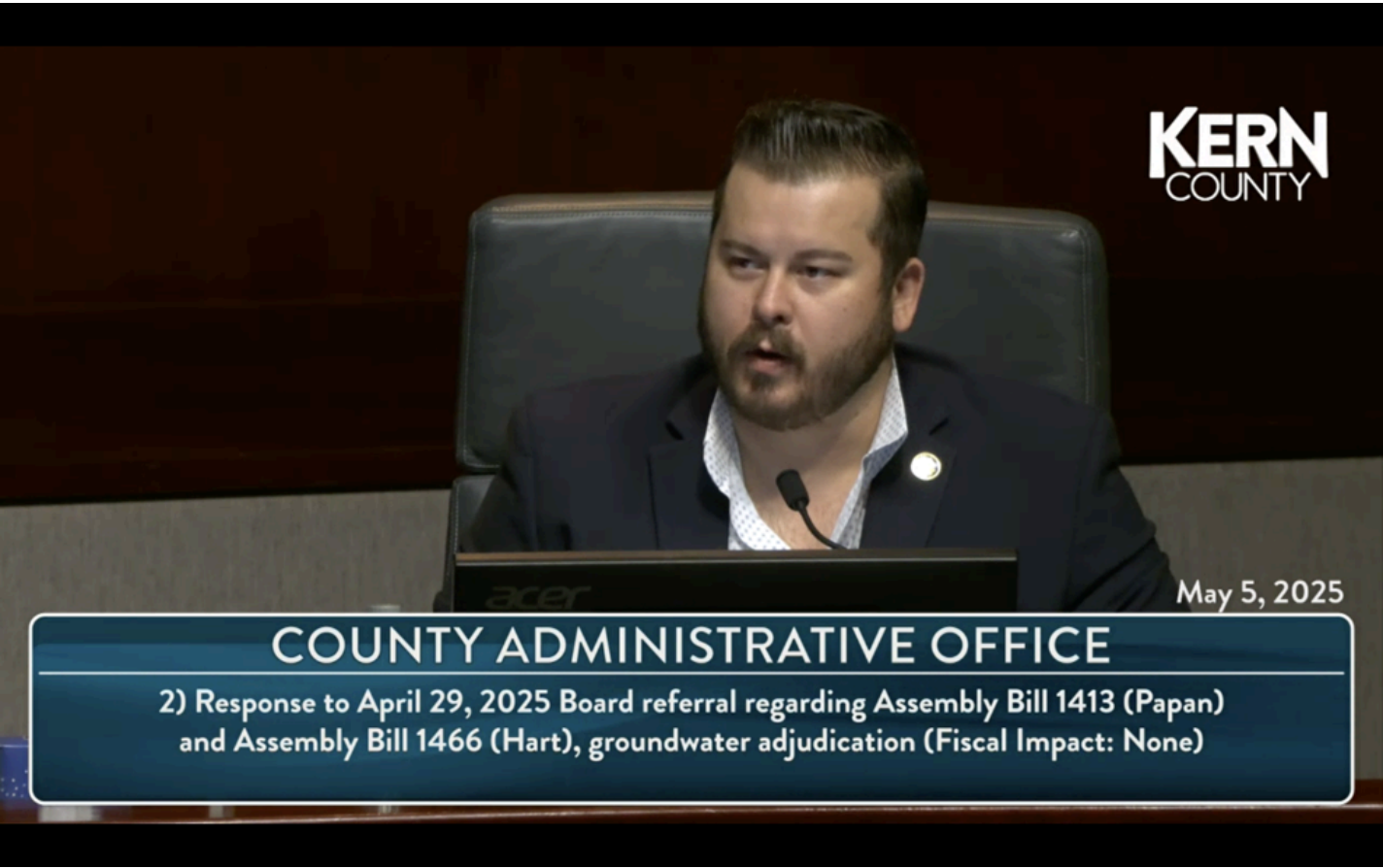


Desert groundwater feud commandeers Kern County legislative policy debate

By Lois Henry, SJV Water
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Supervisor Phillip Peters speaks during a special meeting of the Kern County Board of Supervisors to consider whether to support a pair of bills working their way through the California Legislature regarding groundwater adjudication lawsuits.

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All of the drama and vitriol of a long-running groundwater feud in the high desert played out before the Kern County Board of Supervisors – albeit in muted form – on Monday as supervisors considered whether to support a pair of bills aimed at clarifying and limiting the courts’ role in specific water lawsuits.

The lengthy meeting, at times, strayed into the sort of finger pointing that has become common during meetings of the Indian Wells Valley Groundwater Authority. But no one publicly called facts they disagreed with “horse s—” or accused anyone of slander, as has happened at authority meetings.

The bills also attracted some of the county’s heaviest hitters, including representatives from Wonderful, Grimmway, Bolthouse, the Kern County Farm Bureau and the oil industry to urge supervisors against support. Assemblymembers Jasmeet Bains and Stan Ellis were also on hand to speak against support for the bills.

Both bills deal with groundwater adjudication lawsuits in which a judge determines how much groundwater is available in a basin, who has rights to it and how much each rights holder can extract.

In the end, a motion by Supervisor Phillip Peters, who represents the Indian Wells Valley, to support AB 1413 and AB 1466 died for lack of a second. Supervisors David Couch, Chris Parlier and Jeff Flores all spoke against the bills equating them to using a sledge hammer to fix a problem better suited to a scalpel.

“I think there’s a fundamental misunderstanding of what this does,” Peters said of his colleagues’ view of the bills. “I know there’s not adjudications happening in your districts right now. I don’t hold it against you that you don’t support this and I hope you won’t hold it against me when I say ‘I told you so’ when those adjudications happen.”

There are two adjudications in Kern County, one in the Cuyama Valley on the far western edge of the county and the other in the Indian Wells Valley in eastern Kern.

Adjudications can conflict with the Sustainable Groundwater Management Act (SGMA), which mandates local groundwater agencies bring overdrafted areas into balance by 2040.

Under SGMA, groundwater agencies must determine the “sustainable yield” of a basin. That is the amount of water that can be pumped out without causing severe problems such as domestic wells going dry, land sinking, or chronic dropping of the water table.

Sustainable yield is the foundation for groundwater plans that are required by the state.

SGMA includes a “validation” process to challenge the sustainable yield number.

But in some cases, including the Indian Wells Valley, opponents have opted to file adjudications where a judge can override the groundwater agency's sustainable yield number and come up with their own.

AB 1413 would, instead, require courts to use the sustainable yield figure established by the region's groundwater agency.

AB 1466 would, among other things, require courts to obtain a report of all groundwater users in a basin from the groundwater agency so that all water rights are considered.

Both bills have passed from their committees of origin to Appropriations. AB 1466 is set to be heard in Appropriations on Wednesday. A hearing date for AB 1413 has not been set.

In the Indian Wells Valley adjudication, an appellate court denied the groundwater authority's attempt to avoid litigating the sustainable yield figure.

The Indian Wells Valley Groundwater Authority has set the sustainable yield at 7,650 acre feet a year, while opponents including the Indian Wells Valley Water District, which filed the adjudication, say their models show the sustainable yield is between 11,000 and 14,000 acre feet a year.

Residents and businesses, including the Naval Air Weapons Station China Lake, pump out close to 20,000 acre feet a year.

In order to bridge that gap, the groundwater authority instituted a \$2,100-per-acre-foot "replenishment fee" to raise enough money to buy water from elsewhere in the state.

To get it to the high desert valley, the authority also plans to build a \$200 million, 50-mile pipeline to the California Aqueduct near Lancaster. In December, it was approved to receive \$50 million in federal funding for the pipeline through the Water Resources Development Act (WRDA).

The water district has argued the pipeline is "the most expensive and least effective" solution, according to David Saint-Amand, President of the Board. Even with federal funding, he said, there will be a required local match, which isn't covered by the replenishment fee.

The water district has paid the groundwater authority \$14 million for the replenishment fee so far.

“That was supposed to buy us water rights, which hasn’t happened,” Saint-Amand said.
“What have they done with the money?”

Supervisors continued another issue related to Indian Wells Valley groundwater to their May 14 meeting. That issue involves an agreement to authorize the Indian Wells Valley Groundwater Authority to act as the county’s agent should the U.S. Army Corps of Engineers, which would oversee the pipeline project, require the county’s participation.

However, County Counsel wasn’t able to approve the agreement as it hasn’t conferred with the Army Corps of Engineers to fully understand the potential liability, according to the staff report.

SJV Water is a nonprofit, independent online news publication covering water in the San Joaquin Valley. Lois Henry is the CEO/Editor of SJV Water. She can be reached at lois.henry@sjvwater.org. The website is www.sjvwater.org.

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