps to adjust project operations or fund a well repair or replacement of the neighboring well and pay all complainant's legal and technical costs for the complaint and its resolution. If the GSA disagrees with the TAC or the Independent Hydrogeologist and are otherwise unable to resolve the dispute among themselves, the parties may mediate the dispute, per Section VI.F.3 below. Any such review of a TAC recommendation must be completed in not more than 30 days, unless the parties agree to extend this period. If the review is not completed in 30 days, either party may advance the dispute to mediation.

#### F. Enforcement

1. If the TAC finds that a Grower has violated the terms of its permit, such as by not providing adequate offsets or acting in a manner not authorized by the Permit or the Project Description, or is acting in violation of a requirement of the GSA, it shall immediately notify the CVCAC, who shall notify the Grower within five (5) days and, if complete corrective action is not accomplished and demonstrated to the CVCAC within thirty (30) days, submit a formal complaint to the GSA, County Planning and Development Department and County CEO's Office detailing this non-compliance and requesting that the GSA and County take action against the Grower.

2. If the TAC finds that a Grower has violated any terms of these Guidelines, it shall immediately notify the CVCAC, who shall notify the Grower within five (5) days. The Grower shall provide a written report not later than thirty (30) days thereafter which reports such corrective action(s) as to completely resolve such noncompliance or details all facts that support the conclusion that the Grower was not, in fact, out of compliance with the Guidelines. If the non-compliance pertains to a technical issue in the TAC's expertise, the TAC shall promptly report to the CVCAC their conclusions regarding the non-compliance. The CVCAC will

address all other non-TAC issues, and make a finding and order any corrective actions it deems Grower should take, with consideration for any TAC report.

3. If neither the GSA nor the County take any action against the Grower, and the Grower does not undertake appropriate corrective actions, the CVCAC and Grower shall first try to mediate the dispute using JAMS mediation services (a third-party, neutral mediator) funded by the Grower. If mediation is unsuccessful or either party disagrees with the outcome, then either party has the right to file an action in Santa Barbara Superior Court to enforce the terms of the Guidelines.

4. The above do not limit any party's ability to pursue other remedies at law or through the regulatory processes. If a Grower has not yet received their permit, but has stated a commitment to comply with the Guidelines, and then undertakes conduct that reflects a flagrant disregard of the Guidelines and their requirements, CVCAC as a whole may appeal the LUP.

#### VII. GROWER CONTRIBUTIONS TO COMMUNITY

At least fifty percent (50%) of the Annual CVCAC revenues shall be allocated to Community Benefit Projects at the direction of a sixty percent (60%) majority of the CVCAC Board. Community Benefit Projects should not excessively benefit any individual and overall, the annual allocations should benefit the community at large with emphasis on addressing the needs of disadvantaged communities.

## Ramirez, Angelica

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**From:** Lynne Gibbs <gibbslyn2@gmail.com>  
**Sent:** Friday, July 9, 2021 1:16 PM  
**To:** sbcob  
**Cc:** Nelson, Bob; Hanke, Aaron; Lavagnino, Steve; Bantilan, Cory; Hartmann, Joan; Litten, Jefferson; Hart, Gregg; Bertrand, Ethan; Williams, Das; Elliott, Darcel  
**Subject:** NAMI's letter of support for Marian Hospital CSU beds  
**Attachments:** BOS Statement Marian CSU 2021 07 13.docx

**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.**

Good afternoon,

Please see attached NAMI SBCO's letter of support for the proposed county contract for CSU beds at Marian Hospital. I am told this will be a late addition to the July 13th Administrative agenda, and so I regret I can't cite the number.

Thank you so much,  
Lynne Gibbs, NAMI SBCO