

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

**ARTICLE 1. FINDINGS**

- 1.1. The Fox Canyon Groundwater Management Agency (Agency) Board of Directors in response to the Sustainable Groundwater Management Act of 2014 (SGMA), on October 23, 2019, adopted An Ordinance to Establish an Allocation System for the Oxnard and Pleasant Valley Groundwater Basins (OPV Ordinance) which, among other things, established new extraction allocations throughout the Oxnard and Pleasant Valley Groundwater Basins (Basins) to transition the Agency's then-current groundwater management programs to sustainable groundwater management programs under SGMA and provided for reduction of allocations in the event the sustainable yield of the OPV Basins is less than the total amount of extraction allocations established under the OPV Ordinance.
- 1.2. In addition, the OPV Ordinance (a) adjusted the base-period allocation for Pleasant Valley County Water District (Pleasant Valley) in recognition of its use of water from the Conejo Creek Project and the corresponding reduction in total extractions within its service territory during the base period established by the OPV Ordinance; and (b) provided Pleasant Valley and United Water Conservation District (United) with the flexibility to increase groundwater extraction in years when surface water supplies from the Santa Clara River are less than the average amount available during the base period so long as these two operator's groundwater extractions decreased in years when surface water supplies from the Santa Clara River are greater than the average amount available during the base period.
- 1.3. On December 2, 2019, the City of Oxnard (City) filed a petition for writ of mandate alleging, among other things, that the OPV Ordinance: (a) violated section 702 of the Fox Canyon Groundwater Management Agency Act (Section 702) by providing additional extraction allocation and flexibility to Pleasant Valley and United without providing the same to the City; and (b) violated Water Code section 106 by prioritizing agricultural uses of water over domestic uses.
- 1.4. On August 31, 2023, the Los Angeles County Superior Court issued a peremptory writ of mandate which ordered the Agency to rescind or revise the provisions of the OPV Ordinance that violate Section 702, and to set aside article 10.2 of the OPV Ordinance. The Agency was further ordered to file with the court a return to the writ specifying the actions

taken to comply with the writ.

- 1.5. During the base period, certain operators' coordinated use of surface water and other supplies from projects reduced their groundwater extractions for the benefit of the Basins. For example, during the Base Period, the Conejo Creek Project supplied an average of 4,978 acre-feet of surface water annually to Pleasant Valley for agricultural use, which could have been supplied by extracting groundwater from the Basins but resulted in a corresponding decrease in groundwater use within Pleasant Valley's service area. Other operators received deliveries from other local surface water supplies which reduced their groundwater extractions. For example, during the base period, Pleasant Valley and United received an average of 15,600 acre-feet annually of surface water deliveries from the Santa Clara River for their customers' agricultural use which could have been supplied by extracting groundwater from the Basins but resulted in a corresponding decrease in groundwater use within Pleasant Valley's and United's service areas. The OPV Ordinance sought to encourage the continuation of these programs, known respectively as the Conejo Creek Program and the Santa Clara River Flex Program, given their benefits to the Basins. However, in its August 2023 decision, the Court found them to violate Section 702.
- 1.6. Following the Court's August 2023 decision, the Agency decided to comply with the writ by amending the OPV Ordinance to cure the Section 702 violations and rescind Article 10.2 of the OPV Ordinance. On March 27, 2024, the Agency adopted An Ordinance Amending Articles 4 and 6 and Rescinding Section 10.2 of an Ordinance to Establish an Allocation System for the Oxnard and Pleasant Valley Groundwater Basins (Amended OPV Ordinance). The Amended OPV Ordinance rescinded article 10.2 of the OPV Ordinance and amended article 6 of the OPV Ordinance to preserve the Conejo Creek Program and the Santa Clara River Flex Program and their corresponding benefits to the OPV Basins, but to expand the scope of the programs to all operators with access to other water supplies that could offset their groundwater extractions. To accomplish that, the Amended OPV Ordinance added an Adjusted Allocation Program and a Calleguas Water Flex Allocation Program.
- 1.7. After the Agency adopted the Amended OPV Ordinance and filed a return to the Court's writ of mandate, the City moved to compel compliance with the writ, claiming the Amended OPV Ordinance did not resolve the Section 702 violations identified by the Court. In a September 30, 2024 decision, the Court rejected the City's argument that the "take requirement" in the new Adjusted Allocation Program violated Section 702. However, the court ruled that the Amended OPV Ordinance's inclusion of a guaranteed minimum allocation in the Santa

Clara River Flex Program, but not in the Calleguas Water Flex Program, violated Section 702.

- 1.8. Since the Court's September 30, 2024 decision, the Agency has decided to further amend the OPV Ordinance to revise the provisions that the Court found to violate Section 702. This ordinance, and its amendments to the OPV Ordinance and Amended OPV Ordinance, would implement a new program intended to ensure fairness for all operators with access to supplies other than groundwater from the Basins. The Agency believes that this change complies with the Court's August 2023 writ of mandate and its September 2024 order on the City's motion to compel compliance, and that adoption of this revised ordinance is necessary to (i) ensure the continued applicability and viability of the OPV Ordinance and the sustainable management of the Basins in accordance with SGMA is not impeded or delayed; and (ii) to maintain, restore, enhance, and protect the quantity and quality of groundwater supplies in the Basins.
- 1.9. The Agency finds based on evidence in the record, including the Board's record relating to the prior ordinance approvals and previously adopted and certified pursuant to Public Resources Code section 21167.6, that this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Water Code section 10728.6 and CEQA Guidelines sections 15061(b)(3), 15307 and 15308.
- 1.10. To the maximum extent possible, these findings incorporate by reference the findings set forth in article 1 of the OPV Ordinance and article 1 of the Amended OPV Ordinance.

## **ARTICLE 2. AMENDMENT OF ARTICLE 4**

Article 4 of the Amended OPV Ordinance is hereby amended to read as follows:

- 4.1. "Agency" shall mean the Fox Canyon Groundwater Management Agency.
- 4.2. "Agricultural Operator" shall mean an owner or operator of an extraction facility used to produce groundwater for use on lands in the production of plant crops or livestock for market and uses incidental thereto.
- 4.3. "Assessor's Parcel Map" shall mean an official map designating parcels by Assessor's Parcel Number.
- 4.4. "Assessor's Parcel Number" shall mean the number assigned to a parcel by the County of Ventura for purposes of identification.
- 4.5. "Base-Period" shall mean calendar years 2005 through 2014.

- 4.6. "Base-Period Extraction" shall mean the average annual groundwater extraction based on reported extractions during the Base-Period, excluding any extractions that incurred surcharges.
- 4.7. "Base-Period Average In-Lieu Delivery Amount" shall mean the average annual amount of water delivered to an operator, other than groundwater extracted from the Basins, during the Base-Period as reported to the Agency.
- 4.8. "Basins" shall mean the Pleasant Valley Groundwater Basin and the Oxnard Groundwater Subbasin.
- 4.9. "Board" shall mean the Board of Directors of the Agency.
- 4.10. "Calleguas" shall mean Calleguas Municipal Water District.
- 4.11. "Executive Officer" shall mean the individual appointed by the Board to administer Agency functions or his/her designee.
- 4.12. "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.
- 4.13. "Extraction Facility" shall mean any device or method (e.g. water well) for extraction of groundwater within the Basin.
- 4.14. "Groundwater Sustainability Plan" shall mean the plan or plans, and any amendment thereof, developed and adopted by the Agency for the Basins in accordance with SGMA.
- 4.15. "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.
- 4.16. "Municipal and Industrial Operator" shall mean an owner or operator that supplied groundwater for domestic, industrial, commercial or other non-agricultural use.
- 4.17. "Municipal and Industrial (M&I) Use" shall mean any use other than agricultural irrigation.
- 4.18. "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.

- 4.19. "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.
- 4.20. "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.
- 4.21. "Parcel" shall mean a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.
- 4.22. "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.
- 4.23. "Pleasant Valley" shall mean Pleasant Valley County Water District.
- 4.24. "Sustainable Groundwater Management Act" or "SGMA" shall mean Part 2.74 of Division 6 of the California Water Code, sections 10720 et seq.
- 4.25. "Sustainable Yield" shall mean the maximum quantity of water that can be withdrawn annually from the Basins as provided in the groundwater sustainability plan.
- 4.26. "United" shall mean United Water Conservation District.
- 4.27. "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.
- 4.28. "Water Purveyor" shall mean a mutual water company, special district, or municipality that supplies water to others for agricultural or municipal and industrial use.
- 4.29. "Water Year" shall mean the period from October 1 of one calendar year through September 30 of the following calendar year.

### **ARTICLE 3. AMENDMENT OF ARTICLE 6**

Article 6 of the Amended OPV is rescinded in its entirety and is replaced with the following:

- 6.1. Until, and if, such time as the reductions described in article 10 are implemented and except as otherwise provided in this article, an operator's extraction allocation shall be the Base-Period Extraction as

reported to the Agency pursuant to chapter 2 of the Agency Ordinance Code. The extraction allocation established under this section is called "Base-Period Allocation."

- 6.2. In order to encourage the coordinated use of groundwater from the Basins and in-lieu supplies, while eliminating overdraft and maintaining the sustainability goals established under SGMA, operators that can demonstrate to the Executive Officer's satisfaction that their use of in-lieu water supplies during a given water year results in reduced groundwater extractions from their extraction facilities will receive an "in-lieu delivery adjustment" to their base-period allocation subject to the requirements of this article 6. The sum of the Base Period Allocation and the in-lieu delivery adjustment is referred to as the "adjusted allocation."
- 6.3. The amount of an in-lieu delivery adjustment for a given water year shall depend on the availability of in-lieu supplies to a given operator. If the availability of in-lieu supplies to an operator is less than the Base-Period Average In-Lieu Delivery Amount, the operator's allocation for the year will be adjusted upward by an amount equal to the difference between the operator's Base-Period Annual Average In-Lieu Delivery Amount and the current amount of in-lieu supplies available to the operator, up to a maximum in-lieu delivery adjustment equal to the Base Period Average In-Lieu Delivery Amount. If the availability of in-lieu supplies to an operator is more than the Base Period Average In-Lieu Delivery Amount, the operator's allocation for the year will be adjusted downward by an amount equal to the difference between Base-Period Annual Average Delivery Amount and the current amount of in-lieu sources available to the operator, to a minimum adjusted allocation of one-half of the operator's Base Period Allocation.
- 6.3. In-lieu supplies shall be considered "available" for purposes of this article if they are (i) physically present and can reasonably be obtained from their source (e.g., Santa Clara River, Conejo Creek, State Water Project, a recycled water treatment plant, etc.); (ii) are of suitable quality or character for their intended use; and (iii) if the operator has demand for additional water that can be met with in-lieu supplies. In-lieu supplies shall not be considered "available" for part or all of a water year if one or more of these conditions is not met. The availability of in-lieu supplies shall be demonstrated in an annual report to be submitted by operators using in-lieu supplies, as described in articles 6.6 and 6.7.
- 6.4. If an operator requests an adjusted allocation but the Base Period Average In-Lieu Delivery Amount cannot be calculated using historical data, the Board may establish an operator's Base Period Average In-Lieu Delivery Amount based on information provided to the Board by Agency staff and/or the operator. Projects or programs established by

conjunctive use operators or water purveyors that were not operative during the Base Period will have an allocation determined by the Board based on information provided to the Board by Agency staff and/or the operator.

- 6.5. Every year following adoption of this ordinance, Agency staff shall hold a meeting with operators with an approved adjusted allocation to review the impact of the adjusted allocation program on conditions and management of the Basin and its effectiveness at reducing total extractions from the Basins.
- 6.6. Each operator with an approved adjusted allocation 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 groundwater extractions and in-lieu supplies used, the total volume of in-lieu supplies that replaced groundwater extractions, and the total volume of in-lieu supplies applied 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. The annual report is due to the Agency within 45 days after the end of the water year. Failure to submit a complete or timely report will result in (i) termination of an approved adjusted allocation and/or (ii) denial of a request for an adjusted allocation.
- 6.7. Operators wishing to receive an adjusted allocation must submit a written request to the Executive Office no less than 60 days prior to the start of the water year with detailed information on their proposed use of in-lieu supplies. The operator's in-lieu use must be approved by the Executive Office in order to be eligible for an adjusted allocation. The Executive Officer will use his/her best efforts make a determination on eligibility within 30 days of receiving a request. Once the Executive Officer has approved an adjusted allocation for an operator, that adjusted allocation will remain in effect unless the Executive Officer determines: 1) the specific use of in-lieu supplies has changed in a material way; 2) legal action (by any party) necessitates a change, or 3) the proposed use of in-lieu supplies would cause an undesirable result, as defined in SGMA, or results in a change in basin conditions requiring additional review to ensure consistency with the Agency's sustainable management obligations under SGMA. Operators with an approved adjusted allocation must annually submit a written request certifying that no changes have occurred to their use of in-lieu supplies. Upon receipt of an operator's annual report at the conclusion of the water year, the Executive Officer will determine the specific amount of the operator's in-lieu delivery adjustment for the preceding water year. The Executive Officer will use his/her best efforts to make a determination within 30

days of receiving a complete report.

**ARTICLE 4. SEVERABILITY**

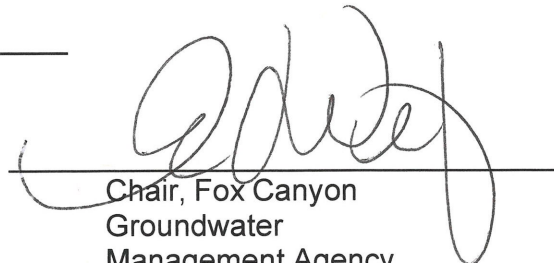
Should any provision, section, subsection, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, subsections, paragraphs, sentences or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

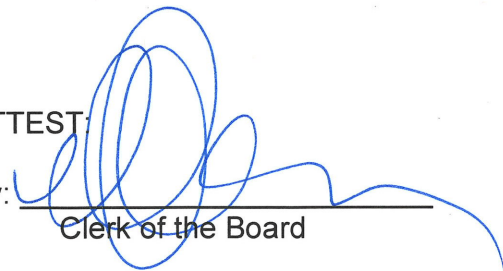
**ARTICLE 5. EFFECTIVE DATE; OPERATIVE DATE**

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

PASSED AND ADOPTED this 27<sup>th</sup> day of May 2026, by the following vote:

AYES: 4  
NOES: 1  
ABSENT: 0

  
Chair, Fox Canyon  
Groundwater  
Management Agency  
Board of Directors

ATTEST:  
By:   
Clerk of the Board