

Resolution 2019-1

of the

Fox Canyon Groundwater Management Agency

A RESOLUTION AUTHORIZING THE IMPOSITION OF CIVIL PENALTIES FOR SPECIFIC ORDINANCE CODE VIOLATIONS AND RESCINDING RESOLUTION 2013-01

WHEREAS, the Fox Canyon Groundwater Management Agency Ordinance Code requires well operators and owners to regularly respond to reporting and payment requirements for groundwater extraction data (monthly reports and semi-annual extraction statements), flowmeter data, data on current well operators and owners, and payment for groundwater extraction; and

WHEREAS, when the Agency does not receive the required reporting and payment information the Agency must conduct significant follow-up work with non-reporting well operators and owners to obtain the required information; and

WHEREAS, this follow-up work is very costly to the agency in terms of staff time devoted to well operators and owners that do not comply with the Ordinance Code, including not limited to those who fail to:

- a) report extractions when required;
- b) remit payments;
- c) comply with flowmeter calibration requirements; and
- d) provide notice of a change to well operator and/or owner; and

WHEREAS, failures to comply with the Ordinance Code can create unfair economic advantages to non-compliant well Operators and Owners; and,

WHEREAS, the Fox Canyon Groundwater Management Agency Act and Ordinance Code Section 8.3 authorizes the imposition of a civil penalty up to one thousand dollars (\$1,000) per day for negligent or intentional violation of any provision of the Ordinance Code; and

WHEREAS, civil penalties are considered a useful tool to help ensure an operator's compliance with the requirement to submit Ordinance Code required information and pay extraction charges when due, taking into consideration appropriate factors, including the seriousness of the violation and the length of time the operator has had to demonstrate compliance but failed to do so;

WHEREAS, This Resolution updates the civil penalty structure currently laid out in Agency Resolution Number 2013-1 and adds additional civil penalties.

SECTION 1.

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED, that pursuant to the statutory authority granted by the Fox Canyon Groundwater Management Agency Act, Sections 405 and 807, and its Ordinance Code, a Notice of Violation shall be sent, and a civil penalty shall be assessed, to any operator and/or owner who fails to:

- a) submit a Semi-Annual Groundwater Extraction Statement and/or pay an owed extraction charge and/or interest and/or surcharge by the due date. The operator and/or owner shall be liable to the Agency for a civil penalty in the amount of \$50.00 per day.
- b) [when authorized] submit an application for an efficiency allocation by the due date. The operator and/or owner shall be liable to the Agency for a civil penalty in the amount of \$50.00 per day. This civil penalty will not be in addition to the preceding item a).
- c) report a change in owner or operator required per Ordinance Code Section 2.2. The operator and/or owner shall be liable to the Agency for a civil penalty in the amount of \$50.00 per day.
- d) submit notification of any change in flowmeter equipment as per Chapter 3 of the Ordinance Code and Resolution 2019-2. The operator and/or owner shall be liable to the Agency for a civil penalty in the amount of \$50.00 per day.
- e) submit proof of installation of Advanced Metering Infrastructure required per An Ordinance Requiring that Flowmeters be Equipped with Advanced Metering Infrastructure (AMI) Telemetry (2/26/18) and Resolution 2018-1. The operator and/or owner shall be liable to the Agency for a civil penalty in the amount of \$50.00 per day.
- f) submit a monthly extraction report as required per Ordinance No. 8.9 (12/5/18). The operator and/or owner shall be liable to the Agency for a civil penalty in the amount of \$50.00 per day.

SECTION 2. Resolution Number 2013-01 is hereby rescinded.

SECTION 3. The Executive Officer may decrease the civil penalty for a given violation set forth in Section 1. above at his or her discretion in accordance with any one or combination of the following criteria:

General Criteria:

- a) The culpability of the violator in causing the violation;
- b) The nature and persistence of the violator's failure to perform or comply with applicable Agency regulations or direction to take corrective action;
- c) The length of time the violation has existed;
- d) The violator's history of past violations, either of a similar or different nature, on the same or different property under the same ownership;
- e) The violator's cooperation with the Agency or other regulatory enforcement agency in resolving the existing and past violations;
- f) The financial burden of immediate compliance or corrective action on the violator;
- g) The extent of harm caused by the violation to the aquifer;
- h) The frequency of past violations, if any; and
- i) Other factors as deemed relevant by the Executive Officer.

Criteria Specific to Typical Agency Operations:

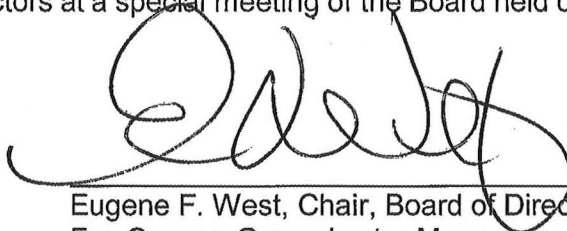
- a) The Executive Officer may reduce the amount of the civil penalty when:
1. The person owing it may not have received the earlier requests leading up to it as a result of an Agency error in noticing. It is not an Agency error if it sends notice to an address on file that was not kept up to date by the well owner or operator.
 2. The person who the civil penalty is assessed has mitigating circumstances related to illness.
- b) The Executive Officer is not likely to reduce the amount of the civil penalty when:
1. The person owing it may not have received the earlier requests leading up to it as a result of not updating their contact information with the Agency.
 2. The person owing it, according to the most up to date agency records, believed it was someone else's responsibility.
 3. The failure to respond to earlier requests leading up to the imposition of the civil penalty was an oversight.

If the Executive Officer believes that the amount of civil penalty for a given violation set forth in Section 1. should be increased, the Executive Officer may petition the Board for an increase in the amount of the civil penalty.

SECTION 4. Notices of Violation and civil penalty assessments will be sent via the United States Postal Service using certified mail with a return-receipt requested.

On a motion by Director Craven and seconded by Director Eranio, the foregoing Resolution was duly passed and adopted by the Board of Directors at a special meeting of the Board held on this 8th day of February 2019 in Ventura, California.

By:



Eugene F. West, Chair, Board of Directors
Fox Canyon Groundwater Management Agency

ATTEST: I hereby certify that the above is a true and correct copy of Resolution No. 2019-01.

By:



Keely Royas, Clerk of the Board