

**AN ORDINANCE AMENDING ARTICLES 4 AND 6 AND RESCINDING SECTION 10.2
OF AN ORDINANCE TO ESTABLISH AN ALLOCATION SYSTEM FOR THE OXNARD
AND PLEASANT VALLEY GROUNDWATER BASINS**

ARTICLE 1. FINDINGS

- 1.1. The Fox Canyon Groundwater Management Agency (Agency) Board of Directors in response to the Sustainable Groundwater Management Act of 2014 (SGMA), on October 23, 2019, adopted An Ordinance to Establish an Allocation System for the Oxnard and Pleasant Valley Groundwater Basins (OPV Ordinance) which, among other things, established new extraction allocations throughout the Oxnard and Pleasant Valley Groundwater Basins (OPV Basins) to transition the Agency's then-current groundwater management programs to sustainable groundwater management programs under the Sustainable Groundwater Management Act (SGMA) and provided for reduction of allocations in the event the sustainable yield of the OPV Basins is less than the total extraction allocations established under the OPV Ordinance.
- 1.2. In addition, the OPV Ordinance (a) adjusted the base-period allocation for Pleasant Valley County Water District (Pleasant Valley) in recognition of its use of water from the Conejo Creek Project and corresponding reduction in total agricultural extractions within its service territory during the base period established by the OPV Ordinance (Base Period); and (b) provided Pleasant Valley and United Water Conservation District (United) with the flexibility to increase groundwater use in years when surface water supplies from the Santa Clara River are less than normal, subject to reduction of groundwater use in years when surface water supplies are more abundant.
- 1.3. On December 2, 2019, the City of Oxnard (City) filed a petition for writ of mandate in which it contended that the OPV Ordinance: (a) violated section 702 of the Fox Canyon Groundwater Management Act by providing additional extraction allocation and flexibility to Pleasant Valley and United without providing the same to the City; and (b) violated Water Code section 106 by prioritizing agricultural uses of water over domestic uses.
- 1.4. On August 31, 2023, the Los Angeles County Superior Court issued a peremptory writ of mandate which ordered the Agency to rescind or revise the provisions of the OPV Ordinance that violate section 702, and to set aside section 10.2 of the OPV Ordinance. The Agency was further ordered to file with the court a return to the writ specifying the actions taken to comply with the writ.
- 1.5. In accordance with SGMA, on December 13, 2019, the Agency adopted groundwater sustainability plans for the OPV Basins which estimate the future sustainable yield of the OPV Basins to be approximately 50,600 acre-feet per year (conservatively), an amount which may be as much as 31,600 acre-feet below average annual extractions from the

OPV Basins.

- 1.6. During the Base Period, certain operators' coordinated use of surface and/or supplemental water from projects reduced their groundwater extractions. For example, during the Base Period, the Conejo Creek Project supplied an average of 4,978 acre-feet of surface water annually to Pleasant Valley for agricultural use which could have been supplied by extracting groundwater from the OPV Basins but resulted in a corresponding decrease in groundwater use within Pleasant Valley's service area. Other operators may be able to demonstrate similar coordinated uses resulted in decreased groundwater extraction during the Base Period. This ordinance allows for the adjustment of operators' extraction allocations to continue the coordinated use of surface water that decreases groundwater extractions in the OPV Basins.
- 1.7. During the Basin Period, certain operators received deliveries from other local surface water supplies which reduced their groundwater extractions. For example, during the Base Period, Pleasant Valley and United Water Conservation District (United) received an average of 15,600 acre-feet annually of surface water deliveries from the Santa Clara River for their customers' agricultural use which could have been supplied by extracting groundwater from the OPV Basins but resulted in a corresponding decrease in groundwater use within Pleasant Valley's and United's service areas. Other operators may be able to demonstrate similar coordinated uses resulted in decreased groundwater extraction during the Base Period. This ordinance provides operators allocation flexibility to continue the coordinated use of surface water that decreases groundwater extractions in the OPV Basins.
- 1.8. The adoption of this ordinance is necessary to comply with the writ; to ensure the continued applicability and viability of the OPV Ordinance and the sustainable management of the OPV Basins in accordance with SGMA is not impeded or delayed; and to maintain, restore, enhance, and protect the quantity and quality of groundwater supplies in the OPV Basins.
- 1.9. The Agency finds based on evidence in the record, including the Board's record relating to the prior ordinance approval and previously adopted and certified pursuant to Public Resources Code section 21167.6, that this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Water Code section 10728.6 and CEQA Guidelines sections 15061(b)(3), 15307 and 15308.
- 1.10. To the maximum extent possible, these findings incorporate by reference the findings set forth in article 1 of the OPV Ordinance.

ARTICLE 2. AMENDMENT OF ARTICLE 4

Article 4 of the OPV Ordinance is hereby amended and reenacted as follows:

- 4.1. "Agency" shall mean the Fox Canyon Groundwater Management Agency.
- 4.2. "Agricultural Operator" shall mean an owner or operator of an extraction facility used to produce groundwater for use on lands in the production of plant crops or livestock for market and uses incidental thereto.
- 4.3. "Assessor's Parcel Map" shall mean an official map designating parcels by Assessor's Parcel Number.
- 4.4. "Assessor's Parcel Number" shall mean the number assigned to a parcel by the County of Ventura for purposes of identification.
- 4.5. "Base Period" shall mean calendar years 2005 through 2014.
- 4.6. "Base Period Calleguas Deliveries" shall mean the average annual amount of water delivered by Calleguas to a Calleguas Operator during the Base Period.
- 4.7. "Base-Period Conejo Creek Deliveries" shall mean the average annual amount of Conejo Creek Water Deliveries during the base period.
- 4.8. "Base-Period Extraction" shall mean the average annual groundwater extraction based on reported extractions during the base period, excluding any extractions that incurred surcharges.
- 4.9. "Base-Period PTP Deliveries" shall mean the average annual amount of PTP deliveries during the base period as reported to the Agency by United.
- 4.10. "Base-Period PV Deliveries" shall mean the average annual amount of PV deliveries during the base period as reported to the Agency by United.
- 4.11. "Basins" shall mean the Pleasant Valley Groundwater Basin and the Oxnard Groundwater Subbasin.
- 4.12. "Board" shall mean the Board of Directors of the Agency.
- 4.13. "Calleguas" shall mean Calleguas Municipal Water District.
- 4.14. "Calleguas Operator" shall mean an operator with access to the delivery of water by Calleguas during the Base Period.
- 4.15. "Conejo Creek Project" shall mean the Conejo Creek Diversion structure and appurtenances owned and operated by Camrosa Water District through which recycled water discharged from the Hill Canyon Wastewater Treatment Plant is diverted from Conejo Creek for delivery to Camrosa Water District and Pleasant Valley.
- 4.16. "Conejo Creek Water Deliveries" shall mean deliveries of water to Pleasant Valley from the Conejo Creek Project.

- 4.17. "Executive Officer" shall mean the individual appointed by the Board to administer Agency functions or his/her designee.
- 4.18. "Extraction Allocation" shall mean the amount of groundwater that may be obtained from an extraction facility during a given water year before a surcharge is imposed.
- 4.19. "Extraction Facility" shall mean any device or method (e.g. water well) for extraction of groundwater within the Basin.
- 4.20. "Groundwater Sustainability Plan" shall mean the plan or plans, and any amendment thereof, developed and adopted by the Agency for the Basins in accordance with SGMA.
- 4.21. "Management Area" shall mean an area within the Basins for which the groundwater sustainability plan may identify different minimum thresholds, measurable objectives, monitoring or projects and management actions in accordance with regulations adopted pursuant to chapter 10 of SGMA.
- 4.22. "Municipal and Industrial Operator" shall mean an owner or operator that supplied groundwater for domestic, industrial, commercial or other non-agricultural use.
- 4.23. "Municipal and Industrial (M&I) Use" shall mean any use other than agricultural irrigation.
- 4.24. "Mutual Water Company" shall mean a corporation organized for, or engaged in the business of, selling, distributing, supplying, or delivering water to its stockholders and members at cost for irrigation purposes or for M&I use.
- 4.25. "O-H Pipeline" means the water distribution system operated by United that supplies groundwater to contractors under the O-H Pipeline Agreement.
- 4.26. "O-H Pipeline Agreement" means the Water Supply Agreement for Delivery of Water Through the Oxnard/Hueneme Pipeline dated July 1, 1996, and any amendment thereto.
- 4.27. "Operator" shall mean a person operating an extraction facility. The owner of an extraction facility shall be conclusively presumed to be the operator unless a satisfactory showing is made to the Agency that the extraction facility actually is operated by some other person.
- 4.28. "Owner" shall mean a person owning an extraction facility or an interest in an extraction facility other than a lien to secure the payment of a debt or other obligation and shall include any mutual water company and incorporated ownership.
- 4.29. "Parcel" shall mean a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.
- 4.30. "Person" shall mean any state or local governmental agency, private corporation, firm, partnership, individual, group of individuals, or, to the extent authorized by law, any federal agency.
- 4.31. "Pleasant Valley" shall mean Pleasant Valley County Water District.

- 4.32. "Pleasant Valley's Service Area" shall mean all lands shown on the map of the boundaries of Pleasant Valley on file with the Ventura Local Agency Formation Commission.
- 4.33. "PTP Deliveries" shall mean deliveries of surface water from the Santa Clara River through United's Pumping Trough Pipeline.
- 4.34. "PV Deliveries" shall mean deliveries of surface water from the Santa Clara River through United's Pleasant Valley Pipeline.
- 4.35. "Sustainable Groundwater Management Act" or "SGMA" shall mean Part 2.74 of Division 6 of the California Water Code, sections 10720 et seq.
- 4.36. "Sustainable Yield" shall mean the maximum quantity of water that can be withdrawn annually from the Basins as provided in the groundwater sustainability plan.
- 4.37. "United" shall mean United Water Conservation District.
- 4.38. "Water Market" shall mean a program which, by ordinance, allows the transfer of extraction allocations through a market administered by or on behalf of the Agency.
- 4.39. "Water Purveyor" shall mean a mutual water company, special district, or municipality that supplies groundwater to others for agricultural or municipal and industrial use.
- 4.40. "Water Year" shall mean the period from October 1 of one calendar year through September 30 of the following calendar year.

ARTICLE 3. AMENDMENT OF ARTICLE 6

Article 6 of the OPV Ordinance is hereby amended and reenacted as follows:

- 6.1. Until such time as the reductions described in article 10 are implemented and except as otherwise provided in this article, an operator's extraction allocation shall be the base-period extraction as reported to the Agency pursuant to chapter 2 of the Agency Ordinance Code. The extraction allocation established under this section 6.1 is called "base-period allocation."
- 6.2. In recognition of the use of surface water from the Conejo Creek Project and the corresponding reduction in total agricultural extractions within Pleasant Valley's service area during the base period, Pleasant Valley's base-period allocation shall be increased in an amount equal to base-period Conejo Creek water deliveries, subject to the adjustment described in subsection 6.2.1.
 - 6.2.1. Pleasant Valley shall include in the Semi-Annual Extraction Statement required under section 2.3 of the Agency Ordinance Code a report on the use of Conejo Creek water during the reporting year. In each year in which Pleasant Valley receives Conejo Creek water deliveries, Pleasant Valley must accept for delivery and use Conejo Creek Water Deliveries up to the average amount of Base-Period Conejo Creek Deliveries. Pleasant Valley's base-period allocation for that year shall be reduced in an amount equal to the Conejo Creek water deliveries during the year.

- 6.2.2. The Board may transfer a portion of the allocation established under section 6.2 from Pleasant Valley to an operator of an extraction facility located within Pleasant Valley's service area upon a showing that the operator reduced extractions during the base period as a result of taking deliveries from Pleasant Valley. The transfer will avoid a windfall allocation that may otherwise result under subsection 6.2.1 of this ordinance and shall be subject to the procedures set forth in subsection 5.3.9 of the Agency Ordinance Code.
- 6.3. In recognition of the benefits to the Basins resulting from an Operator's coordinated use of groundwater and surface water during the Base Period, an operator's base-period allocation may be increased by (i) the average annual amount that the operator reduced its groundwater extraction below its allocation effective during the Base Period due to its coordinated use of surface water or (ii) the average annual amount that the operator reduced its groundwater extraction below its allocation effective during the Basin Period due to a transfer of such allocation from a Management Area to a location outside a Management Area. The increased extraction allocation established under this section 6.3 is called "Adjusted Allocation."
- 6.3.1. In any year, an operator with an Adjusted Allocation must accept for delivery and use surface water made available by the underlying coordinated use program, up to the average amount of surface water used by the operator during the Base Period, to reduce its groundwater extractions below its allocation effective during Base Period or transfer its allocation effective during the Base Period from a Management Area to a location outside a Management Area.
- 6.3.2. An operator's Adjusted Allocation shall be reduced by an amount equal to the amount of surface water that it received during any year.
- 6.3.3. In order to obtain an Adjusted Allocation, an operator must submit a written request to the Agency with documentation, analyses, and/or other materials that demonstrate the operator's coordinated use of surface water during the Base Period either (i) reduced groundwater extractions below its allocation effective during the Base Period (including amounts) or (ii) resulted in a transfer of its allocation effective during the Basin Period from a Management Area to a location outside a Management Area (including amounts). Adjusted Allocations will be established only with the Agency's written approval, which will include the amount of the Adjusted Allocation.
- 6.3.4. An operator using an Adjusted Allocation shall include in the Semi-Annual Extraction Statement required by chapter 2 of the Agency Ordinance Code a report that includes, at a minimum, the amount of surface water made available by the underlying coordinated use program and the amount of surface water accepted and used by the operator from the coordinated use program during the reporting year.
- 6.4. The Agency may request additional documentation from Pleasant Valley and operators with Adjusted Allocations to confirm continued coordinated use of groundwater and surface water and for periodic review pursuant to article 3.
- 6.5. Santa Clara River Water Flex Allocation Program. In order to encourage the coordinated use of groundwater from the Basins and surface water supplies from the Santa Clara River while eliminating overdraft and maintaining the sustainability goals established under SGMA,

Pleasant Valley and United may increase groundwater use in years when these surface water supplies are less than normal, provided that a corresponding reduction in extractions occurs in years when surface water supplies from the Santa Clara River are more abundant. The coordinated use of these water supplies shall be implemented through adjustments to the extraction allocation as provided in this section. This extraction allocation flexibility is called "Santa Clara River Water Flex Allocation."

- 6.5.1. In any year in which the volume of surface water available for PV deliveries is less than base-period PV deliveries, Pleasant Valley's base-period allocation for that year shall be increased in an amount equal to the shortfall in available PV deliveries. The extraction allocation available under this subsection shall be subject to any allocation reductions implemented in accordance with article 10 of this ordinance.
- 6.5.2. In any year in which the volume of surface water available for PV deliveries exceeds base-period PV deliveries, Pleasant Valley's base-period allocation for that year shall be reduced by the amount of excess available PV deliveries. In order to provide a minimum extraction allocation during periods when PV deliveries are not available, Pleasant Valley's allocation shall not be reduced below 50 percent of Pleasant Valley's base-period extraction. The minimum extraction allocation available under this subsection shall not be eligible for carryover under article 8 of this ordinance.
- 6.5.3. Surface water shall be deemed available for PV deliveries as demonstrated in an annual report to be submitted by United pursuant to subsection 6.2.1.8. In any year in which Pleasant Valley does not make full use of the surface water available for PV deliveries, Pleasant Valley's base-period allocation for that year shall be reduced by the amount of available surface water not taken by Pleasant Valley.
- 6.5.4. In any year in which the volume of surface water available for PTP deliveries is less than base-period PTP deliveries, United's base-period allocation for that year shall be increased in an amount equal to the shortfall in available PTP deliveries. The extraction allocation available under this subsection shall be subject to any allocation reductions implemented in accordance with article 10 of this ordinance.
- 6.5.5. In any year in which the volume of surface water available for PTP deliveries exceeds base-period PTP deliveries, United's base-period allocation for that year shall be reduced by the amount of excess available PTP deliveries. In order to provide a minimum extraction allocation during periods when PTP deliveries are not available, United's allocation shall not be reduced below 50 percent of United's base-period extraction. The minimum extraction allocation available under this subsection shall not be eligible for carryover under article 8 of this ordinance.
- 6.5.6. Surface water shall be deemed available for PTP deliveries as demonstrated in an annual report to be submitted by United pursuant to subsection 6.2.1.8. In any year in which United does not make full use of the surface water available for PTP deliveries, United's base-period allocation for that year shall be reduced by the amount of available surface water not used by United.
- 6.5.7. To provide Pleasant Valley and United with the operational flexibility to respond to annual variations in the availability of Santa Clara River water, any surcharge for

excess extractions that would otherwise be assessed annually shall be determined at the end of each five-year period following the operative date of this ordinance. Surcharges for any excess extractions shall be assessed as provided in sections 6.3 and 6.4.

- 6.5.8. United shall submit an annual report on its diversion of Santa Clara River water during the preceding water year. The report shall state the total volume of river diversions, the total volume of surface water made available for PTP deliveries and PV deliveries and the total volume put to other uses. The report shall state these volumes in acre-feet, supported by meter readings, and include such other information determined by the Executive Officer to be reasonably necessary to carry out the intent of this article.
 - 6.5.9. Pleasant Valley and United shall include in the Semi-Annual Extraction Statement required under section 2.3 of the Agency Ordinance Code a report on the use of Santa Clara River water and the resulting Santa Clara River Water Flex Allocation for the reporting year.
 - 6.5.10. Pleasant Valley shall be subject to surcharges on extractions in excess of cumulative base-period allocations, as adjusted in accordance with this article, during the preceding five-year period. If excess extractions occur, Pleasant Valley shall be deemed to have exceeded the extraction allocation in each of the preceding five years. A surcharge assessed under this section shall be due and payable within 30 days of issuance of a notice of imposition of surcharges.
 - 6.5.11. United shall be subject to surcharges on extractions in excess of cumulative base-period allocations, as adjusted in accordance with this article, during the preceding five-year period. If excess extractions occur, United shall be deemed to have exceeded the extraction allocation in each of the preceding five years. A surcharge assessed under this section shall be due and payable within 30 days of issuance of a notice of imposition of surcharges.
- 6.6. Calleguas Water Flex Allocation Program. In order to encourage the coordinated use of groundwater from the Basins and water supplies from Calleguas Municipal Water District to address overdraft conditions and maintain the sustainability goals established under SGMA, a Calleguas Operator may increase groundwater use in years when the amount of Calleguas water is less than normal, provided that a corresponding reduction in extractions occurs in years when Calleguas water supplies are greater than normal. The coordinated use of Calleguas water supplies shall be implemented through adjustments to extraction allocations as provided in this section. This extraction allocation flexibility is called "Calleguas Water Flex Allocation."
- 6.6.1. In any year in which the volume of Calleguas water available for delivery to a Calleguas Operator is less than Base Period Calleguas Deliveries to that operator, the Calleguas Operator's extraction allocation for that year shall be increased in an amount equal to the shortfall in available Calleguas deliveries to that operator. The extraction allocation available under this subsection shall not be eligible for carryover under article 8 of this ordinance but shall be subject to any allocation reductions implemented in accordance with article 10 of this ordinance.

- 6.6.2. In any year in which the volume of Calleguas water available for delivery to a Calleguas Operator exceeds Base Period Calleguas Deliveries to that operator, the Calleguas Operator's base-period allocation for that year shall be reduced by the amount of excess available Calleguas deliveries to that operator.
- 6.6.3. In any year in which a Calleguas Operator does not make full use of the Calleguas water made available to it by Calleguas, the Calleguas Operator's extraction allocation for that year shall be reduced by the amount of Calleguas water made available by Calleguas but not taken by the Calleguas Operator.
- 6.6.4. To provide Calleguas Operators with the operational flexibility to respond to annual variations in the availability of Calleguas water, any surcharge for excess extractions that would otherwise be assessed annually shall be determined at the end of each five-year period following the operative date of this ordinance. Surcharges for any excess extractions shall be assessed as provided in section 6.6.6.
- 6.6.5. Each Calleguas Operator exercising a Calleguas Water Flex Allocation shall submit an annual report on its Calleguas water deliveries during the preceding water year. The report shall be included in the Calleguas Operator's Semi-Annual Extraction Statement required under section 2.3 of the Agency Ordinance Code and state the total volume of Calleguas water delivered to the Calleguas Operator and the total volume of Calleguas water made available to the Calleguas Operator for delivery by Calleguas. The report shall state these volumes in acre-feet, supported by meter readings, and include such other information determined by the Executive Officer to be reasonably necessary to carry out the intent of this article.
- 6.6.6. Operators exercising Calleguas Water Flex Allocations shall be subject to surcharges on extractions in excess of cumulative base-period allocations, as adjusted in accordance with this article, during the preceding five-year period. If excess extractions occur, Calleguas Operators shall be deemed to have exceeded the extraction allocation in each of the preceding five years. A surcharge assessed under this section shall be due and payable within 30 days of issuance of a notice of imposition of surcharges.

ARTICLE 4. RESCISSION OF SECTION 10.2 OF ARTICLE 10

Section 10.2 of Article 10 of the OPV Ordinance is hereby rescinded.

ARTICLE 5. SEVERABILITY

Should any provision, section, subsection, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining, provisions, sections, subsections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

ARTICLE 6. EFFECTIVE DATE; OPERATIVE DATE

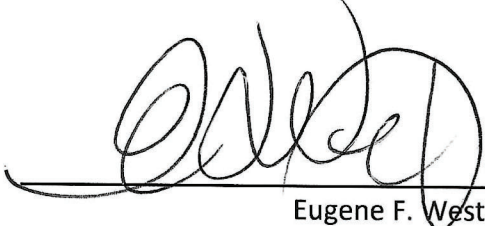
This ordinance shall become effective on the thirty-first day after adoption.

PASSED AND ADOPTED this 27th day of March, 2024, by the following vote:

AYES: 4 (Chair West, Director Long, Director Borchard, Alternate Director Berger)

NOES: 1 (Director Trembley)

ABSENT: _____



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

ATTEST:


By: _____
Elka Weber,
Management Assistant and
Clerk of the Board