

BAKERSFIELD CITY COUNCIL COMMENTS JUNE 28, 2023

Good afternoon. My name is Eddy Laine. Thank you for this opportunity. Most of us in Bakersfield enjoy seeing our Kern River full again—while hoping that any negative consequences will be limited.

The use of City-owned Kern River water has been previously discussed at this podium several times—with the February 6 Sierra Club letter being handed out today having previously been provided to you. There has been no response. One reason: we were told that City staff could not discuss these issues because we in the Sierra Club are involved in the lawsuit to bring water back to the river.

However, that doesn't stop water-related issues from being front and center. Here is a May 31st front page article titled "City Keeping its Water Restrictions in Place even as Cal Water Eases its Grip." Here is a fine opinion piece on June 4th by Councilman Smith about the importance maintaining water in the Kern River (which is exactly what the lawsuit is about). "Wisdom in Water Use" is the title of this front page article on June 9th with a picture of the Mayor Goh recognizing the Solera Homeowners Association for water-wise landscaping. And, here is last Sunday's "Our View" *Californian* editorial "Drought may be over, but on-going conservation needed." Yesterday's headline asked City residents to conserve water.

Issues of water conservation, accountability and what is in the best interest of the public-at-large are major news.

I have handed to the City Attorney a copy of the current Agreement between the private firm running the Kern River Golf Course and the County of Kern—using City water. Again, there is no provision in this Agreement requiring water conservation practices. No payment for Kern River water. Yet, the County of Kern is paying for City water being pumped into Lake Ming—from the same pumping station with pumps that pump free water to the Golf Course. This while regular City residents do pay their water bills. A couple of weeks ago Golf Course staff were fixing a valve leak. A June 15 picture shows the deluge of "free water" being pumped to fix that leak.

I have also shown a June 5 picture of the first point of measure in the Kern River just downstream from Hart Park. For lawsuit purposes the first measurement of City water occurs there. The first item in the February 6 letter is an intra-city item. Items 2-6 involve City, County and Golf Course issues. As such, none of the issues in this February 6 letter are a part of the lawsuit involving the irrigation districts.

While we Sierra Club members ought to be able to request answers to the questions asked in that letter, surely you as elected officials are able to obtain answers. That is today's request. City residents shouldn't be the only ones to pay their water bills.

SIERRA CLUB



KERN-KAWEAH CHAPTER

February 6, 2023

Mayor Karen Goh and Members of the Bakersfield City Council
1501 Truxtun Avenue
Bakersfield, CA. 93301

Dear Mayor Goh and Members of Council:

First, a note of appreciation to the City's work to reduce "water use over the long-term on City-owned properties and streetscaping along Bakersfield's busy avenues and major traffic arteries" (from the front page of *The Bakersfield Californian* on January 19, 2023—an article by Steven Mayer).

While our ample and welcomed winter rains have greatly lessened our drought situation, long-term planning is essential with regard to water conservation practices for the future well-being of our community. A note of special appreciation to City Recreation and Parks Director Rick Anthony for the City's efforts in this regard—as well as his work to address underserved City neighborhoods with regard to park planning and funding. Noteworthy is the "I like the challenge" article about Mr. Anthony in the February, 2023 edition of *Bakersfield Life*. And his collaboration with California State University, Bakersfield, our Sierra Club Kern-Kaweah Chapter and others to restore habitat in the Kern River Parkway's Bakersfield Environmental Studies Area (BESA) across from CSUB are appreciated.

Issues related to the long-term use of City of Bakersfield water for the public have been front and center during the last year. One example: Our Chapter has been actively supportive of efforts to restore water to the Kern River. Another example: A December 13, 2022 article in the journal "Ecology and Conservation Science." The principal author is Dr. Antje Lauer of CSUB's Biology Department, a member of our Sierra Club, Kern-Kaweah Chapter's Executive Committee. The article was entitled, "Consequences of Water Management in Bakersfield, California during a long lasting drought 'We are all in this together--Are we?' The Examples of Truxtun Lake and the Park at River Walk." A copy of the link to the article is attached.

Members of our Executive Committee, representatives of the Kern River Parkway and others have also appeared at Bakersfield City Council meetings and met with City of Bakersfield staff and communicated our concerns regarding water-related issues. This is written to summarize the issues which have been brought to the attention of your Council and staff—issues which we are now requesting be formally addressed by City staff. Considerable additional background information is available (for possible follow-up use by City staff).

ISSUES/QUESTIONS:

1. The development of a formal written habitat protection and restoration plan along the secondary flood plain of the Kern River Parkway will be developed. This will be developed jointly by the City Water Resources Department, City Code Enforcement and City Parks and Recreation Departments. Such an agreement would involve the Kern River Parkway Foundation in its formation and review its implementation. Such an agreement will address the unnecessary trimming of trees along the Truxtun Extension and bulldozing of habitat in and near Truxtun Lakes and other areas along the Kern River.

2. The City work with the Kern River Parkway Foundation to plant trees with “diapers” for water during their early development--along portions of the Parkway.

3. A February 20, 2022 editorial in *The Bakersfield Californian* called for the “development and implementation of a water conservation plan for Hart Park, the installation of water-wise systems and the installation of water metering systems to monitor water use.” In follow-up to that editorial (and additional Hart Park-related questions):

(a) Given the leadership role which the City of Bakersfield plays (and ownership of Kern River water used in Hart Park), has the City of Bakersfield requested of Kern County (a) water metering of the water used by Kern County in Hart Lake and Mirror Lake?

(b) Has the City of Bakersfield requested of the County of Kern the development of a water conservation plan for Hart Park?

(c) As there is a cost to Kern County of Kern River water being provided to Lake Ming, does water being provided to Hart Park at no cost to the County of Kern constitute a violation of the California Public Funds Doctrine (which prohibits the gifting of public funds to “any person or entity, public or private” as set forth in the California Constitution, Article XVI, Section 6)? Relevant comparison: The County of Kern is paying approximately \$81 per acre-foot to the City for Kern River water for estimated water use in Lake Ming.

(d) Additional questions with regard to a proposed Splash Pad in Hart Park, (1) What is the proposed source of water for the Splash Pad (City-owned Kern River

water)? (2) What is the water system envisioned for the Splash Pad, (3) Is there to be water metering of water to be used in the Splash Pad? (4) How water for the Splash Pad would fit into any written water conservation plans for Hart Park.

4. With regard to Lake Ming, the City there has been no follow-up from a May 17, 2016 Administrative Report from Art Chianello to the Mayor and members of the Bakersfield City Council indicated that “both the City and County have agreed to participate in future engineering studies and to install meters to more accurately track the water use.” This is based upon the City’s purchase of Kern River water rights from Tenneco in 1976 and the County’s request to “sell water for the replenishment of Lake Ming.”

Specific questions:

(a) Please identify a timeline for the implementation of this planned 2016 installing of water metering in Lake Ming.

(b) As the pumps which pump water to the Kern River Golf Course have water metering capacity, do the similar pump (s) located in the same new (again 2020) Kern River Golf Course Pumping Station complex as those Golf Course pump(s) also have the capacity to meter water into Lake Ming?

5. Questions with regard to the Kern River Golf Course, (a) If water metering is occurring at the Kern River Golf Course (which uses City of Bakersfield Kern River water):

(a) Are there recent records of such metering (for example from FY 2020-2021 and FY 2021-2022) available for public review?

(b) How does such water metering relate to any known written Kern River Golf Course water conservation plans?

(c) As water conservation plans are not required according to the provisions of the agreement between the County of Kern and the Kern River Golf Course, how can the City be assured that such water metering and/or water conservation plans related to City water are being implemented?

6. Again, with regard to the Kern River Golf Course: As the County of Kern is paying the City for water to Lake Ming from the same pumping station being utilized for Kern River water to the Kern River Golf Course, is this water being specifically used by the Golf Course being gifted to the Kern River Golf Course? As such could this be a gifting of water without reimbursement which would constitute a violation of the California Public Funds Doctrine (which prohibits the gifting of public funds to “any person or entity, public or private” as set forth in the California Constitution, Article XVI, Section 6)? Again, relevant comparison: The

County of Kern is paying approximately \$81 per acre-foot to the City for Kern River water for estimated water use in Lake Ming.

These issues/questions/requests are based upon: (a) the previously noted February 20, 2022 editorial in *The Bakersfield Californian*, (b) a detailed July 5, 2022 letter from the Sierra Club, Kern-Kaweah Chapter to the Mayor and City Council, (c) an August 5, 2022 meeting including the Kern River Parkway Foundation, the Sierra Club, Kern-Kaweah Chapter and Bring Back the Kern with Bakersfield City Water Management—which included specifics commitments by City staff—which were shared with the City Manager with copies to the Mayor and City Council, (d) public discussions of these issues at an August 17, 2022 meeting of the Bakersfield City Council, and (e) an August 22, 2022 email summarizing all of these issues to the Bakersfield City Manager with copies to the Mayor and City Council. Considerable background information—legal agreements, letters and memorandums (perhaps most relevant to Ms. Gennaro) related to these issues are available.

Copies of this letter are being sent to Bakersfield City Manager Christian Clegg, Bakersfield City Attorney Ginny Gennaro, Acting City of Bakersfield Water Resources Manager Gary Hallen, the Kern River Parkway Foundation, Bring Back the Kern, Steven Mayer of *The Bakersfield Californian* and Lois Henry.

Thank you for your consideration.

Sincerely,



Eddy Laine, Member, Executive Committee Dr. Antje Lauer, Member, Executive Committee

cc: Christian Clegg, Bakersfield City Manager
Ginny Gennaro, Bakersfield City Attorney
Gary Hallen, Acting Bakersfield City Water Resources Manager
Kern River Parkway Foundation
Bring Back the Kern
Steven Mayer, *The Bakersfield Californian*
Lois Henry

Link: <https://juniperpublishers.com/ecoa/ECOA.MS.ID.555582.php>



FIRST POINT OF MEASURE -
DOWNSTREAM FROM HART
PARK

06/05/23

JUNE 15

KERN RIVER GOLF COURSE

PUMPS