

ORDINANCE NO. 689

AN UNCODIFIED ORDINANCE OF THE BOARD OF DIRECTORS OF THE COUNTY OF MADERA GROUNDWATER SUSTAINABILITY AGENCIES ESTABLISHING THE ADMINISTRATIVE REMEDIES FOR THE GROUNDWATER SUSTAINABILITY AGENCY ADMINISTRATIVE FEE

RECITALS

WHEREAS, the Sustainable Groundwater Management Act of 2014, Water Code sections 10720-10737.8 ("SGMA") was signed into law on September 16, 2014; and

WHEREAS, SGMA requires that each groundwater basin be managed by a Groundwater Sustainability Agency ("GSA"), or multiple GSAs, and that such management be pursuant to an approved Groundwater Sustainability Plan ("GSP"), or multiple GSPs; and

WHEREAS, the County of Madera ("County") is the exclusive GSA for the portions of the Madera Subbasin, Chowchilla Subbasin, and Delta-Mendota Subbasin that are in unincorporated areas of Madera County, and not otherwise covered by another public agency (hereinafter "County GSAs"), and the Board of Supervisors is the ex officio Board of Directors (hereinafter "Board") for the County GSAs; and

WHEREAS, at a duly noticed public meeting on November 12, 2019, pursuant to Water Code section 10730 ("Section 10730"), which authorizes GSAs to impose fees on groundwater regulated activity to fund the costs of a groundwater sustainability program, the Board adopted Resolution 2019-172 for the purpose of charging a fee for the County GSAs' groundwater sustainability programs (hereinafter "GSA fee"), including but not limited to the preparation, completion, and submission of the GSPs in the aforementioned subbasins; and

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WHEREAS, the GSA fee was based on a report (“Report”) for the County GSAs entitled “2019 Groundwater Sustainability Fee Study,” prepared by Raftelis Consulting (“Raftelis”), which provided the methodology for charging the GSA fee, and included a list of parcels that would be subject to the GSA fee; and

WHEREAS, the Board authorized and directed the Director of the County Department of Water and Natural Resources (“Department Director”) to annually request the County Treasurer-Tax Collector to collect the Fee in the same manner as ad valorem property taxes pursuant to Water Code section 10730(d) and as more fully described in Attachment 1, and provide the County Auditor-Controller with the required information no later than August 1 of each year; and

WHEREAS, subsequent to the adoption of the GSA fee, the County GSAs, in conjunction with Raftelis, conducted a study to refine the list of parcels subject to the GSA fee, and an amended parcel list was prepared to identify those parcels subject to the GSA fee; and

WHEREAS, at a noticed public meeting on August 4, 2020, the Board adopted the amended parcel list for the GSA fee, which included the corresponding increase in the GSA fee to account for the fact that the amended parcel list contains less properties subject to the GSA fee than the original parcel list that was adopted on November 12, 2019; and

WHEREAS, the Board desires, through the passage of this Ordinance, to adopt a system of administrative remedies for those property owners subject to the GSA fee to have disputes related to the imposition of this fee raised and settled in an administrative process conducted by the County GSAs.

NOW, THEREFORE, the Board of Directors for the County GSAs hereby ordains as follows:

SECTION 1. The Board has duly considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Board. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. Administrative remedies for disputes raised by property owners subject to the GSA fee are as follows:

A. Any dispute regarding the imposition of the fee shall be presented in writing by an affected property owner to the Director of Water and Natural Resources for the County of Madera ("Director") by the ad valorem property tax bill delinquency date. The Director will review the dispute as presented and issue a written determination ("Determination") within 45 days of the presentation of the dispute. Unless otherwise provided for, the Determination shall be issued to the affected property owner by electronic means. If the Determination is issued within the 45-day time period, the dispute shall be deemed to have been denied on the 45th day after the presentation of the dispute to the Director.

B. Within 15 days of the date of the written determination, or, within 15 days of the date the dispute was deemed denied, the affected property owner may make an application for review ("Application") to a three-person panel ("Panel"). The Panel shall consist of the County's Chief of Developmental Services, a Deputy County Administrative Officer, and a representative of the County Assessor's

Office. Within 10 days of the date that the Application was made, the Panel shall set the matter for a review hearing, where both the Director and the affected property owner may present evidence to the Panel. Unless otherwise stipulated between the Panel and the affected property owner, such hearing shall take place within 45 days of the date that the Application was made. The formal rules of evidence shall not apply to this review hearing. The Panel will review the Director's written determination de novo for both factual and legal issues. The Panel shall issue a written decision ("Decision") on the Application within 15 days of the hearing. Unless otherwise provided for, the Decision shall be issued to the affected property owner by electronic means.

C. The affected property owner may, within 10 days of the date of the Panel's Decision on the Application, file an appeal ("Appeal") of the Decision to the County GSAs' Board of Directors ("Board") through written communication to the Chief Clerk to the County Board of Supervisors. Unless otherwise stipulated between the Board and the affected property owner, the Appeal hearing shall take place within 45 days of the date that the Appeal was filed. The formal rules of evidence shall not apply to the Appeal hearing. The Board will review the Panel's Decision de novo for both factual and legal issues. The Board shall rule on the Appeal by roll call vote, and a majority vote of the Board members present at the hearing is required to either grant or deny the appeal. The Board's hearing shall be recorded electronically, and such recording, along with the Board's written minutes and any materials presented to the Board either in favor or in opposition to the Appeal, shall constitute the record of proceedings for the Appeal.

SECTION 3. This Ordinance shall not be codified in the Code of Ordinances for the County of Madera, or any code that could apply to the County GSAs.

SECTION 4. This Ordinance shall apply equally to all three County GSAs.

SECTION 5. If any article, section, sub-section, sentence, clause, or phrase of this Ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions this Ordinance. The Board hereby declares that it would have passed this Ordinance, and each article, section, sub-section, sentence, clause, and phrase hereof, irrespective of the fact that one or more articles, sections, sub-sections, sentences, clauses, and phrases be declared invalid.

SECTION 6. The Clerk of the Board is hereby directed to cause a summary of this Ordinance to be published by one insertion in a newspaper of general circulation in the County at least five (5) days prior to adoption and again fifteen (15) days after its adoption. If a summary of the Ordinance is published, then the Clerk of the Board shall cause a certified copy of the full text of the proposed Ordinance to be posted in the office of the Clerk of the Board at least five (5) days prior to the Board of Directors meeting at which the Ordinance is adopted, and again after the meeting at which the Ordinance is adopted. The summary shall be approved by the County Counsel.

SECTION 7. The Director is hereby directed to cause this Ordinance to be posted on the website for the County GSAs. The Director is also directed to issue an appropriate press release to inform the affected property owners, and the public at large, about this Ordinance.

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The foregoing Ordinance was adopted this 6th day of October, 2020, by the following vote.



Director Frazier voted: yes
Director Rogers voted: yes
Director Poythress voted: yes
Director Rodriguez voted: yes
Director Wheeler voted: absent

David B. Rogers
Chairman, Board of Directors

ATTEST:

Helen Poy
Clerk, Board of Directors

Approved as to Legal form:
COUNTY COUNSEL

By Michael R. Linden
Digitally signed by: Michael R. Linden
DN: CN = Michael R. Linden email =
mlinden@lozanosmith.com C = US O
= Lozano Smith
Date: 2020.08.25 15:39:41 -07'00'