

Ordinance No. 8.7

AN ORDINANCE TO AMEND THE FOX CANYON GROUNDWATER MANAGEMENT AGENCY ORDINANCE CODE

The Board of Directors of Fox Canyon Groundwater Management Agency hereby ordains as follows:

SECTION ONE: Chapter 1.0, Definitions, is hereby amended to read as follows:

As used in this code, the following terms have the meanings stated below:

- 1.1. **“Actual Applied Water”** – means the total water applied by the grower to the crop over the course of a calendar year without regard to the water source. Examples of actual applied water include the sum of well water, water delivered from a water supplier, and or from surface water diversions. Total applied water does not include precipitation.
- 1.2. **“Agency”** means the Fox Canyon Groundwater Management Agency.
- 1.3. **“Agency Boundary”** shall be as depicted on the map adopted by the Board and recorded as an official record with the County Recorder's Office on January 14, 2002 (Document No. 2002-0009215), and as may be adjusted as provided in the Agency's enabling legislation.
- 1.4. **“Agricultural Extraction Facility”** means a facility from which the groundwater produced is used on lands in the production of plant crops or livestock for market, and uses incidental thereto.
- 1.5. **“Annual”** means the calendar year January 1 through December 31.
- 1.6. **“Aquifer”** means a geologic formation or structure that yields water in sufficient quantities to supply pumping wells or springs. A confined aquifer is an aquifer with an overlying less permeable or impermeable layer.
- 1.7. **“Board”** means the Board of Directors of the Fox Canyon Groundwater Management Agency.
- 1.8. **“County”** means the County of Ventura.
- 1.9. **“Developed Acreage”** means that portion of a parcel within the Agency Boundary that is receiving water for reasonable and beneficial agricultural, domestic or municipal and industrial (M & I) use.
- 1.10. **“Due Date”** means, unless otherwise specifically provided, within 45 days of the date of the Agency's mailing the Semi Annual Extraction Statement, the recipient (Well Operator and/or Well Owner) is to return (have postmarked) the completed forms along with any required payment of extraction charges, and surcharges.

- 1.11. **“East Las Posas Basin”** That part of the former North Las Posas Basin that is east of the subsurface anomaly described by significant changes in groundwater levels, as described in the Groundwater Management Plan and the Las Posas Basin–Specific Groundwater Management Plan, located for record purposes on maps as provided in Section 1.20.
- 1.12. **“Excess Extraction”** means those extractions in excess of an operator's extraction allocation or adjusted extraction allocation.
- 1.13. **“Executive Officer”** means the individual appointed by the Board to administer Agency functions, or his/her designee.
- 1.14. **“Exempt Well Operators”** means all well operators operating extraction facilities supplying a single family dwelling on one acre or less, with no income producing operations and those operators granted an exemption by the Board.
- 1.15. **“Expansion Area”** means that portion of land beyond the outer limits of the Agency Boundary in the West, East, and South Las Posas Basins that lies between the Agency Boundary and the crest of the hill or 1.5 miles beyond the Agency Boundary as defined by Map Number Two, entitled Fox Canyon Outcrop, Las Posas Basin, 1995. .
- 1.16. **“Extraction”** means the act of obtaining groundwater by pumping or other controlled means.
- 1.17. **“Extraction Allocation”** means the amount of groundwater that may be obtained from an extraction facility during a given calendar year, before a surcharge is imposed.
- 1.18. **“Extraction Facility”** means any device or method (e.g. water well) for extraction of groundwater within a groundwater basin or aquifer.
- 1.19. **“Flowmeter”** means a manufactured instrument for accurately measuring and recording the flow of water in a pipeline.
- 1.20. **“Foreign Water”** means water imported to the County through the State Water Project facilities or other newly available water as approved by the Board, such as recycled water that would otherwise be lost to the Ocean.
- 1.21. **“Groundwater”** means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water.
- 1.22. **“Groundwater Basin”** means a geologically and hydrologically defined area containing one or more aquifers, which store and transmit water yielding significant quantities of water to wells. For the purposes of this Ordinance Code, groundwater basins that of which either all or a portion or portions thereof are located within the Agency Boundary include, but are not limited to the Oxnard Plain Forebay Basin, Oxnard Plain Pressure Basin, Pleasant Valley Basin, East Las Posas Basin, West Las Posas Basin, South Las Posas Basin and the Arroyo Santa Rosa Basin, as described in the Groundwater Management Plan. The boundaries of these basins are shown on maps that shall be

adopted by a Resolution. Groundwater basin boundaries may be modified by a Resolution.

- 1.23. **“Groundwater Management Plan”** means the 2007 Update to the Fox Canyon Groundwater Management Plan or Board-adopted updates to this plan.
- 1.24. **“Historical Extraction”** means the average annual groundwater extraction based on the five (5) calendar years of reported extractions from 1985 through 1989 within the Agency Boundary. This average will be expressed in acre-feet per year. All historical extraction allocations became effective on January 1, 1991.
- 1.25. **“Inactive Well”** An inactive well is a well that conforms to the County Water Well Ordinance requirements for an active well, but is being held in an idle status in case of future need. Idle status means the well is pumped no more than 8 hours during any 12-month period. Inactive wells are not required to have a flowmeter. Pumping to maintain status as an active well under the County Water Well Ordinance shall not exceed 8 hours in a 12 month period, shall be for beneficial use, and shall be estimated and reported to the Agency. Prior to removing a well from idle status, the operator shall install a flowmeter in accordance with the requirements in Chapter 3 of the Ordinance Code.
- 1.26. **“Injection/Storage Program”** means any device or method for injection/storage of water into a groundwater basin or aquifer within the Agency Boundary, including a program to supply foreign water in lieu of pumping.
- 1.27. **“Las Posas Basin–Specific Groundwater Management Plan”** means the Las Posas Basin–Specific Groundwater Management Plan or Board-adopted updates to this plan.
- 1.28. **“Las Posas Basin Eastern Management Sub-Area (Las Posas EMSA)”** means the geographic area identified as such in the Las Posas Basin–Specific Groundwater Management Plan.
- 1.29. **“Las Posas Basin Management Area”** means the geographic area identified as such in the Las Posas Basin–Specific Groundwater Management Plan, which is comprised of the Las Posas Basin Western Management Sub-Area, Las Posas Basin Eastern Management Sub-Area, and the Las Posas Basin Management Area – Monitor Only Area.
- 1.30. **“Las Posas Basin Management Area – Monitor Only Area”** means the geographic area identified as such in the Las Posas Basin–Specific Groundwater Management Plan.
- 1.31. **“Las Posas Basin Western Management Sub-Area (Las Posas WMSA)”** means the geographic area identified as such in the Las Posas Basin–Specific Groundwater Management Plan.
- 1.32. **“Las Posas Outcrop”** or **“Outcrop”** means the area of Lower Aquifer System surface exposure as defined by Map Number One, Fox Canyon Outcrop, Las Posas Basin, 1982.
- 1.33. **“May”** as used in this Ordinance Code, permits action but does not require it.

- 1.34. **“Municipal and Industrial (M & I) Provider”** means person who provides water for domestic, industrial, commercial, or fire protection purposes within the Agency Boundary.
- 1.35. **“Municipal and Industrial (M & I) Operator”** An owner or operator that supplied groundwater for M & I use during the historical allocation period and did not supply a significant amount of agricultural irrigation during the historical period.”
- 1.36. **“Municipal and Industrial (M & I) User”** means a person or other entity that used or uses water for any purpose other than agricultural irrigation.
- 1.37. **“Municipal and Industrial (M & I) Use”** means any use other than agricultural irrigation.
- 1.38. **“Non-Operating Flowmeter”** – A non-operating flowmeter includes a flowmeter that is out of calibration by plus or minus 5%, and/or a flowmeter that has not been calibrated within the flowmeter calibration schedule adopted by the Board.
- 1.39. **“Operator”** means a person who operates a groundwater extraction facility. In the event the Agency is unable to determine who operates a particular extraction facility, then “operator” shall mean the person to whom the extraction facility is assessed by the County Assessor, or, if not separately assessed, the person who owns the land upon which the extraction facility is located.
- 1.40. **“Ordinance Code”** means the Fox Canyon Groundwater Management Agency Ordinance Code.
- 1.41. **“Overdraft”** means the condition of a groundwater basin or aquifer where the average annual amount of water extracted exceeds the average annual supply of water to a basin or aquifer.
- 1.42. **“Owner”** means a person who owns a groundwater extraction facility. Ownership shall be determined by reference to whom the extraction facility is assessed by the County Assessor, or if not separately assessed, the person who owns the land upon which the extraction facility is located.
- 1.43. **“Perched”** or **“Semi-Perched Aquifer”** means the shallow, unconfined aquifer that overlies the Oxnard Aquifer in Sealing Zone III, as described in the California Department of Water Resources Bulletin No. 74-9.
- 1.44. **“Person”** includes any state or local governmental agency, private corporation, firm, partnership, individual, group of individuals, or, to the extent authorized by law, any federal agency.
- 1.45. **“Recharge”** means natural or artificial replenishment of groundwater in storage by percolation or injection of one or more sources of water.
- 1.46. **“Resolution”** means a formal statement of a decision adopted by the Board.

- 1.47. **“Safe Yield”** means the condition of groundwater basin when the total average annual groundwater extractions are equal to or less than total average annual groundwater recharge, either naturally or artificially.
- 1.48. **“Section”** as used in this Ordinance Code, is a numbered paragraph of a chapter.
- 1.49. **“Semi-Annual Groundwater Extraction Statement”** is a form filed by each operator containing the information required by Section 2.2 and 2.3.1 and shall cover the periods from January 1 to June 30 and from July 1 to December 31 annually.
- 1.50. **“Shall”** as used in this Ordinance Code, is an imperative requirement.
- 1.51. **“Well Flushing”** means the act of temporarily discharging extracted groundwater through a connection located upstream of the water distribution system at the beginning of an extraction cycle. Well flushing is typically performed until the quality of the extracted water is suitable for beneficial use and/or will not damage the distribution system. In some cases, the flushing flows may be discharged upstream of the distribution system, including the flowmeter. Flushing flows discharged upstream of the flowmeter shall be estimated and reported to the Agency in accordance with the requirements accordance with the requirements in Chapter 2 of the Ordinance Code.
- 1.52. **“Well Rehabilitation”** means the act of restoring a well to its most efficient condition by various treatments, development, or reconstruction methods. In most cases, groundwater extracted during well rehabilitation is not discharged through the extraction facility piping and, consequently, is not flowmetered. In these cases, the volume of water extracted shall be estimated and reported to the Agency in accordance with the requirements accordance in Chapter 2 of the Ordinance Code.
- 1.53. **“West Las Posas Basin”** is that part of the former North Las Posas Basin that is west of the subsurface anomaly described by significant changes in groundwater levels, as described in the Groundwater Management Plan and the Las Posas Basin–Specific Groundwater Management Plan, located for record purposes on maps as provided in Section 1.20.

SECTION TWO: Section 2.3 of Chapter 2.0, Registration of Wells and Levying of Charges, is hereby amended to read as follows:

- 2.3. **Reporting Extractions** - All extractions shall be reported to the Agency. All extractions shall be flowmetered in accordance with the requirements and methods for flowmetering extractions as specified by Chapter 3. In cases where flowmetering is not required, the volume of water extracted shall be estimated and reported to the Agency. The Agency shall send a “Semi-Annual Groundwater Extraction Statement” (SAES) form to each well operator in January and July each year. Each operator shall return the completed SAES form on or before the due date for all wells they operate. SAES forms are due forty-five (45) days after being sent by the Agency. The SAES shall contain the following information:

- 2.3.1. The information required under Section 2.1.2 above.

2.3.2. The method of measuring or computing groundwater extractions.

2.3.3. The crop types or other uses and the acreage served by the extraction facility.

2.3.4. Total extractions from each extraction facility in acre-feet for the preceding period.

SECTION THREE: Section 2.4 of Chapter 2.0, Registration of Wells and Levying of Charges, is hereby amended to read as follows:

2.4. **Groundwater Extraction Charges**

2.4.1. All persons operating groundwater extraction facilities shall pay a groundwater extraction charge for all groundwater extracted after July 1, 1993, in the amount as established by Resolution. Payments are due semi-annually, and shall accompany the statement required pursuant to Section 2.3.

2.4.2. Payments not received or postmarked by the due date shall be charged interest at the rate of 1.5 percent per month until paid in full as provided in section 1005 of the Fox Canyon Groundwater Management Agency Act.

2.4.3. Owners of extraction facilities are ultimately responsible for payment of groundwater extraction charges and interest should an operator not pay. Consequently, owners are charged with providing for this liability in agreements entered into with well operators and water users.

SECTION FOUR: Section 2.5 of Chapter 2.0, Registration of Wells and Levying of Charges, is hereby repealed.

SECTION FIVE: Section 2.6 of Chapter 2.0, Registration of Wells and Levying of Charges, is hereby amended to read as follows:

2.6. **Use of Extraction Charges** - Revenues generated from extraction charges and interest shall be used exclusively for authorized Agency purposes, including financial assistance to support Board approved water supply, conservation, monitoring programs and water reclamation projects that demonstrate significant reductions in overdraft.

SECTION SIX: Section 3.5 of Chapter 3.0, Installation and Use of Flowmeters for Groundwater Extraction Facilities, is hereby amended to read as follows:

3.5. **Fees and Enforcement** - If any water extraction facility required to have a flowmeter within the Agency's boundaries is used to produce water without a flowmeter or with a non-operating flowmeter in excess of the allowable timeframe specified in a separate Resolution, the Groundwater Extraction Charge is increased to the Non-Metered Water Use Fee. The amount of the fee shall be calculated as follows:

3.5.1. Groundwater extraction facilities - The fee shall be equal to double the current groundwater extraction charge for all estimated water used. Estimates of water

used shall be calculated by the operator and approved by the Executive Officer or calculated by the Agency using best available information about site use and conditions. Any delinquent Non-Metered Water Use Fee obligations shall also be charged interest at the rate of 1.5 percent per month on any unpaid balances.

SECTION SEVEN: Section 5.6 of Chapter 5.0, Reduction of Groundwater Extractions, is hereby amended to read as follows:

5.6. **Alternative Extraction Allocations**

5.6.1. As an alternative to historical extractions, the Executive Officer may establish a Baseline or an Annual Efficiency extraction allocation for an operator, as follows:

5.6.1.1. **Baseline Extraction Allocations.** If no historical extraction exists, or the historical allocation is less than one acre-foot per acre per year, a Baseline extraction allocation may be established by the Executive Officer at one acre-foot per acre per year.

5.6.1.1.1. A Baseline Extraction Allocation specifically applies to undeveloped acreage that is being developed and once approved shall remain with that developed acreage. A Baseline allocation may be combined with a historical allocation for commonly operated facilities in the same basin. A baseline allocation shall not be used with an efficiency allocation.

5.6.1.1.2. To obtain a Baseline Extraction Allocation, a detailed report must be submitted to the Executive Officer. The report shall describe the historical extraction of groundwater use, if any, during the period between the end of calendar year 1984 and the end of calendar year 1989, the type (crop type or M & I) and the amount of water use and acreage involved. The report shall include copies of Assessor's maps identifying the parcels where groundwater is presently being used. For the purpose of this ordinance, one (1) acre-foot per acre per year represents a reasonable use of water for a Baseline extraction allocation.

5.6.1.1.3. Application for the initial Baseline Extraction Allocation must be submitted prior to submission of the annual report of pumping. If approved, the Baseline Extraction Allocation shall apply beginning with the current calendar year.

5.6.1.1.4. To facilitate accounting procedures, an operator shall use Baseline Extraction Allocation before using Historical Allocation.

5.6.1.2. Annual Efficiency Allocation - If an operator can demonstrate to the Executive Officer that the Irrigation Allowance Index for agriculturally developed land is 1.0 or less, an Annual Efficiency allocation shall be established for one calendar year. An Irrigation Allowance Index of 1.0 or less than 1.0 has been determined by the Agency to be reasonable on agricultural lands within the Agency's boundaries.

5.6.1.2.1. An Efficiency Allocation may be used when no historical allocation exists or when the historical allocation is not sufficient for the crop being grown. A historical allocation shall not be used in conjunction with an efficiency allocation.

5.6.1.2.2. To prove irrigation efficiency the operator must submit a detailed report covering a minimum period of the immediately preceding calendar year. This report shall be submitted to the Executive Officer no later than the due date specified on the calendar-year-end Semi-Annual Extraction Statement unless otherwise extended by the Board. The report shall include all details required in a Resolution adopted by the Board.

5.6.1.2.3. The irrigation allowance index includes an appropriate amount of water necessary to provide water for a) crop evapotranspiration, b) leaching to avoid salt build-up based on the quality of irrigation water used, c) frost protection, and d) reasonable distribution uniformity.

5.6.1.2.4 Irrigation Efficiency (I.E.) will be calculated using the following formula:

$$I.E. = \frac{[ET_o \times K_c] - ER \times 100}{\text{Actual Water Applied (inches)}}$$

Where:

ET_o is the reference evapotranspiration measured in inches.

K_c is a crop factor, which is a dimensionless number that relates water use by a given plant in comparison to ET_o.

ER is the effective rainfall measured in inches as determined by the Executive Officer utilizing the appropriate measuring equipment and methods.

5.6.1.2.5 The Irrigation Allowance Index will be calculated using the procedures set forth in a Resolution adopted by the Agency.

5.6.2. Exceptions - The Board may grant exceptions to Sections 5.6.1.1 and 5.6.1.2 on a case-by-case basis. However, individual exceptions shall not become the norm.

Where agricultural efficiency cannot be measured as set forth in Section 5.6.1.2, then the most efficient practices of record for the type of agricultural use shall be the measurement of efficiency utilized by the Board in its deliberations.

SECTION EIGHT: Section 5.8 of Chapter 5.0, Reduction of Groundwater Extractions, is hereby amended to read as follows:

5.8. Extraction Surcharges and Late Penalty

5.8.1. Necessity for Surcharges

5.8.1.1. Extraction surcharges are necessary to achieve safe yield from the groundwater basins within the Agency and shall be assessed annually when annual extractions exceed the historical and/or baseline allocation for a given extraction facility or the combined sum of historical allocation and baseline allocation for combined facilities. The extraction surcharge shall be fixed by the Board and shall be based upon (1) the cost to import potable water from the Metropolitan Water District of Southern California, or other equivalent water sources that can or do provide non-native water within the Agency jurisdiction; and (2) the current groundwater conditions within the Agency jurisdiction.

5.8.2. At the discretion of the Board, the extraction surcharge may be structured, tiered, and varied between basins and or aquifers.

5.8.3. The Board shall fix the surcharge by Resolution at a cost sufficiently high to discourage extraction of groundwater in excess of the approved allocation when that extraction will adversely affect achieving safe yield of any basin within the Agency and may adjust the surcharge by Resolution; provided however, that the then existing extraction surcharge shall remain in effect until adjusted by the Board.

5.8.4. Surcharge for No Allocation - In circumstances where an individual or entity extracts groundwater from a facility(s) having no valid extraction allocation, the extraction surcharge shall be applied to the entire quantity of water extracted. Imposition and acceptance of payment of the surcharge imposed on an individual or entity that extracts water from a facility(s) that holds no extraction allocation shall not be deemed a waiver of the Agency's authority to limit or enjoin the unauthorized extractions.

5.8.5. For calendar year 2013 (January 1, 2013 through December 31, 2013), Section 5.8.5 of Chapter 5.0, Reduction of Groundwater Extractions, is hereby amended to read as follows:

Efficiency Surcharge - Facilities relying on the annual efficiency allocation shall also be subject to surcharge for inefficient use. The extraction allocation for efficiency is the amount of water used at an Irrigation Allowance Index (index) of

1.0 or less as defined in 5.6.1.2 of this ordinance. Extraction surcharges will be applied to the water extracted greater than index of 1.2. For example, an index of 1.3 would be subject to surcharges on the difference between the amount of water used at an index of 1.3 and the amount of water that would have been used at an index of 1.2. If the index is greater than 1.4, no efficiency allocation will be available, and the operator shall revert to a historical, baseline or to no allocation, whichever applies to that facility. Extraction surcharges would then apply to the difference between actual water used and the applicable allocation, if any. For example, a facility operating at an index greater than 1.4, with no historical or baseline allocation would be subject to surcharges on all water used.

Effective January 1, 2014, Section 5.8.5 of Chapter 5.0, Reduction of Groundwater Extractions, is hereby amended to read as follows:

Efficiency Surcharge - Facilities relying on the annual efficiency allocation shall also be subject to surcharge for inefficient use. The extraction allocation for efficiency is the amount of water used at an Irrigation Allowance Index (index) of 1.0 or less as defined in 5.6.1.2 of this ordinance. Extraction surcharges will be applied to the water extracted greater than an index of 1.0. For example, an index of 1.1 would be subject to surcharges on the difference between the amount of water used at an index of 1.1 and the amount of water that would have been used at an index of 1.0. If the index is greater than 1.2, no efficiency allocation will be available, and the operator shall revert to a historical, baseline or to no allocation whichever applies to that facility. Extraction surcharges would then apply to the difference between actual water used and the applicable allocation, if any. For example, a facility operating at an index greater than 1.2 with no historical or baseline allocation would be subject to surcharges on all water used.

5.8.6. Payment of Extraction Surcharges

- 5.8.6.1. Surcharges are assessed annually with respect to the annual allocation and shall become due and payable by the owner/operator by the due date for returning the SAES. Payments shall be made with credits, if available. The Board may extend the time allowed to pay surcharges for a period of up to twelve months when circumstances exist that in the opinion of the Board warrant such extension. The Board may also approve the payment of surcharges in installments of up to 24 months with terms suitable to the Board.
- 5.8.6.2. Late Penalty. Surcharge payments not received or postmarked by the due date shall be charged a late penalty at the rate of 1.5 percent per month until paid in full as provided in section 1104 of the Fox Canyon Groundwater Management Agency Act.
- 5.8.6.3. Collection of Delinquent Extraction Surcharges and Late Penalties - The Board may order that any given extraction surcharge and/or late penalty shall be a personal obligation of the operator or shall be an assessment against the property on which the extraction facility is located. Such

assessment constitutes a lien upon the property, which lien attaches upon recordation in the office of the County Recorder. The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale, in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of ad valorem taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and an assessment relating to such property shall be transferred to the unsecured roll for collection.

- 5.8.6.4 Use of Extraction Surcharges and Late Penalties - Revenues generated from extraction surcharges and late penalties shall be used exclusively for authorized Agency purposes, including financial assistance to support Board approved water supply, conservation, monitoring programs and water reclamation projects that demonstrate significant reductions in overdraft.

SECTION NINE: Section 8.5 of Chapter 8.0, Penalties, is hereby added to read as follows:

- 8.5. Civil penalties for specified violations of the Ordinance Code shall be established by Resolution which may provide discretion for the Executive Officer to adjust and/or waive the civil penalty.

This Ordinance shall become effective on the thirty-first day after adoption.

ADOPTED this 22nd day of May 2013 by the following vote:

AYES: Directors Maulhardt, Craven, Zaragoza, Kelley, and Borchard

NOES: None

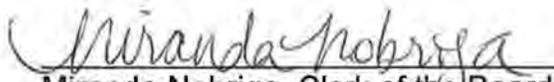
ABSENT: None

By:



Lynn Maulhardt, Chair, Board of Directors
Fox Canyon Groundwater Management Agency

ATTEST: I hereby certify that the above is a true and correct copy of Ordinance No. 8.7.



Miranda Nobriga, Clerk of the Board