

LEGAL RESERVE FEE RATE STUDY OUTLINE

The following outline describes pending and anticipated litigation against the Agency challenging its groundwater management authority and its implementation of the Sustainable Groundwater Management Act:

Pending Litigation Matters

- OPV Basins Adjudication¹
- Las Posas Valley Basin Adjudication
- City of Oxnard Action to Set Aside OPV Basins Allocation Ordinance

Anticipated Litigation Matters

- Action to Set Aside Adoption of Litigation Reserve Fee
- Action to Set Aside Adoption of Replenishment Fee

Schedule for Pending Litigation Matters

- OPV Basins Adjudication
- A. Phase 1: October 2024 to June 2025
- Phase 1 will deal with determination of the total safe yields and total native safe yields of the OPV Basins. A trial is expected during the first half of 2025 and will be preceded by a fact and expert discovery phase. The parties may also pursue mediation during this time frame.
- B. Phase 2: July 2025 to February 2026
- Phase 2 will deal with adjudication of all claimed rights to use groundwater in the OPV Basins. As with Phase 1, there will be a trial preceded by fact and expert discovery. The parties are also expected to engage in mediation aimed at reaching a stipulated resolution.
- C. Phase 3: March 2026 to January 2027
- Phase 3 will consider establishing a physical solution for the OPV Basins. As with prior phases of the adjudication, the court will set a discovery schedule and trial date. Mediation is also likely to occur.
- Las Posas Basin Adjudication
 - A. Court of Appeal Proceedings: July 2024 to June 2025
August 2024 – December 2024: Briefing completed
January 2025 – April 2025: Oral Argument
June 2025: Appellate Opinion issued
 - B. Cal. Supreme Court Proceedings: July 2025 to June 2026
Parties have option of petitioning California Supreme Court to review decision by Court of Appeal. Case raises issues of first impression on interplay between Sustainable

¹¹ Includes reverse validation actions for groundwater sustainability plans for OPV Basins and action to set aside allocation ordinance for OPV Basins

Item 12D: Legal Reserve Fee Study and Review Data

Groundwater Management Act and Code of Civil Procedure provisions for conducting comprehensive groundwater adjudication which may increase likelihood that review will be granted.

C. Further Trial Court Proceedings, if necessary:

July 2025 – Date TBD: Schedule is dependent on whether Court of Appeals reverses judgment, whether any party seeks review of appellate decision, whether review is granted, and any decision by California Supreme Court.

- OPV Basins GSPs and Allocation Ordinance Writ Challenges
No hearing dates set; actions are currently stayed

- City of Oxnard Writ Action
A hearing on the City's motion to compel compliance with the writ of mandate is scheduled for September 2024. The trial court is also expected to issue a ruling on the City's motion for attorney's fees. There is potential for Appellate review of the trial court's ruling on both motions.

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Projection for Anticipated Litigation Matters

- Action to Set Aside Adoption of Litigation Reserve Fee
Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance or resolution imposing a new, or increasing an existing, fee imposed pursuant to Section 10730, 10730.2, or 10730.4 shall be commenced within 180 days following the adoption of the ordinance or resolution. (Cal. Water Code section 10726.6(c).) If a legal challenge is filed, it is projected that it could take up to three years, or until the end of 2027 to be resolved. If an appeal is filed, that time frame would be extended for up to 18 months, or until mid-2029.

- Action to Set Aside Adoption of Replenishment Fee
Action would follow the similar schedule as an action to set aside litigation reserve fee but would be dependent on timing of Agency's adoption of replenishment fee.

Past Charges

For purposes of projecting future costs of all pending and anticipated litigation matters, the Agency reviewed previously incurred litigation and litigation-related costs of pending matters.

- Las Posas Basin Adjudication¹
 - FY 20/21
 - Special Counsel: \$1,297,600; average monthly rate - \$108,133.33
 - County Counsel: \$79,208; average monthly rate - \$6,600.66
 - FY 21/22
 - Special Counsel: \$1,442,650; average monthly rate - \$120,220.83
 - County Counsel: \$113,680; average monthly rate - \$9,473.33
 - FY 22/23
 - Special Counsel: \$1,494,525; average monthly rate - \$124,543.75
 - County Counsel: \$219,715; average monthly rate - \$18,309.58
 - FY 23/24
 - Special Counsel: \$475,714; average monthly rate - \$39,642.83
 - County Counsel: \$38,073; average monthly rate - \$3,172.75
- Action to Set Aside Adoption of Litigation Reserve Fee
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- City of Oxnard Writ Action
 - FY 20/21
 - Special Counsel: \$140,160; average monthly rate - \$11,680
 - County Counsel: \$31,475; average monthly rate - \$2,622.92
 - FY 21/22
 - Special Counsel: \$126,211; average monthly rate - \$10,517.58
 - County Counsel: \$4,719; average monthly rate - \$393.25
 - FY 22/23
 - Special Counsel: \$364,397; average monthly rate - \$30,366.42
 - County Counsel: \$14,697; average monthly rate - \$1,224.75

¹ Includes Las Posas Valley Basin GSP and Allocation Ordinance Challenges.

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- FY 23/24
- Special Counsel: \$251,199; average monthly rate - \$20,933.25
- County Counsel: \$64,491; average monthly rate - \$5,374.25
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- OPV Basins Adjudication²
- FY 20/21
- Special Counsel: \$130,802; average monthly rate - \$10,900.17
- County Counsel: \$12,645; average monthly rate - \$1,053.75
- FY 21/22
- Special Counsel: \$261,409; average monthly rate - \$21,784.08
- County Counsel: \$17,969; average monthly rate - \$1,497.42
- FY 22/23
- Special Counsel: \$191,004; average monthly rate - \$15,917
- County Counsel: \$14,758; average monthly rate - \$1,229.83
- FY 23/24
- Special Counsel: \$62,250; average monthly rate - \$5,187.50
- County Counsel: \$58,793; average monthly rate - \$4,899.42
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² Includes OPV Basins GSP and Allocation Ordinance Challenges

Item 12D: Legal Reserve Fee Study and Review Data

Past Revenue, Cashflow, and GEMES Fund at \$20/AF Fee

	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Beginning Balance	(\$161,265)	(\$966,821)	(\$1,067,999)	(\$1,590,801)
Revenue	\$443,426	\$1,865,459	\$1,776,295	\$2,379,752
Special Counsel	(\$1,435,145)	(\$1,830,269)	(\$2,049,926)	(\$1,466,690)
County Counsel	(\$136,367)	(\$136,367)	(\$249,100)	(\$242,813)
GEMES Acct¹	(\$966,821)	(\$1,067,999)	(\$1,590,801)	(\$920,552)

1. GEMES legal reserve account year-end balance.

Estimate of Extractions by Period

Extractions Reported to FCGMA		
2019	114,867.5640	AF/Y
2021	122,794.5310	AF/Y
2022	124,836.1960	AF/Y
Average	120,832.7637	AF/Y
2020 excluded due to transition period from calendar year to Water Year.		

Projected Fee Revenue

	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29
AF¹ Pumped	121,000	121,000	121,000	121,000	121,000
\$20.00	\$2,420,000	\$2,420,000	\$2,420,000	\$2,420,000	\$2,420,000

1. Based on 2018-2019, 2020-2021, 2021-2022 average water years' reported extractions. Water year 2019 - 2020 was the transition from calendar year to water year and data was excluded due to inconsistencies.

Projected Revenue, Cashflow, and GEMES Fund at \$20/AF Fee

	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29
Beginning Balance	(\$920,552)	(\$1,175,552)	(\$860,552)	(\$75,552)	\$1,334,448
Revenue¹	\$ 2,420,000	\$ 2,420,000	\$ 2,420,000	\$ 2,420,000	\$ -
Special Counsel	(\$2,475,000)	(\$1,925,000)	(\$1,500,000)	(\$900,000)	(\$350,000)
County Counsel	(\$200,000)	(\$180,000)	(\$135,000)	(\$110,000)	(\$90,000)
GEMES Acct²	(\$1,175,552)	(\$860,552)	(\$75,552)	\$1,334,448	\$894,448

1. Revenue based on average pumping
2. GEMES legal reserve account year-end balance.

Legal Expense Projections

		FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29
Las Posas Valley Basin Adjudication						
Special Counsel		\$ 250,000	\$ 100,000	\$ 100,000	\$ 50,000	\$ -
County Counsel		\$ 30,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ -
Oxnard and Pleasant Valley (OPV) Basins Adjudication - Potential Litigation						
Special Counsel		\$ 1,300,000	\$ 1,500,000	\$ 1,250,000	\$ 750,000	\$ 250,000
County Counsel		\$ 90,000	\$ 90,000	\$ 75,000	\$ 50,000	\$ 50,000
OPV Basins GSP Reverse Validation Action - Potential Litigation						
Special Counsel		\$ -	\$ -	\$ -	\$ -	\$ -
County Counsel		\$ -	\$ -	\$ -	\$ -	\$ -
City of Oxnard Writ Petition¹						
Special Counsel		\$ 825,000	\$ 75,000			
County Counsel		\$ 40,000	\$ 20,000	\$ -	\$ -	\$ -
Potential Litigation						
Special Counsel		\$ 100,000	\$ 250,000	\$ 150,000	\$ 100,000	\$ 100,000
County Counsel		\$ 40,000	\$ 50,000	\$ 40,000	\$ 40,000	\$ 40,000
Subtotals						
Special Counsel		\$ 2,475,000	\$ 1,925,000	\$ 1,500,000	\$ 900,000	\$ 350,000
County Counsel		\$ 200,000	\$ 180,000	\$ 135,000	\$ 110,000	\$ 90,000
Total		\$ 2,675,000	\$ 2,105,000	\$ 1,635,000	\$ 1,010,000	\$ 440,000

1. Includes approximate fees and costs, \$600,000, Agency may be ordered to pay City as prevailing party on the writ proceeding.