

Resolution 2008-05
of the
Fox Canyon Groundwater Management Agency

A RESOLUTION APPROVING AN AMENDMENT TO THAT CERTAIN SETTLEMENT AGREEMENT ENTERED INTO EFFECTIVE SEPTEMBER 12, 2007.

WHEREAS, Fox Canyon Groundwater Management Agency ("Agency") was created by the State Legislature in 1982 to manage groundwater basins encompassing an approximate 183 square mile portion of southern Ventura County; and

WHEREAS, the statutory mission of the Agency includes the protection and preservation of groundwater resources within the boundary of the Agency; and

WHEREAS, effective September 12, 2007 the Agency, together with Pleasant Valley County Water District, United Water Conservation District, Stephen T. B. Miller, West Bay Company, LLC, Carlyle Farming Company, LLC, and Thornhill Mutual Water Company, entered into that certain Settlement Agreement ("Settlement Agreement"), reference to which, including the Exhibits thereto, it is made for further particulars; and

WHEREAS, at Section 1 thereof, Settlement Agreement provides for payment to the Agency of the total sum of \$510,000 ("Settlement Payment"), in annual installments, the final of which must be paid in full no later than June 30, 2012; and

WHEREAS, the Settlement Agreement, at Section 10.2 thereof, provides for a fixed monetary penalty ("Penalty") in the event that any such installment payment, or the full amount of the Settlement payment, is not paid on or before June 30, 2012; and

WHEREAS, at the time that the parties entered into the Settlement Agreement, it was the intent of the parties that in the event that the parties required to do so failed to pay the entire Settlement Payment within the time required therefore, the Penalty would be imposed, less such portion of the Settlement Payment actually paid and that upon full payment of the Settlement Payment the Penalty would no longer be applicable, and

WHEREAS, the Settlement Agreement provides to the Agency and others the right to enforce the Settlement Agreement, and to recover any damages suffered by the Agency or others as the result of such violation, by and through any administrative proceeding or action in law of equity, including, but not limited to, actions for damages, or for injunctive or declaratory relief, to the fullest extent then allowed or provided for by ordinance, regulation, statute or common law; and

WHEREAS, the Settlement Agreement is ambiguous concerning the non-applicability of the Penalty once the Settlement Payment has been paid in full; and

WHEREAS, the Agency's board finds that the adoption of an amendment to the Settlement Agreement, a true and correct copy of which is attached hereto, labeled Exhibit A, and incorporated herein by reference, will resolve such ambiguity, without compromising the power or ability of the Agency to achieve its statutory mission of protecting and preserving groundwater resources:

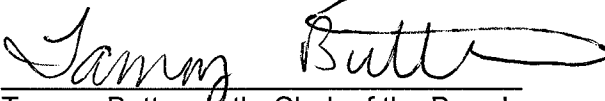
NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED THAT the Agency's Board of Directors adopts the Amendment to Settlement Agreement set forth in Exhibit A, attached hereto.

On motion of Director Craven, and seconded by Director Kelley, the foregoing Resolution was passed and adopted on June 25, 2008.



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

ATTEST: I hereby certify that the above is a true and correct copy of Resolution 2008-05.

By: 

Tammy Butterworth, Clerk of the Board