

FOX CANYON GROUNDWATER MANAGEMENT AGENCY

A STATE OF CALIFORNIA WATER AGENCY



BOARD OF DIRECTORS

Lynn E. Maulhardt, Chair, *Director, United Water Conservation District*

David Borchard, *Farmer, Agricultural Representative*

Charlotte Craven, Vice Chair, *Councilperson, City of Camarillo*

John Zaragoza, *Supervisor, County of Ventura*

Dr. Michael Kelley, *Director, Zone Mutual Water Company*

EXECUTIVE OFFICER

Jeff Pratt, P.E.

NOTICE OF MEETING

NOTICE IS HEREBY GIVEN that the Fox Canyon Groundwater Management Agency (FCGMA) will hold an **Operations Committee Meeting** from **2:00 p.m. to 4:00 p.m.** on **Wednesday, January 16, 2013** in the **Atlantic Conference Room**, at the Ventura County Government Center, Hall of Administration, Main Plaza Level at **800 South Victoria Avenue, Ventura, California**.

FCGMA OPERATIONS COMMITTEE MEETING AGENDA

January 16, 2013

Members: Chair Michael Kelley
Co-Chair John Zaragoza

- A. **Call to Order**
- B. **Introductions**
- C. **Public Comment** – Audience members may speak about FCGMA-related matters not on today's Agenda.
- D. **Meeting Minutes** – Approve the meeting minutes from the November 14, 2012 FCGMA Operations Committee meeting.
- E. **Interest and Late Penalty Calculations** – Staff will describe the Ordinance Code required interest and penalty calculations, discuss the current process of applying those, and describe an approach to simplify it
- F. **Adjourn the Operations Committee Meeting** – Adjourn until the next Operations Committee meeting to be held on March 20, 2013.

NOTICES

The FCGMA Board strives to conduct accessible, orderly, and fair meetings where everyone can be heard on the issues. The Board Chair will conduct the meeting and establish appropriate rules and time limitations for each item. The Board can only act on items designated as Action Items. Action items on the agenda are staff proposals and may be modified by the Board as a result of public comment or Board member input. Additional information about Board meeting procedures is included after the last agenda item.

Administrative Record: *Material presented as part of testimony will be made part of the Agency's record, and 10 copies should be left with the Board Clerk. This includes any photographs, slides, charts, diagrams, etc.*

ADA Accommodations: Persons who require accommodation for any audio, visual, or other disability in order to review an agenda or to participate in the Board of Directors meeting per the Americans with Disabilities Act (ADA), may request such accommodation in writing addressed to the Clerk of the FCGMA Board, 800 South Victoria Avenue, Location #1610, Ventura, CA 93009-1610, or via telephone by calling (805) 654-2014. Any such request should be made at least 48 hours prior to the meeting so staff can make the necessary arrangements.

Availability of Complete Agenda Package: A copy of the complete agenda package is available for examination at the FCGMA office during regular working hours (8:00 a.m. to 5:00 p.m. Monday through Friday) beginning five days before the Board meeting. Agenda packet contents are also posted on the FCGMA website as soon as possible, and left there for archival retrieval in case reference is needed on previously considered matters. Questions about specific items on the agenda should be directed to the Agency's Executive Officer.

Continuance of Items: The Board will endeavor to consider all matters listed on this agenda. However, time may not allow the Board to hear all matters listed. Matters not heard at this meeting may be carried over to the next Board meeting or to a future Board meeting. Participating individuals or parties will be notified of the rescheduling of their item prior to the meeting. Please contact the FCGMA staff to find out about rescheduled items.

Electronic Information and Updates: Our web site addresses are www.foxcanyoncgma.org (for weather station data) or www.fcgma.org (for home page information). Information available online includes the Board's meeting schedule, a list of the Board members and staff, weather station data, general information, and various Agency forms. If you would like to speak to a staff member, please contact Miranda Nobriga, the FCGMA Clerk of the Board at (805) 654-2014, or Sheila Lopez, the FCGMA Engineering Technician at (805) 645-1372.

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MINUTES

Minutes of the Fox Canyon Groundwater Management Agency's (FCGMA) Operations Committee meeting held **Wednesday, November 14, 2012** in the Atlantic Conference Room at the Ventura County Government Center, Hall of Administration, 800 South Victoria Avenue, Ventura California.

A. **Call to Order** – The meeting commenced at 3:30 p.m.

B. **Introductions** – In attendance were: (1) Dr. Michael Kelley, FCGMA Operations Committee Chair; (2) Supervisor John Zaragoza, FCGMA Operations Committee Co-Chair; (3) Sam McIntyre, FCGMA Operations Committee Alternate; (4) Gerhardt Hubner, WPD, Deputy Director; (5) Rick Viergutz, WPD, Groundwater Manager; (6) Kathleen Riedel, WPD, Groundwater Specialist; (7) Jessica Rivera, FCGMA Clerk of the Board; (8) Tracy Gallaher, Office of Supervisor John Zaragoza; (9) Bryan Bondy, Calleguas Municipal Water District (CMWD); (10) Rick Dierksen, City of Camarillo; (11) Carol Schoen, Zone Mutual Water Company; and (12) Steve Nash, Oxnard resident.

C. **Public Comments**

None.

D. **Meeting Minutes**

Chair Kelley made the motion to approve the meeting minutes from the September 19, 2012 Operations Committee meeting, and Co-Chair Zaragoza seconded the motion.

E. **Operations Committee Meeting Schedule**

Chair Kelley made the motion to approve the 2013 Operations Committee meeting schedule, and Co-Chair Zaragoza seconded the motion. Chair Kelley requested FCGMA be sure to include the Las Posas Users Group (LPUG) in the e-mail notifications for upcoming Committee meetings, and Agency staff agreed.

F. **Domestic Flowmeter Exemption Update**

Mr. Gerhardt Hubner, WPD, Deputy Director, mentioned during the FCGMA Executive Committee meeting held on November 12, 2012, Mr. Robert Eranio, Crestview Mutual Water Company (CMWC) and Chair of the Las Posas Users Group (LPUG) Voting panel, stated he would not be able to attend the Operations meeting due to a scheduling conflict. Mr. Hubner reported Mr. Eranio's concerns expressed during that meeting and noted the Executive Committee had requested Agency staff confer with the Operations Committee as to whether the concerns related to a policy

discussion and needed to be referred to the Executive Committee, or if the item should remain with the Operations Committee. Mr. Hubner stated the Committee did not need to decide at that moment and could wait to review presentation material before making their decision.

Chair Kelley suggested Agency staff contact the Operators to obtain additional information regarding their wells, such as: horsepower of the pump, discharge and pipe diameter. This concern was raised due to some uncertainty about exactly what information the Agency had the authority to ask for. Mr. Rick Viergutz, WPD, Groundwater Manager, indicated there was nothing specifically precluding Agency staff from simply asking for the information, even if the particular data weren't specifically listed in the Ordinance Code.

The group discussed Exemption from Flowmeter forms and Waiver from Flowmeter requirement requests, as well as the differences between the two requests.

Mr. Bryan Bondy, CMWD, inquired if the Agency was moving forward with the Field Inspection Program, and if the Inspector could obtain the additional information Chair Kelley had previously referred to. Mr. Hubner responded the Agency was moving forward and the Request for Proposal (RFP) would be presented at the upcoming December 2012 regular Board meeting.

Ms. Kathleen Riedel, WPD, Groundwater Specialist, gave a presentation, noting in September 2012, Agency staff had discussed this issue with the Operations Committee and it was suggested to have the Meter Committee reconvene to review the exemption criteria. Ms. Riedel reported, per communication from Mr. Robert Eranio, the Meter Committee was not interested on reconvening on this matter.

In addition, she noted that the item was brought before the Board at the October 24, 2012 regular Board meeting, due to the approaching December 28, 2012 proof of flowmeter accuracy deadline. At the regular Board meeting, the Board granted a temporary extension of the meter calibration deadline for twenty-two (22) wells to June 28, 2012, and directed staff to work with the Operations Committee in regards to the exemption criteria. Ms. Riedel concluded her presentation by suggesting the Committee focus on three criteria options: (1) horsepower; (2) pipe diameter; and (3) an affidavit.

Mr. Hubner mentioned that *de minimis* use had been established by the Board, and Ms. Riedel confirmed stating it was adopted in the Ordinance Code in 1993.

Chair Kelley reiterated to Agency staff to increase the gathering of data by contacting Operators and requesting additional information concerning the wells. The additional information would then be used as part of the clarified criteria to grant exemptions to the flowmeter requirements. Mr. Viergutz responded the Operations Committee would need to set the reasonable criteria (i.e. horsepower, piping, etc.) before proceeding; however, he also mentioned Agency staff would need to confer with Agency Counsel beforehand to determine if, strictly speaking, the gathering of the data could ultimately be used to broaden the flowmeter exemption criteria.

The group continued discussions regarding clarifying and certifying *de minimis* use, proof of inactive/domestic status and exemption criteria.

Mr. Rick Dierksen, City of Camarillo, asked if the Agency could look into whether the Operators used other water agencies for their water supply. Mr. Hubner responded the Agency would need to confer with Agency Counsel before proceeding.

Both Chair Kelley and Ms. Carol Schoen, Zone Mutual Water Company, agreed that if an Operator submitted an Exemption from Flowmeter form, the Agency had the right to verify their exemption status and it should be a task the Field Inspector could perform.

Chair Kelley asked Agency staff if the Board would be able to review the RFP before it went out for bid, and Mr. Hubner confirmed.

In reference to Mr. Hubner's earlier question regarding whether this item should be deferred to the Executive Committee, Chair Kelley stated if the issue proved to be an Ordinance change, he believed the Operations Committee would need to continue with review of the item.

Mr. Viergutz commented the Agency had until June 2013 to get back to those Operators who had requested exemptions. He further commented the RFP was expected to be released in December 2012, with a potential well inspector by February 2013, who could then verify exemption status.

Mr. Hubner stated the approval letters granting exemptions could be sent with a caveat stating that such approval would be subject to verification. Ms. Riedel agreed, stating the approval notices could be sent with a note that inspections would occur within the next year.

Chair Kelley and Co-Chair Zaragoza stated this approach would need to be taken to the Board for approval, and agreed that could be an Operations Committee's recommendation.

Ms. Schoen inquired about documentation backup that shows water from alternate sources for parcels in question. Both Agency staff and Mr. Bondy inquired as to how this affected those Operators who clearly did not meet the criteria, specifically in the case of Mr. Poole who had a single family dwelling on approximately twenty (20) acres.

The group continued to debate this topic in further detail; including the cost of staff time to pursue an Ordinance or exemption plus field verification vs. cost of flowmeter installation. After continued deliberation, the previous recommendation of the Operations Committee was withdrawn. Chair Kelley commented it would be best to continue with the current flowmeter exemption criteria and adhere to the existing Ordinance Code.

Ms. Riedel clarified the final recommendation of the Operations Committee was to approve the exemption requests based upon the plain language of the Ordinance Code, and those Operators who did not meet the criteria would then be required to install a flowmeter on their well. She mentioned these Operators could then apply for a waiver from the flowmeter calibration requirement, after installation of their initial flowmeter. The waiver would exempt the Operator from future flowmeter requirements for five (5) years; and the Operator could then re-apply for an additional (5) years, giving the Operator a total of ten (10) years waived from flowmeter calibration.

Chair Kelly and Co-Chair Zaragoza recommended staff grant exemptions based on the existing Ordinance Code criteria. For those Operators who did not meet the Ordinance Code criteria, they would be required to install a flowmeter and could request a waiver to be exempt from the flowmeter calibration requirement for up to 10 years. Staff confirmed that this recommendation from the Operation's Committee would be taken back to the Board for action at its December meeting.

G. Progress Update on Non-Reporters

Mr. Rick Viergutz gave a presentation update on the follow-up efforts to have Operators comply with Semi-Annual Extraction reporting. Potential enforcement, including assessing property owners (instead of well operators), and liens, was briefly discussed by the group as a potential next step for recalcitrant well operators.

Chair Kelley suggested verifying the well information and locations, and inquired as to how many non-reporters were within the Las Posas Basin. Agency staff responded this would need to be looked into.

Mr. Hubner noted this item was to brief the Operations Committee on Agency staff's efforts to gain compliance with those Operators who had not yet reported; therefore, no recommendations were being requested at that time.

Chair Kelley mentioned focusing investigation efforts on the fifty-five (55) non-reporters who the Agency had yet to receive responses from.

H. Interest and Late Penalty Calculations

Due to time constraints, Mr. Hubner requested this item be heard at a future FCGMA Operations Committee meeting, and the Committee agreed.

I. Adjourn the Operations Committee Meeting

The meeting adjourned at 5:00 p.m.

Submitted by:

Jessica Rivera
Clerk of the Board

**Fox Canyon Groundwater Management Agency
Ordinance Code**

Adopted July 27, 2005
Amended December 7, 2011

**CHAPTER 1.0
Definitions**

As used in this code, the following terms shall 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. **“Payment Due Date”** Payment of the Groundwater Extraction Charge and/or Extraction Surcharges must be post marked forty-five (45) days after the billing date which is shown on the Semi Annual Extraction Statement.
- 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

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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. **“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.
- 1.20. **“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.
- 1.21. **“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.
- 1.22. **“Groundwater Management Plan”** means the 2007 Update to the Fox Canyon Groundwater Management Plan or Board-adopted updates to this plan.
- 1.23. **“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.

- 1.24. **"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.
- 1.25. **"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.
- 1.26. **"Las Posas Basin-Specific Groundwater Management Plan"** means the Las Posas Basin-Specific Groundwater Management Plan or Board-adopted updates to this plan.
- 1.27. **"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.
- 1.28. **"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.
- 1.29. **"Las Posas Basin Management Area – Monitor Only Area"** means the geographic area identified as such in the Las Posas Basin-Specific Groundwater Management Plan.
- 1.30. **"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.
- 1.31. **"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.
- 1.32. **"May"** as used in this Ordinance Code, permits action but does not require it.
- 1.33. **"Flowmeter"** means a manufactured instrument for accurately measuring and recording the flow of water in a pipeline.
- 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.

CHAPTER 2.0

Registration of Wells and Levying of Charges

2.1. Registration of Wells

- 2.1.1. Agency Water Well Permit Requirement (No-Fee Permit) – All new extraction facilities constructed within the Agency Boundary shall obtain a no-fee permit from the Agency prior to the issuance of a well permit by the County.
- 2.1.2. Registration Requirement – All groundwater extraction facilities within the boundaries of the Agency shall be registered with the Agency within 30 days of the completion of drilling activities or within 30 days after notice is given to the operator of such facility. No extraction facility may be operated or otherwise utilized so as to extract groundwater within the Agency Boundary unless that facility is registered with the Agency, flowmetered and permitted, if required, and all extractions reported to the Agency as required. The operator of an extraction facility shall register his extraction facility and provide in full, the information required to complete the form provided by the Agency that includes the following:

- 2.1.2.1. Name and address of the operator(s).
- 2.1.2.2. Name and address of the owner(s) of the land upon which the extraction facility is located.
- 2.1.2.3. A description of the equipment associated with the extraction facility.
- 2.1.2.4. Location, parcel number and state well number of the water extraction facility.

2.2. **Change in Owner or Operator** - The name of the owner of each extraction facility, the parcel number on which the well is located along with the names of all operators for each extraction facility shall be reported to the Agency within 30 days upon any change of ownership or operators, together with such other information required by the Executive Officer.

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 Agency. The Agency shall send a "Semi-Annual Groundwater Extraction Statement" form to each well operator on or about the first week of January and the first week of July each year. Each operator of a registered extraction facility shall enter the necessary information and return the "Semi-Annual Groundwater Extraction Statement" covering all wells they operate on or before the due date. Statements are due on or before February 1st or August 1st annually or thirty days after the date of the letter requesting submittal of the Semi-Annual Statement for the given period. Statements shall contain the following information on forms provided by the Agency:

- 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 proceeding six (6) month period.

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. Payment of the Groundwater Extraction Charge must be post marked forty-five (45) days after the billing date which is shown on the Semi Annual Extraction Statement. Payments not received or postmarked within 45 days after the billing

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~~date shall be charged simple~~ interest at the rate of 1.5 percent per month, that the charge remains unpaid.

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Deleted: Late Penalty. The operator shall pay a late penalty for any extraction charge not satisfied by the due and payable date. The late penalty shall be 1% percent per month, or any portion thereof, of the amount of the unsatisfied extraction charge. The late penalty shall not exceed 100% of the original charge, provided the penalty is paid within 60 days of the due date. If the fee is not paid within the 60 days, the penalty will continue to accrue at 1.5 percent per month with a final maximum of 200% of the original penalty due.

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

2.5. **Collection of Delinquent Extraction Charges and Late Penalties** - The Board may order that any given extraction charge 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.

6. **Use of Extraction Charges and Late Penalties** - Revenues generated from extraction charges 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.

CHAPTER 3.0

Installation and Use of Flowmeters for Groundwater Extraction Facilities

3.1. Installation and Use of Flowmeters

3.1.1. **Installation Requirement** - Prior to extracting groundwater, the operator shall install a flowmeter. With the exception of connections used for well flushing and extraction facilities used by multiple operators, flowmeters shall be installed upstream of all connections to the main discharge line. Flowmetering is not required during well flushing and well rehabilitation; however, the volume of water extracted shall be estimated and reported to the Agency. Flowmeters are not required on inactive wells as defined in this Ordinance Code, nor are flowmeters required for extraction facilities supplying a single family dwelling on one acre or less, with no income producing operations. If more than one operator uses the same extraction facility, flowmeters shall be installed to record the water use of each operator. Well operators were required to install flowmeters on wells by July 1, 1994.

- 3.1.2. **Flowmeter Failure and Back-up Measurement Requirements** - Flowmeters occasionally fail, losing periods of record before the disabled or inaccurate meter is either replaced or repaired. When a flowmeter fails, the operator shall repair or replace the flowmeter within the timeframe specified in a separate Resolution. Flowmeter failures and associated repairs or replacements shall be reported to the Agency together with any other information required by the Executive Officer on or before the due date of the next Semi-Annual Groundwater Extraction Statement. Well operators shall be prepared to provide another acceptable method of computing extractions during these periods of flowmeter failure to avoid the loss of record on wells that require flowmetering under this Ordinance Code.
- 3.1.3. **Back-up Methods** - It is the operator's responsibility to maintain the flowmeter. Any allowable or acceptable backup measurement methods will be specified in a separate Resolution and may be changed as technology improves or changes.
- 3.1.4. **Flowmeter Readings** - Functional flowmeters shall be read and the readings reported semi-annually on the extraction statements required under Section 2.3 above.
- 3.1.5. **Inspection of Flowmeters** - The Agency may inspect flowmeter installations for compliance with this Ordinance Code at any reasonable time.
- 3.2. **Flowmeter Testing and Calibration** - All flowmeters shall be tested for accuracy at a frequency interval determined by the Board to meet specific measurement standards. Calibration methods and procedures approved by the Board shall be detailed in an adopted Resolution.
- 3.3. **Altering Flowmeters** - Any person who alters, removes, resets, adjusts, manipulates, obstructs, or in any manner interferes or tampers with any flowmeter affixed to any groundwater extraction facility required by this Ordinance Code, resulting in said flowmeter to improperly or inaccurately measure and record groundwater extractions, is guilty of an intentional violation of this Ordinance Code and will be subject to any and all penalties as described in Chapter 8.
- 3.4. **Costs of Testing and Calibration** - All costs incurred with flowmeter testing or calibration shall be the personal obligation of the well owner. Non-compliance with any provision of the flowmeter calibration requirements will subject the owner to financial penalties and/or liens as described below or in Chapter 8 of the Ordinance Code.
- 3.5. **Fees and Enforcement** - If any water production facility 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 becomes the Non-Metered Water Use Fee. The amount of the fee shall be calculated as follows:

Deleted: Agency shall assess a

Deleted: against the water production facility owner

- 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.
- 3.6. Upon violation of any flowmeter provision, the Agency may, as allowed by law, petition the Superior Court of the County for a temporary restraining order or preliminary or permanent injunction prohibiting the well owner from operating the facility or for such other injunctive relief as may be appropriate.

Deleted: Any delinquent extraction charge obligations shall also be charged interest at the rate of 1.5 percent per month on any unpaid balances.

CHAPTER 4.0

Protection of the Las Posas Basin Management Area

4.1. This chapter has the following purpose and intent:

- 4.1.1. To facilitate implementation of the groundwater management strategies identified in the Las Posas Basin-Specific Groundwater Management Plan, which are intended to maintain a reliable groundwater supply of a quality suitable to the needs of the groundwater users in the Las Posas EMSA and Las Posas WMSA.
- 4.1.2. To protect the Las Posas outcrop as a source of groundwater recharge into the Las Posas Basin Management Area.
- 4.1.3. To prevent groundwater quality degradation of the Las Posas Basin Management Area by influence from the Expansion area.
- 4.1.4. This Ordinance Code is only one means by which these goals will be met.

4.2. Anti-degradation and Extraction Prohibition

4.2.1. Extraction Facility Permits.

4.2.1.1. Permit Required - Prior to either: (a) initiating any new or increased use of groundwater in the Expansion area, obtained from any source within the Agency, including the Expansion area or (b) constructing a new or replacement extraction facility in the Las Posas Basin Management Area, or the Expansion area, a permit must be obtained from the Agency as provided in this Chapter. For the purpose of this Chapter, a new or increased use is that which did not exist or occur before June 30, 1988.

4.2.1.2. Permit Application - Application shall be made in accordance with the requirements set forth in Section 2.1.1 and shall include all information required by the County Well Ordinance and the following:

4.2.1.2.1. Location of each water well to be used, along with the associated state well number.

- 4.2.1.2.2. Location(s) of current and proposed groundwater use, including acreage accurately plotted on copy of the County Assessor's Parcel Map.
- 4.2.1.2.3. The proposed crop type(s) or Municipal and Industrial use(s) at each location.
- 4.2.1.2.4. A brief description of the type of irrigation or distribution system and flowmeter to be used.
- 4.2.1.2.5. The estimated average annual quantity of water use proposed for each location of use.
- 4.2.1.2.6. An identification of the source of historical allocation to supply the proposed water use by the well.
- 4.2.1.2.7. An analysis of the potential impacts on the water balance and water quality in the Las Posas Basin Management Area resulting from the proposed use(s).
- 4.2.1.3. Findings - A permit may only be granted if the Executive Officer finds that the proposed groundwater use will result in no net detriment to the Las Posas Basin Management Area by determining that:
 - 4.2.1.3.1. The Las Posas outcrop is not exposed to potential degradation of water quality of any type.
 - 4.2.1.3.2. Recharge to the Las Posas Basin Management Area from the Las Posas outcrop is not diminished.
 - 4.2.1.3.3. Neither baseline nor efficiency allocation will be used, directly or indirectly, to support groundwater use on the Expansion Area (an example of indirect use is using efficiency to supply a demand inside the Agency and using the replaced historical allocation on the outcrop).
 - 4.2.1.3.4. No increased or new uses of groundwater from inside the Agency Boundary will be applied on any area outside the Expansion area (or outside the Las Posas Basin Management Area).
 - 4.2.1.3.5. [Operative Until Adoption of the Las Posas Basin-Specific Groundwater Management Plan] For extraction facilities located in the West Las Posas Basin, the proposed extraction will not interfere with attainment of basin management objectives or implementation of groundwater management strategies for the West Las Posas Basin identified in the Groundwater Management Plan, including, but not limited to, efforts to stabilize or raise groundwater elevations in the

pumping depression identified in the Groundwater Management Plan.

4.2.1.3.6. [Operative Upon Adoption of the Las Posas Basin-Specific Groundwater Management Plan] For extraction facilities located in the Las Posas WMSA, the proposed extraction will not interfere with attainment of basin management objectives or implementation of groundwater management strategies for the Las Posas WMSA identified in the Las Posas Basin-Specific Groundwater Management Plan, including, but not limited to, efforts to stabilize or raise groundwater elevations **in the pumping depression identified in the Las Posas Basin-Specific Groundwater Management Plan.**

4.2.1.3.7. [Operative Until Adoption of the Las Posas Basin-Specific Groundwater Management Plan] For extraction facilities located in the East and South Las Posas Basins, the proposed extraction will not interfere with attainment of basin management objectives or implementation of groundwater management strategies for the East and South Las Posas Basins identified in the Groundwater Management Plan, including, but not limited to, efforts to manage or improve groundwater quality for the benefit of existing pumps.

4.2.1.3.8. [Operative Upon Adoption of the Las Posas Basin-Specific Groundwater Management Plan] For extraction facilities located in the Las Posas EMSA, the proposed extraction will not interfere with attainment of basin management objectives or implementation of groundwater management strategies for the Las Posas EMSA identified in the Las Posas Basin-Specific Groundwater Management Plan, including, but not limited to, efforts to manage or improve groundwater quality for the benefit of existing pumps.

4.2.1.4. Permit Conditions. The Executive Officer may include in the permit granted, any conditions consistent with the purpose of this Chapter, including:

4.2.1.4.1. Any proposed agricultural use shall include the installation of irrigation systems that employ irrigation best management practices consistent with then current industry standards.

4.2.1.4.2. Any proposed municipal or industrial use shall include the installation of systems that employ municipal and industrial best management practices consistent with the then current industry standards.

4.2.1.4.3. Mitigation, monitoring, and periodic reporting, as may be appropriate given the proposed use.

- 4.3. **Registration of Existing Uses** - The owners of groundwater wells located within the East or West Las Posas basins shall register their wells with the Agency no later than January 1, 2006, through the following procedure:
- 4.3.1. Registration Form - The Agency shall make available a registration form which shall be completed, and filed with the Agency for each well, which shall include the following:
- 4.3.1.1. Location(s) of all water well(s), along with the associated state well number(s) including offsite well(s) serving the proposed use. Information concerning wells shall also include any other use for the water well.
 - 4.3.1.2. Location(s) of groundwater use for the well including acreage accurately plotted on a copy of the County Assessor's Parcel Map.
 - 4.3.1.3. The proposed crop type(s) or Municipal and Industrial use(s) at each location.
 - 4.3.1.4. A brief description of the type of irrigation or distribution system and flowmeter in use.
 - 4.3.1.5. The estimated average annual quantity of water use at each location and for each well.
- 4.4. **Monitoring** - The Agency shall monitor compliance with this Chapter by reviewing County well permit applications and reported groundwater extractions and by conducting field surveys as may be necessary.
- 4.5. **Unreasonable Uses** - The Agency may commence and prosecute legal actions to enjoin unreasonable uses or methods of use of water within or without the Agency Boundary to the extent those uses or methods of use adversely affect the groundwater supply within the Agency Boundary.
- 4.6. **Extraction Surcharges** - Notwithstanding an operator's allocation under Chapter 5.0 of this Ordinance Code or the availability of conservation credits, groundwater use within the Las Posas EMSA and the Las Posas WMSA in excess of 4.0 acre-feet per acre per calendar year shall be subject to extraction surcharges pursuant to Section 5.8 of this Ordinance Code.

CHAPTER 5.0
Reduction of Groundwater Extractions

5.1. **Purpose** - The purpose of this Chapter is to eliminate overdraft from the aquifer systems within the boundaries of the Agency and bring the groundwater basins to safe yield by the year 2010. It is not the purpose of this Chapter to determine or allocate water right entitlements, including those, which may be asserted pursuant to California Water Code sections 1005.1, 1005.2 or 1005.4.

5.2. **Extraction Allocations**

5.2.1. **General Limitations**

5.2.1.1. The Executive Officer shall establish an operator's extraction allocation for each extraction facility located within the Agency Boundary. The extraction allocation shall be the historical extraction as reported to the United Water Conservation District and/or to the Agency pursuant to Chapter 2 (or its successor), reduced as provided by Section 5.4, or as otherwise provided for in Section 5.6 of this Ordinance Code. An alternative allocation, either baseline or efficiency, may also be approved as explained in Sections 5.6.1.1 and 5.6.1.2. All extraction facilities have an allocation of zero unless the Executive Officer determines otherwise. The operator may determine whether the annual allocation used shall be either a combination of baseline and historical allocation, or based on an efficiency allocation. All wells used by an operator in any given basin shall be operated on either a combination of historical and baseline or an efficiency allocation except water purveyors as approved by the Executive Officer. As explained by Section 5.6.1.2, an efficiency allocation may not be combined with either a baseline or a historical allocation. Extraction allocations may be adjusted or transferred only as provided in Section 5.3.

5.2.1.2. Regardless of allocation, the total water use for agricultural purposes must be at least 60 percent efficient as determined by the formula described in Section 5.6.1.2.4.

5.2.1.3. Where an operator operates more than one extraction facility in the same basin, the extraction allocations for the individual facilities may be combined.

5.2.1.4. Where there is more than one operator for any agricultural extraction facility, each operator shall be entitled to a pro rata share of the facility's historical allocation based on either usage or acreage irrigated during the historical extraction period. Such pro rata shares shall be determined by the owner of the extraction facility, and this determination shall be subject to the approval of the Executive Officer.

5.2.1.5. When an operator is no longer entitled to use an extraction facility, that operator is no longer entitled to any portion of the extraction allocation attributed to that extraction facility.

- 5.2.1.6. A historical allocation is assigned to an extraction facility and a baseline allocation is assigned to the land, both may be used, but neither is owned by the operator.
 - 5.2.1.7. Where there is a sale or transfer of a part of the acreage served by any extraction facility, the extraction allocation for that facility shall be equitably apportioned between the real property retained and the real property transferred by the owner of the extraction facility. This apportionment shall be approved by the Executive Officer who may modify the apportionment to assure equity.
 - 5.2.1.8. The name of the owner of each extraction facility, the parcel number on which the well is located along with the names of all operators for each extraction facility shall be reported to the Agency with each semi-annual statement and within 30 days of any change of ownership or operators, together with such other information required by the Executive Officer.
 - 5.2.1.9. The Executive Officer may, on written request from a land owner or well operator, waive allocation requirements for the extraction of groundwater from the Perched or Semi-perched aquifer of Sealing Zone III when the pumping of that groundwater is specifically for the purpose of lowering the water table to reduce the high water table threat to property, including the root zone of crops, or for dewatering construction sites. The Executive Officer shall require that the groundwater extraction facility used for this purpose be perforated only in the Perched or Semi-perched zone, and shall also require the landowner and/or the operator to protect the Agency from damage potentially caused by transferring water to another location.
- 5.2.2. General Limitations: Special Board Approval Requirements - Notwithstanding any other provisions of this Ordinance Code, the following uses of water resources associated with the aquifers within the Agency may only be undertaken with prior Board approval of and subject to the conditions and restrictions established by the Board.
- 5.2.2.1. Direct or indirect export of groundwater extracted from within the Agency Boundary for use outside the Agency Boundary.
 - 5.2.2.2. The direct or indirect use of surface water or Foreign Water from within the Agency outside the Agency in a manner that may adversely affect the groundwater supply within the Agency.
 - 5.2.2.3. Application to the Board - To obtain the approval of the Board for any use provided in Sections 5.2.2.1 and 5.2.2.2, application shall be made to the Agency describing the details of the proposed use, including all the following information:
 - 5.2.2.3.1. The location of each water well to be used, along with the associated state well number, and/or the location of each

surface diversion and a description of the associated water right.

5.2.2.3.2. Location(s) of groundwater use, including acreage, accurately plotted on copy of the County Assessor's Parcel Map.

5.2.2.3.3. The proposed crop type(s) or Municipal and Industrial use(s) at each location.

5.2.2.3.4. A brief description of the type of irrigation or distribution system and flowmeter to be used.

5.2.2.3.5. The estimated average annual quantity of water use proposed for each location of use.

5.2.2.3.6. An identification of the source of historical allocation, if any, to supply the proposed water use by the well.

5.2.2.3.7. An analysis of the potential impacts on the water balance in any Basin or Subbasin within the Agency Boundaries resulting from the proposed use(s).

5.2.2.4. Findings - The Board may approve the proposed use if, after a public hearing, it finds that the proposed use will result in no net detriment to the Basin, or any subbasin, or aquifer associated with the use, by determining that:

5.2.2.4.1. The proposed use does not result in the material degradation of water quality of any type, or

5.2.2.4.2. Recharge to any aquifer within the Agency is not materially diminished.

5.2.2.4.3. In granting approval to projects subject to this subsection, the Board may impose any conditions as may be appropriate, including limitations on the quantity of water use, term of the approval, and periodic reporting to the Agency.

5.2.3. An operator shall comply with all provisions of this Ordinance Code and Resolutions prior to receiving an extraction allocation.

5.3. Adjustments to Extraction Allocations

5.3.1. Adjustments to extraction allocations may be necessary to provide some flexibility, while still maintaining the goal of reaching a safe yield condition by the year 2010. Adjustments may be accomplished by a transfer, an assignment of historical extraction allocation, or a demonstration of a new water source.

- 5.3.2. Subject to the provisions in this Section 5.3, transfers of extraction allocation are authorized provided they result in no net detriment to the Basins within the Agency. In making this determination, consideration shall be given to the location of extraction facilities, the aquifer systems being used, potential groundwater quality impacts, and the overall assessment of the cumulative impacts of transfers of extraction allocation.
- 5.3.3. **Types of Transfers of Allocation** When irrigated agricultural land(s) changes to M & I use, a basic extraction allocation of 2 acre-feet per acre shall be transferred. In addition, a historical extraction allocation shall be transferred from the agricultural extraction facility(s) operators to the M & I provider in accordance with the following conditions:
- 5.3.3.1. When the extraction facility is located on the land transitioning and did not serve other land during the historical allocation determination period, the M & I Operator shall receive a historical extraction allocation of 2 acre-feet per acre per year for the acreage transitioning to M & I use. Any historical allocation in excess of 2 acre-feet per acre for the land transitioning to M & I use shall be eliminated.
 - 5.3.3.2. When the extraction facility is located on the land transitioning and served other land during the historical allocation determination period, the historical allocation associated with the transitioning property shall be allocated on a pro rata basis by acreage to the total property served. The pro rata share for the property transitioning shall be eliminated. Two acre-feet per acre per year, based upon the acreage being transferred, shall be provided to the M & I provider.
 - 5.3.3.3. When the extraction facility serving the lands transitioning is not located on the land transitioning, the Executive Officer shall determine the allocation on an equitable basis for the remaining properties not transitioning to M & I. Two acre-feet per acre per year, based upon the acreage being transferred, shall be provided to the M & I provider.
 - 5.3.3.4. The transfer shall be effective upon the approval of the Executive Officer, taking into account the ongoing use of the property.
 - 5.3.3.5. Allocation originating from an agricultural extraction facility shall not be transferred to an M & I use except as provided in this Section 5.3.3.
- 5.3.4. Allocation may be transferred between M & I extraction facilities provided there is no net detriment to the aquifer system. In making this determination, the Executive Officer shall, at a minimum, consider the location of extraction facilities, the aquifer system being used and groundwater quality impacts of the transfer.
- 5.3.5. **Transfer of Allocation** - Upon request, the Executive Officer may transfer allocation from one agricultural operator to another agricultural operator or from one M & I operator to another M & I operator provided there is no net detriment to

the basins and the transfer is equitable. The transfer of allocation will be of indefinite duration, approved on a "case-by-case" basis, and the Executive Officer shall determine the rate of extraction and the point or points of extraction. Requests for the transfer of allocations shall be submitted jointly by the parties involved and shall include the specific details of their proposal. To ensure that there is no net detriment to the aquifer systems, transfers of allocation shall be subject to other conditions as approved by the Board. Transfers of allocation from Agricultural use to M & I use shall only be approved as provided by Section 5.3.3.

5.3.6. The Executive Officer may approve a temporary assignment of allocation from one operator to another operator when there is no net detriment to the aquifer system. The temporary assignment shall not exceed one year.

5.3.7. Adjustments to M & I Allocations - The Board may adjust the historical allocation of an M & I operator when that operator has supplied groundwater to either an agricultural or M & I user during the historical allocation period and discontinues service to that user. This adjustment may be made by transferring the supplied portion of the historical allocation from the M & I operator to the new user. This adjustment will avoid increased pumping due to windfall allocations that could otherwise result when the M & I operator discontinues service. To avoid retroactive inequities, where an M & I operator has discontinued service to a user prior to July 1, 2005, the amount of the supplied portion of the historical allocation may be allocated to both the M & I operator and the user.

5.3.8. Historical allocation is subject to adjustment as provided in Section 5.4 below.

5.3.9. Procedures for Adjustment

5.3.9.1. It shall be necessary for the operator of the extraction facility to file a verified Application for Adjustment with the Executive Officer.

5.3.9.2. Adjustments of extraction allocations, pursuant to the Applications for Adjustment, shall be considered for approval by the Board after reviewing the findings and recommendations of the Executive Officer and, if approved, shall be effective for the remainder of the calendar year and for all subsequent calendar years until modified by a subsequent Board approved adjustment.

5.4. Reduction of Extraction Allocations

5.4.1. Historical extraction allocations, adjusted or otherwise, shall be reduced in order to eliminate overdraft from the aquifer systems within the boundaries of the Agency for agricultural and M & I uses. The reductions shall be as set forth below:

1992 - 1994 extraction allocation = 95% of historical extraction, as adjusted.

1995 - 1999 extraction allocation = 90% of historical extraction, as adjusted.

2000 - 2004 extraction allocation = 85% of historical extraction, as adjusted.

2005 - 2009 extraction allocation = 80% of historical extraction, as adjusted.

After 2009 extraction allocation = 75% of historical extraction, as adjusted.

5.4.2. Following the appropriate public review, the Board may exempt historical extraction allocations from these adjustments on a basin-by-basin basis.

5.5. Exemptions from Reductions

5.5.1. The following types of extraction allocations are exempt from the reductions set forth in Section 5.4.1:

5.5.1.1. Baseline Extraction Allocations as set forth in 5.6.1.1.

5.5.1.2. Annual Efficiency Extraction Allocations as set forth in 5.6.1.2.

5.5.1.3. Non-metered Extraction Facilities. Reductions in extraction allocations shall not apply to those extraction facilities as identified in Chapter 3 that do not require flowmeters. Neither retroactive adjustments nor refunds will be made, except that any outstanding surcharges for non-metered extractions that existed prior to June 26, 2002 will be waived.

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 February 1st of the following year 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.

5.7. Credits

5.7.1. Credits can be obtained by operators, but are not considered as extraction allocations or adjustments to extraction allocations. Credits are not subject to any reductions as set forth in Section 5.4.1. Credits, if available, shall be used to avoid paying extraction surcharges. Credits shall be accounted for through the normal reporting and accounting procedure and are carried forward from year to year unless extinguished as provided in Section 5.7.2.1.1.1. Except as provided below, credits may be transferred between commonly operated extraction facilities and within the basin where the credits were earned.

5.7.2. The Board may transfer credits between facilities that are not commonly operated within a basin or beyond the basin where such credits were earned, provided that there is no net detriment to the aquifers within the Agency. In determining whether there is no net detriment, the Board may, among other things, consider whether the transfer will help bring the aquifers within the Agency into equilibrium or whether the transfer is a part of an Agency or inter-Agency management plan or program to bring the aquifers of the Agency into balance. Also, in making this determination of no net detriment the Board may consider quality of water as well as the quantity. The transfer of credits will be of indefinite duration, approved on a "case-by-case" basis, and the Executive Officer shall determine the rate of extraction and the point or points of extraction.

5.7.2.1. Requests for the transfer of credits shall be submitted jointly by the parties involved and shall include the specific details of their proposal. To ensure that there is no net detriment to the aquifer systems, transfers of credits shall be subject to other conditions as approved by the Board. Under no circumstances shall credits earned as a result of agricultural use be transferred to an M & I Provider, M & I Operator or an M & I User unless the transfer is specifically approved by the Board and no net detriment to the aquifer systems involved can be shown. Credits earned by an M & I facility shall remain with that facility unless transferred by the Board or transferred as part of a program such as an Agency or inter-Agency management plan or program approved by the Board. The types of credits are:

5.7.2.1.1. Conservation credits - An operator can obtain conservation credits by extracting less groundwater than the historical extraction allocation. Annual Efficiency, Baseline, or an allocation assigned to an extraction facility that is not required to have a flowmeter shall not earn credits. Credits shall be determined by the Executive Officer after receipt of annual extraction data. Subsequent to determining the amount of credits earned, a confirmation shall be mailed to the operator indicating the current allocation, the groundwater extracted during the previous calendar year, and the credits or surcharges for the previous year.

5.7.2.1.1.1. The Executive Officer shall extinguish all accumulated conservation credits obtained by an operator with a destroyed or abandoned well of record who fails to submit extraction data for five (5) consecutive years. Notice of the action taken by the Executive Officer pursuant to this section shall be sent by first class mail to the address stated on the most recent registration filed with the Agency and shall advise that the action being taken may be appealed within 120 days thereof in the manner specified in section 6.1. Notice of the Executive Officer's intended action shall also be provided as a Consent Item on the Board meeting agenda preceding the extinguishment of the conservation credits. This agenda item shall include a list of the last known Operator, the last known Owner, the State Well Number, and a map depicting the location of the well, along with number of conservation credits to be extinguished and a tabulation of the last reported activity on the well.

5.7.2.1.2. Storage credits - An operator may obtain storage credits for water that has been determined by the Board to qualify for credits or foreign water stored, injected or spread and percolated or delivered in lieu of pumping in a Board approved injection/storage program used within the Agency Boundary. A written application for approval of a program or an injection/storage facility shall include:

- 5.7.2.1.2.1. Operator of proposed injection/storage program.
- 5.7.2.1.2.2. Purpose of proposed injection/storage program.
- 5.7.2.1.2.3. Location, depth, casing diameter, perforated interval and other information regarding

proposed injection/extraction facilities, if applicable.

5.7.2.1.2.4. Method of operation including source, quantity and quality of water, planned scheduling of storage, injection/extraction, delivery or percolation operations and proposed use of extracted water.

5.7.2.1.2.5. Any other information deemed necessary by the Executive Officer.

5.7.3. Following Board approval of the application, successful storage, delivery or injection of water and reporting of results, an operator will obtain credit as determined by the Executive Officer.

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 on February 1st each year or 30 days after the date shown on the "Semi-Annual Groundwater Extraction Statement." Payments shall be made with credits, if available. The Board may extend the 30-day 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. Collection of Delinquent Extraction Surcharges and Late Penalties - The Board may order that any given extraction surcharge and/or late penalty

Deleted: ¶

5.8.6.2. Late Penalty - The operator shall pay a late penalty for any extraction surcharge not satisfied by the due and payable date. The late penalty shall be 1.5 percent per month, or any portion thereof, of the amount of the unsatisfied extraction surcharge. The late penalty shall not exceed 100% of the original surcharge, provided the penalty is paid within 60 days of billing. If the fee is not paid within the 60 days, the penalty will continue to accrue at 1.5 percent per month with a final maximum of 200% of the original penalty due.¶

Deleted: 3

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.

- 5.8.6.3 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.

Deleted: 4

CHAPTER 6.0 Appeals

- 6.1. Any person aggrieved by a decision or determination made by the Executive Officer may appeal to the Board within forty-five (45) calendar days thereof by filing with the Clerk, or Deputy Clerk, of the Board a written request that the Board review the decision of the Executive Officer. The Board shall equitably act on the appeal within 120 days after all relevant information has been provided by the appellant.

CHAPTER 7.0 Severability

- 7.1. If any section, part, clause or phrase in this Ordinance Code is for any reason held invalid or unconstitutional, the remaining portion of this Ordinance Code shall not be affected but shall remain in full force and effect.

CHAPTER 8.0 Penalties

- 8.1. Any operator or other person who violates the provisions of this Ordinance Code is subject to the criminal and civil sanctions set forth in the Agency's enabling act and its Ordinances.
- 8.2. Any person who intentionally violates any provision of this Ordinance Code shall be guilty of an infraction and may be required to pay a fine to the Agency in an amount not to exceed five hundred dollars (\$500).
- 8.3. Any person who negligently or intentionally violates any provision of this Ordinance Code may also be liable civilly to the Agency for a sum not to exceed one thousand dollars (\$1,000) per day for each day of such violation, in addition to any other penalties that may be prescribed by law.
- 8.4. Upon the failure of any person to comply with any provision of this Ordinance Code, the Agency may petition the Superior Court for a temporary restraining order, preliminary or permanent injunction, or such other equitable relief as may be appropriate. The right to petition for injunctive relief is an additional right to those, which may be provided elsewhere in this Ordinance Code or otherwise allowed by law. The Agency may petition the Superior Court of the County to recover any sums due the Agency.

This Ordinance Code and amendments hereof shall become effective on the thirty-first day after adoption.

Interest and Penalty Calculations

January 16, 2013



Rick Viergutz, CEG
Groundwater Manager
FCGMA

Background-Authority

- AB 2995 narrowly defines where the Agency can assess interest for unpaid extraction charges.
- The Ordinance Code contains interest and late penalty charges that do not appear to be specifically authorized in AB 2995.
- Operationally, assessing the interest and late penalty charges is overly complicated.
- Staff desires to make the Ordinance Code interest charges consistent with AB2995. This requires an OC Update.

Background-Authority

- Agency enabling legislation, AB 2995.
- Section 1005 States:
- *If any operator of any extraction facility fails to pay the groundwater extraction charge when due, the agency shall charge and collect interest at the rate of 1½ percent each month on the delinquent amount of the groundwater extraction charge. In addition, the agency may exercise any of the provisions of Sections 75630 to 75633, inclusive, of the Water Code for the purpose of collecting delinquent groundwater extraction charges*

Background

- The Agency Ordinance Code requires Interest and Late Penalty payments be assessed for late payment on:
 - A) extraction charges (\$4.00 AF),
 - B) non metered water use fee (\$8.00 AF), and
 - C) surcharges (tiered: starts at \$1,105.00 AF)
- The requirements lack clarity.
- Lack of clarity has resulted in inconsistent application of the requirements. (interest charged, but not penalty).

Due Dates Lack Clarity

- Ordinance Code uses multiple terms to describe payment due dates:
 - “Billing Date”
 - “Post Mark Date”
 - “Due and Payable Date”
 - “Due date”
- Result is lack of clarity.

What the I&P is Charged to Lacks Clarity

- Sec. 2.4.2 Groundwater Extraction Charges:
 - Interest is applied to a “charge”
 - Late Penalty applied to “original charge” “extraction charge” and/or “unsatisfied extraction charge”
- Sec. 3.5.1 Non Metered Water Use Fee:
 - Interest is applied to “any delinquent extraction charge”
 - No Late Penalty
- Sec 5.8.6.2 Extraction Surcharge:
 - No Interest
 - Late Penalty is applied to “unsatisfied extraction surcharge” “extraction charge”

Caps on Late Penalty Lack Clarity

- Groundwater Extraction Charge
 - Late penalty shall not exceed 100% of the original charge, provided the penalty is paid within 60 days of the due date.
 - If the fee is not paid within the 60 days, the penalty will continue to accrue at 1.5 percent per month with a final maximum of 200% of the original penalty due.
- Here it uses
 - “within 60 days of the due date” for the original charge

Caps on Late Penalty Lack Clarity

- Extraction Surcharge
 - The late penalty shall not exceed 100% of the original surcharge, provided the penalty is paid within 60 days of billing.
 - If the fee is not paid within the 60 days, the penalty will continue to accrue at 1.5 percent per month with a final maximum of 200% of the original penalty due.
- Here it uses
 - “60 days of billing”
- Both use
 - 200% of original penalty due
 - Original charge ≠ original penalty

Caps on Late Penalty Lack Clarity

- The 100% Cap is not reachable in the timeframe specified (60 days).
- The 200% cap is for the original penalty.

Existing Structure too complex

	Extraction Charge	Non Metered Water Use Fee	Surcharge
Interest	Yes	Yes	No
Penalty	Yes	No	Yes
Caps on Late Penalty	Yes	No	Yes

- Confusing terms:
 - Regarding
 - “when” the charges start
 - “what” the charge is levied against
 - Cap on penalties

Proposed Approach

- Ordinance Code revision necessary in order to
 - Use one term for due date.
 - Use one term for what the interest is charged against (extraction charge).
 - Define interest as monthly simple interest.
 - Abandon the current “one of three types” approach: I&P due, or Penalty due, or Interest due.
 - Abandon the Cap.

Proposed Approach (continued)

- OC Update could also make the multiple Civil Penalty assessments more clear by:
 - A. Making reference to existing Resolutions that set civil penalties:
 - Existing civil penalties for failure to calibrate flowmeter (\$ varies)
 - Existing civil penalties for failure to report extractions (\$500.00) (add fail to file for IE?)
 - Or...

Proposed Approaches

B. (Recommended)

Make reference to a single Resolution that provides civil penalty amounts. That Resolution could provide the Executive Officer flexibility in assessing civil penalties.

- Would require a simple consolidation of the existing “civil penalty” related Resolutions.

Recommendations

- Operations Committee directs staff to make the changes and put the OC update (and Resolution changes) on the Board agenda at the Feb or March regular Board meeting (first reading of OC).
- Or
- Operations Committee directs staff to bring back the proposed O.C. (and Resolution changes) to the Operations Committee for a final check prior to seeking full Board approval.



Questions/Feedback?