

Recommendation from United WCD staff

**AN ORDINANCE TO ESTABLISH A
REVISED ALLOCATION SYSTEM FOR
THE OXNARD AND PLEASANT VALLEY
GROUNDWATER BASINS**

Adopted ____ __, 2025

ARTICLE 1. FINDINGS

- 1.1. The Pleasant Valley Groundwater Basin and Oxnard Groundwater Subbasin of the Santa Clara River Basin (referred to herein as “Oxnard Basin”), collectively referred to as the OPV Basins, have been designated by the California Department of Water Resources as high priority groundwater basins that are subject to critical conditions of overdraft.
- 1.2. Ventura County’s leadership and citizens have made it clear (in the County’s General Plan update and adoption of “Save Our Agricultural Resources” [SOAR] initiatives) that they would like to maintain the agricultural character and economy of the region, including the OPV basins, while also ensuring a high quality of life for its citizens and improving environmental conditions. Currently available water supplies are insufficient to meet these goals, and groundwater quality is deteriorating in some areas, partly due to seawater intrusion that is a direct result of this shortage of water supplies.
- 1.3. The OPV Basins have been managed under groundwater sustainability plans (GSPs) submitted to the California Department of Water Resources (“DWR”) by the Fox Canyon Groundwater Management Agency (“Agency”) in January 2020, in conformance with the Sustainable Groundwater Management Act (“SGMA”).
- 1.4. The sustainable yield estimates in the 2020 GSPs for the OPV Basins were updated with new information submitted to DWR in January 2025 as part of the required GSP five-year evaluation process under SGMA. The new information included updated design and scheduling elements for water-supply projects that were included in the 2020 GSPs and the 2025 Five-Year GSP Evaluation Reports for the OPV Basins. A suite of projects being developed by stakeholders and included in the Five-Year GSP Evaluation Reports for the OPV Basins (“Future Baseline with EBB” scenario) is forecasted to achieve the Basins’ sustainability goals, while also providing the additional water supplies required to meet projected demand, improve groundwater quality, and enhance the area’s resilience to future droughts and climate change (per the goals of the FCGMA’s GSPs, the Ventura County General Plan, and SOAR). The planned suite of projects is forecasted to benefit groundwater conditions equally across the OPV basins and the west part of Las Posas Valley basin, and will provide operational flexibility for groundwater extractions needed by municipal, industrial, and agricultural users.
- 1.5. As noted in the 2007 Update to the Fox Canyon Groundwater Management Agency Groundwater Management Plan, “One of the most effective management strategies in

reducing overdraft is to supply water directly to overdrafted areas. This in-lieu strategy has been very effective in the Upper Aquifer System, where Santa Clara River water delivered through the Pumping Trough Pipeline has helped to alleviate the pumping trough that has been present for several decades beneath the south Oxnard Plain.” The 10-year period prior to January 1, 2015, the date SGMA became effective, includes a complete climate cycle and is representative of annual average precipitation, groundwater extractions from the Basins and deliveries of surface water from the Santa Clara River through United Water Conservation District’s Pleasant Valley Pipeline and Pumping Trough Pipeline in lieu of groundwater extractions from the OPV Basins. During the 10-year period, these in lieu deliveries averaged 15,600 acre-feet annually and consisted of surface water that otherwise would have been used for groundwater recharge.

- 1.6. During the 10-year period prior to January 1, 2015, the Conejo Creek Project supplied an average of 4,978 acre-feet of surface water annually to Pleasant Valley County Water District for agricultural use in lieu of groundwater extractions from the OPV Basins. During that period, there was a corresponding decrease in groundwater use within Pleasant Valley’s service area.
- 1.7. Other operators may be able to demonstrate similar in lieu deliveries of surface water, imported water, treated recycled water, or water from other sources that result in decreased groundwater extractions.
- 1.8. The adoption of this ordinance is a necessary step in the transition from the Agency’s current groundwater management programs to sustainable groundwater management under SGMA. As part of that transition, the Agency may, in the future, determine that it is necessary to move from a wellhead-based to a land-based allocation system. Such a transition would be required if significant reductions in extraction allocations were selected as a part the Agency’s approach to achieve sustainable management and if the Agency decided to set a minimum allocation based on area of land served by an extraction facility. However, the Future Baseline with EBB scenario is forecasted to allow recent average annual groundwater extractions from the Basins to continue. Therefore, reductions in extraction allocations would be unnecessary. Furthermore, implementation of a land-based allocation system is not feasible until such time as the Agency has developed sufficient parcel-based water-use data to allow for effective regulation of extractions on that basis, should such a change in allocation-basis be implemented in the future.
- 1.9. The measures set forth in this ordinance are necessary to improve and protect the quantity and quality of groundwater supplies within the Basins.
- 1.10. 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.
- 1.11. The extraction allocations established under this ordinance are consistent with the land use elements of the applicable general plans to the extent that there is sufficient sustainable yield in the Basins to serve the land use designations therein.

ARTICLE 2. PURPOSE

The purpose of this ordinance is to facilitate adoption and implementation of the GSPs for the OPV Basins and to ensure that the Basins are operated within their sustainable yields. It is not the purpose of this ordinance to determine or alter water right entitlements, including those which may be asserted pursuant to California Water Code sections 1005.1, 1005.2 or 1005.4.

ARTICLE 3. PERIODIC REVIEW PROCEDURE

The Board will periodically review the effectiveness of this ordinance toward meeting its purpose. This review shall occur at least once every five years. If necessary, this ordinance will be amended to ensure that the sustainability goals of the groundwater sustainability plans are met.

ARTICLE 4. DEFINITIONS

- 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 Conejo Creek Deliveries" shall mean the average annual amount of Conejo Creek Water Deliveries during the base period.
- 4.7 "Base-Period Extraction" shall mean the average annual groundwater extraction based on reported extractions during the base period, excluding any extractions that incurred surcharges.
- 4.8 "Base-Period PTP Deliveries" shall mean the average annual amount of PTP deliveries during the base period as reported to the Agency by United.
- 4.9 "Base-Period PV Deliveries" shall mean the average annual amount of PV deliveries during the base period as reported to the Agency by United.
- 4.10 "Basins" shall mean the Pleasant Valley Groundwater Basin and the Oxnard Groundwater Subbasin.

- 4.11 “Board” shall mean the Board of Directors of the Agency.
- 4.12 “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.
- 4.13 “Conejo Creek Water Deliveries” shall mean deliveries of water to Pleasant Valley from the Conejo Creek Project.
- 4.14 “Executive Officer” shall mean the individual appointed by the Board to administer Agency functions or his/her designee.
- 4.15 “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.
- 4.16 “Extraction Facility” shall mean any device or method (e.g. water well) for extraction of groundwater within the Basin for beneficial use (e.g., does not include tile drains or other facilities or systems used for the sole purpose of removing or diverting shallow nuisance groundwater [within 10 feet of land surface] from the root zone of crops or from human-built infrastructure).
- 4.17 “Groundwater Sustainability Plan (GSP)” shall mean the plan or plans, and any amendment thereof, developed and adopted for the OPV Basins in accordance with SGMA.
- 4.18 “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.
- 4.19 “Municipal and Industrial Operator” shall mean an owner or operator that supplied groundwater for domestic, industrial, commercial or other non-agricultural use.
- 4.20 “Municipal and Industrial (M&I) Use” shall mean any use other than agricultural irrigation.
- 4.21 “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.
- 4.22 “O-H Pipeline” means the water distribution system operated by United that supplies groundwater to contractors under the O-H Pipeline Agreement.
- 4.23 “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.

- 4.24 “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.
- 4.25 “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.
- 4.26 “Parcel” shall mean a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.
- 4.27 “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.
- 4.28 “Pleasant Valley” shall mean Pleasant Valley County Water District.
- 4.29 “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.
- 4.30 “PTP Deliveries” shall mean deliveries of surface water from the Santa Clara River through United’s Pumping Trough Pipeline.
- 4.31 “PV Deliveries” shall mean deliveries of surface water from the Santa Clara River through United’s Pleasant Valley Pipeline.
- 4.32 “Sustainable Groundwater Management Act” or “SGMA” shall mean Part 2.74 of Division 6 of the California Water Code, sections 10720 et seq.
- 4.33 “Sustainable Yield” shall mean the maximum quantity of water that can be withdrawn annually from the Basins as provided in the groundwater sustainability plan.
- 4.34 “United” shall mean United Water Conservation District.
- 4.35 “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.
- 4.36 “Water Purveyor” shall mean a mutual water company, special district, or municipality that supplies groundwater to others for agricultural or municipal and industrial use.
- 4.37 “Water Year” shall mean the period from October 1 of one calendar year through September 30 of the following calendar year.

ARTICLE 5. GENERAL PROVISIONS

- 5.1 Notwithstanding any other Agency ordinance provision to the contrary, including article 2 of Emergency Ordinance E, the Executive Officer shall establish an operator's extraction allocation for each extraction facility located within the Basins as set forth herein. The alternative extraction allocations authorized under section 5.6 of the Agency Ordinance Code shall not be available to an operator for extracting groundwater from the Basins. Except as expressly provided herein, the provisions governing extraction allocations set forth in section of the Agency Ordinance Code shall apply to groundwater extractions from the Basins.
- 5.2 Except as provided in section 5.7, an extraction allocation established under this ordinance is assigned to an extraction facility. An operator with more than one extraction facility connected to a common conveyance structure (e.g., pipeline or irrigation ditch), or with separate (i.e., unconnected) extraction facilities that are used to supply water to a single parcel or multiple contiguous parcels, may combine the extraction allocations for the individual facilities.
- 5.3 Under previous allocation ordinances for the Basins, an operator could combine extraction allocations using Comb Codes for any of their extraction facilities within a groundwater basin, including those that facilities that were not connected to a common conveyance structure or were located on and served non-contiguous parcels. However, use of Comb Codes has expanded in recent years and proven unwieldy in these situations. Therefore, instead of using Comb Codes for such situations, a simplified process for an operator to temporarily assign all or a portion of the allocation for an extraction facility they operate to another separate (unconnected) extraction facility they operate and that serves one or more parcels that are not contiguous with the parcel served by the extraction facility that is providing the temporary allocation transfer, is provided in Article 9.
- 5.4 If the groundwater sustainability plan creates one or more management areas within the Basins, the Board may limit the ability to combine extraction allocations assigned to extraction facilities in different management areas. Limitations on combining extraction facilities in different management areas shall be set forth in a Resolution adopted by the Board based on a determination that the limitation is necessary in order to implement the groundwater sustainability plan.
- 5.5 All extraction allocations in excess of an allocation established by the ordinance shall be subject to extraction surcharges in the same manner as provided in the Agency Ordinance Code for extractions that exceed the historical and/or baseline allocation.
- 5.6 Extraction allocations may be transferred or temporarily assigned only as provided in article 9 of this ordinance.
- 5.7 The extraction allocation assigned to extraction facilities operated by United to supply water through the O-H Pipeline is "held in trust [by United] for Any or All Contractors" as a "Suballocation" as those terms are defined in the O-H Pipeline Agreement. Upon termination of or withdrawal of any party from the O-H Pipeline

Agreement, the distribution of the extraction allocation assigned to the O-H Pipeline extraction facilities shall be decided by mutual agreement of United and the affected parties or as determined by a court. Notwithstanding any such agreement or court determination or the O-H Pipeline Agreement, the extraction allocation assigned to the O-H Pipeline extraction facilities shall be subject to all applicable Agency rules and regulations for the use and adjustment of extraction allocations, including chapter 5 of the Agency Ordinance Code, and to any allocation reductions implemented in accordance with article 10 of this ordinance.

- 5.8 In the event that water supplies other than groundwater (e.g., surface water, imported water, treated recycled water, or treated brackish water) normally used by an operator become diminished for reasons beyond control of the operator (e.g., natural disaster, act of war, or contamination by pathogens or toxic chemicals), then extraction of groundwater by that operator as needed to partially or completely replace that source of supply during the subsequent six months will not be counted against their allocation as defined in Article 6. This grace period will be considered for extension each six months thereafter by the Board based on progress made to return these supplies to pre-disaster average rates.

ARTICLE 6. ALLOCATIONS

- 6.1 Until, and if, such time as the reductions described in article 10 may be 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 is called "base-period allocation."
- 6.2 In order to encourage the coordinated use of groundwater from the Basins and in lieu sources of supply, while eliminating overdraft and maintaining the sustainability goals established under SGMA, operators that can demonstrate to the Board's satisfaction that their use of in lieu sources results in reduced groundwater extractions will receive an "in lieu delivery adjustment" to their base-period allocation. The sum of the base-period allocation and the in lieu delivery adjustment is referred to as the "adjusted allocation." If availability of in lieu deliveries in a given water year is more or less than the base-period annual average in lieu delivery rate (in AFY), the base-period allocation for that operator will be adjusted downward or upward, respectively, that year, by an amount equal to the base-period annual average in lieu delivery rate minus the available volume of in lieu sources that year. A positive in lieu delivery adjustment will increase the operator's base period allocation that year, with a maximum in lieu delivery adjustment equal to the base-period annual average in lieu delivery rate. A negative in lieu delivery adjustment will decrease the operator's base period allocation that year, to a minimum adjusted allocation of one-half of the operator's base period allocation.

In lieu sources of supply are considered "available" if they are physically present and can reasonably be obtained from their source (e.g., Santa Clara River, State Water Project, or a recycled water treatment plant), are of suitable quality or character for their intended use, and if demand exists for their use. In lieu sources of supply may not be available for part or all of a water year if one or more of those

conditions is not met.

Pleasant Valley and United have existing in lieu delivery systems (Conejo Creek Project, Pleasant Valley Pipeline [PVP], and Pumping Trough Pipeline [PTP]) that have previously been demonstrated to reduce groundwater pumping and yield a net benefit to the OPV Basins. Therefore, maximum positive in lieu delivery adjustments are established for these systems as follows: Conejo Creek Project = 4,978 AFY (applies to extractions by Pleasant Valley from their Pleasant Valley well field); PVP = 10,181 AFY (applies to extractions by Pleasant Valley from their Pleasant Valley well field); PTP = 5,519 AFY (applies to extractions by United from their PTP well field).

If an operator proposes a new in lieu source and the base-period annual average in lieu delivery rate cannot be calculated using historical data, the Board will establish that base-period annual average in lieu delivery rate based on information provided to the Board by Agency staff and the operator.

Availability of in lieu sources of supply shall be demonstrated in an annual report to be submitted by operators using in lieu sources of supply, as described in Article _____. Every five years following adoption of this ordinance, Agency staff shall hold a meeting with operators with in lieu sources of supply to review the effectiveness of the in-lieu deliveries at reducing pumping overall from the OPV Basins and developing recommendations for modifying the operators' base-period allocations or in lieu adjustments, if needed to continue making progress toward achievement of basin sustainability goals. Staff recommendations will be presented to the Board for consideration of amending this Ordinance.

6.2.1 Each operator using in lieu sources of supply shall submit an annual report to the Agency describing its use of groundwater and in lieu supplies during the preceding water year. The report shall state the total volume of in lieu sources used, the total volume of in lieu sources that replaced groundwater extractions, and the total volume of in lieu sources 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.

6.3 It is recognized that during the periodic droughts in the region, when surface water diversions from the Santa Clara River are significantly less than average volumes, United or Pleasant Valley may not have sufficient pumping capacity to fully utilize their Santa Clara River Water Flex Allocations as described in Article 6.2. During such events, operators that have historically relied on PTP or PV deliveries to meet a significant portion of the irrigation demand on lands served by the PTP or PV conveyance systems have, in the past, been able to increase pumping from privately-owned extraction facilities to avoid crop failures or other related economic harm associated with insufficient water availability. However, such increased pumping could potentially exceed an operator's extraction allocation as defined in this Ordinance (base-period extractions). Therefore, to mitigate the potential harm to operators that face such circumstances, a simplified process for temporarily assigning extraction allocation from United or Pleasant Valley to operators of extraction facilities supplying agricultural lands that receive water from the PTP or PV systems, for the purpose of meeting shortfalls in water supply as described above without increasing total extraction allocations in the Oxnard and Pleasant Valley Basins, is provided in Article 9.

- 6.4 It is recognized that during some water years, an agricultural, municipal, or domestic operator may need to extract more groundwater than usual to meet higher demand during a dry year, supplement supplies due to shutdown of an alternative source, or respond to other unusual circumstances. Therefore, an operator in good standing with the Agency (i.e., has paid all past surcharges owed to the Agency and has submitted all required annual reports) that pumps 100.1 to 125.0 percent of their base-period allocation (or their adjusted allocation, if applicable) in a given water year, may elect to reduce their extractions over the course of the subsequent two water years compared to the volumes that their base-period or adjusted allocation would normally allow, instead of paying surcharges for the excess groundwater extraction. During this two-year period, the operator may use temporary assignments (transfers) or purchases of groundwater (from a future water market) as described in Article 9 to make up for some or all of the excess extractions that would otherwise result in surcharges. An operator that elects to use this option (rather than pay surcharges) in a given water year will not be allowed to use it again during the subsequent two water years.

ARTICLE 7. ADDITIONAL REQUIREMENTS FOR REPORTING EXTRACTIONS

In order to facilitate a transition from a wellhead-based to a land-based allocation system, operators in the Basins shall comply with the following reporting requirements in addition to those specified in the Agency Ordinance Code.

- 7.1 Agricultural operators not subject to section 7.2 shall report the following:
- 7.1.1 Each assessor's parcel number being supplied with groundwater produced by the operator's extraction facility;
 - 7.1.2 The number of irrigated acres within each parcel; and
 - 7.1.3 The source of all water used to irrigate those lands.
- 7.2 Mutual water companies, special districts and municipalities supplying groundwater or in lieu deliveries for agricultural use shall report the following:
- 7.2.1 Total volume of water from each source being supplied by the mutual water company, special district, or municipality;
 - 7.2.2 Location and identifier of each agricultural turnout and meter owned by the mutual water company, special district, or municipality and located within the Basins or Agency boundary;
 - 7.2.3 Monthly water deliveries to and meter readings from each agricultural turnout located within the Basins or Agency boundary;
 - 7.2.4 Monthly water deliveries to areas outside the Basins or Agency boundary;

- 7.2.5 List of assessor's parcel numbers served by each agricultural turnout and meter located within the Basins or Agency boundary, and list assessor's parcel numbers (or GIS shape file) served by the mutual water company, special district or municipality outside the Basins or Agency boundary; and
 - 7.2.6 Customer name associated with each parcel located within the Basins or Agency boundary.
- 7.3 Mutual water companies, special districts and municipalities supplying groundwater or in lieu deliveries for municipal and industrial use shall report the following:
- 7.3.1 Total volume of water from each source being supplied by the mutual water company, special district, or municipality;
 - 7.3.2 Monthly water deliveries for all water being supplied by the mutual water company, special district, or municipality; and
 - 7.3.3 List of assessor's parcel numbers (or a GIS shape file) served by the mutual water company, special district, or municipality.
- 7.4 Domestic and municipal and industrial well operators shall report the following:
- 7.4.1 Each assessor's parcel number being supplied with groundwater produced by the operator's extraction facility.

ARTICLE 8. ALLOCATION CARRYOVER

Except as otherwise provided (e.g., Article 6.4) and subject to the provisions of this article, an unused extraction allocation may be carried over for use in a subsequent water year. A maximum of 100 percent of an extraction allocation shall be available for carryover. The first water extracted during any year shall be deemed to be an exercise of the carryover authorized by this article. The cumulative allocation carryover shall not exceed two hundred percent of an extraction allocation. Annual allocation carryover for extraction facilities combined under a single operator in accordance with section 5.2 shall be evenly divided among the combined extraction facilities. The Board may limit the use of carryover allocations consistent with the provisions of the groundwater sustainability plan, provided that any such limitation shall be imposed on all operators on an equal basis.

ARTICLE 9. ALLOCATION TRANSFERS

- 9.1 Allocation transfers may be necessary to provide flexibility during and after the transition from the Agency's current groundwater management program to sustainable groundwater management under SGMA. Notwithstanding section 5.3 of the Agency Ordinance Code, transfers of allocation established under this ordinance shall comply with the provisions of this article or be allowed under an Agency-approved water market.

- 9.2 United and Pleasant Valley may temporarily assign a portion of their respective extraction allocations for the PTP and PV systems (including adjustments related to Conejo Creek and Santa Clara River deliveries) to operators of extraction facilities supplying agricultural lands that receive water from the PTP or PV systems, for the purpose of meeting shortfalls in water supply as described in Article 6.5, without the prior approval from the FCGMA described in paragraph 9.7 of this Article. All such temporary assignments shall be reported to FCGMA by United or Pleasant Valley in the annual reports required in Article 6.2.2.
- 9.3 An operator may temporarily assign all or a portion of the allocation for an extraction facility they operate to another separate (unconnected) extraction facility they operate within the same groundwater basin without the prior approval from the FCGMA described in paragraphs 9.7 of this Article. All such temporary assignments shall be reported to FCGMA by the operator with their semi-annual extraction statements to FCGMA. The Board may limit such transfers as necessary to achieve the goals of the GSPs for the OPV Basins.
- 9.4 Upon adoption of the groundwater sustainability plan, and except as otherwise provided, transfers or temporary assignments of an extraction allocation (other than those described in articles 9.2 and 9.3) are authorized provided the Agency finds that it does not impede achievement of the sustainability goals of the groundwater sustainability plan and would not be detrimental to an Agency-approved water market. In making this determination, the Agency shall, at a minimum, consider the location of the extraction facilities, the total quantity of groundwater extracted in any year, groundwater quality impacts of the transfer and whether the proposed transfer or temporary assignment could be approved under an Agency-approved water market. Requests for the transfer or temporary assignment of extraction allocations shall be submitted jointly by the operators and owners involved and shall include the specific details of their proposal. To ensure consistency with the sustainability goals of the groundwater sustainability plan, transfers or temporary assignments of an extraction allocation shall be subject to conditions as determined by the Executive Officer. A temporary assignment of allocation shall not exceed one year.
- 9.5 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.
- 9.6 When irrigated acreage changes to M&I use, the extraction allocation used to irrigate the acreage shall be transferred from the agricultural operator to the M&I operator on a one-to-one basis.
- 9.7 Transfers or temporary assignments of allocations between extraction facilities located within the same groundwater basin shall be considered for approval by the Executive Officer. All other requests for transfers or temporary assignments shall be submitted to the Board for approval.

ARTICLE 10. REDUCTION OF ALLOCATIONS

10.1 Modeling of the updated list of Stakeholder projects included in the 2022 Annual Reports of the Groundwater Sustainability Plans for the Basins indicates that sustainable yield is forecasted to be achieved before 2040 without pumping reductions. However, if the proposed projects fail to meet the new interim objectives for achieving sustainability as planned, then extraction allocations, adjusted or otherwise, may be reduced according to a schedule and method to be determined by the Board following adoption of the groundwater sustainability plan. An operator's use of surface water in lieu of groundwater after the effective date of this ordinance shall not subject that operator to a greater allocation reduction than is imposed on other operators.

ARTICLE 11. VARIANCES

The Executive Officer may, on written request from a land owner or operator, grant a variance from the requirements of this ordinance based on the standards set forth in this article.

11.1 Variance Purpose and Standards - The sole purpose of any variance shall be to enable an owner or operator to make reasonable use of groundwater in the same manner as other users of groundwater in the Basins. Before any variance may be granted, the owner or operator must establish and the Agency must determine that all of the following standards are met:

11.1.1 That there are special circumstances or exceptional characteristics applicable to the owner or operator which do not apply generally to comparable owners or operators in the Basins; and

11.1.2 That granting a variance will not confer a special privilege inconsistent with the limitations upon other owners and operators in the Basins; and

11.1.3 That denial of a variance will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of this ordinance; and

11.1.4 That the granting of a variance will not be inconsistent with the groundwater sustainability plan or the provisions of SGMA or with other regulations or ordinances of the Agency or detrimental to the Agency's ability to improve and protect the quantity or quality of groundwater supplies within the Basins; and

11.1.5 That the granting of a variance will not substantially impede the Agency's ability to achieve sustainable groundwater management or the actual sustainability of groundwater in the Basins.

11.2 Burden of Proof – A person seeking a variance shall have the burden of proving

to the satisfaction of the Executive Officer that the above standards can be met.

- 11.3 The Agency may recognize and consider other mitigating factors demonstrated or proposed by the applicant. The Agency at its discretion may include and impose those or other factors as conditions of granting the variance request.
- 11.4 The Executive Officer may consider any prior requests, permits, other Agency decisions, or enforcement actions associated with the owner or operator.
- 11.5 Any new or increased extraction allocation granted by the Agency pursuant to a variance request may not be transferred without prior Agency approval.
- 11.6 Variance Procedures – All requests for a variance shall be filed in writing with the Agency.
- 11.7 Application Period – For the water year beginning October 1, 2020, variances may be applied for by June 30, 2010. For all subsequent water years, variances may be applied for by June 30 for use in the following the water year.
- 11.8 Review Period – The Executive Officer shall make reasonable efforts to render a decision on all applications within 90 days from the date the variance is requested. The Executive Officer's decision shall be in writing and include the findings made relative to the standards set forth in section 11.1.
- 11.9 Appeals – The Executive Officer's decision under this article is appealable in accordance with chapter 6.0 of the Agency Ordinance Code.

ARTICLE 12. CONFLICTS

Should any conflicts occur between the provisions of this ordinance and any other duly enacted Agency code or ordinance, the provisions of this ordinance shall govern.

ARTICLE 13. 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 14. EFFECTIVE DATE; OPERATIVE DATE

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