

**BEFORE THE
BOARD OF DIRECTORS FOR THE
COUNTY OF MADERA GROUNDWATER
SUSTAINABILITY AGENCY**

| | | |
|-------------------------|---|-------------------------------------|
| In the Matter of |) | Resolution No.: <u>2021 - _____</u> |
| |) | |
| SUSTAINABLE GROUNDWATER |) | RESOLUTION ADOPTING NEVER- |
| MANAGEMENT ACT |) | IRRIGATED LANDS FARM-UNIT |
| |) | PARTICIPATION POLICY FOR |
| |) | GROUNDWATER ALLOCATION |
| _____ |) | APPROACH |

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

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

WHEREAS, SGMA provides GSAs with the authority and the technical and financial assistance necessary to sustainably manage groundwater, and a GSA has the powers conferred in SGMA to provide the maximum degree of local control and flexibility consistent with the sustainability goals of SGMA.

WHEREAS, Madera County encompasses the Madera Subbasin (Basin No. 5-22.06), the Chowchilla Subbasin (Basin No. 5-22.05), and, in part, in part, the Delta-Mendota Subbasin (Basin No. 5-22.07) in the San Joaquin Valley Groundwater basin (collectively the “Subbasins”), all of which have been designated as high-priority basins by the California Department of Water Resources (“DWR”).

WHEREAS, on January 24, 2017, the Board of Supervisors for the County of Madera elected to have the County of Madera become the exclusive GSA for the portions of the Subbasins that are in unincorporated areas of Madera County, and not otherwise covered by another public agency (hereinafter “County GSAs”).

WHEREAS, on or about May 13, 2017, the County of Madera became the exclusive GSA for the relevant portions the Subbasins, and the County Board of Supervisors became the ex officio Board of Directors for the County GSAs.

WHEREAS, on December 17, 2019, the County GSAs adopted GSPs for the Subbasins that described a “sustainable yield” of native groundwater (water that naturally exists in the subbasins from seepage and percolation) of approximately 0.5 acre-feet per acre for the Subbasins.

WHEREAS, consumptive use of groundwater within the County GSA boundaries exceeds the available sustainable yield, and the GSPs identified demand reduction as a critical management action to achieve to achieve SGMA’s sustainability goal in the Subbasins within 20 years of the implementation of the GSPs.

WHEREAS, under SGMA a GSA has the authority to limit extractions from groundwater wells, establish groundwater extraction allocations, authorize temporary and permanent transfers of groundwater extraction allocations, and a GSA may adopt rules, regulations, ordinances, and resolutions to further these ends.

WHEREAS, the County GSAs have analyzed groundwater use over historical periods to the present, and have noticed a significant increase in water demand caused by recent plantings of permanent crops into previously unplanted lands and the replacement of lower-

water using plants with higher-water using plants, thus further exacerbating the challenges the GSPs seek to address with respect to achieving sustainability within the subbasins; and

WHEREAS, on December 15, 2020, the Board of Directors adopted a Resolution No: 2020-166 adopting an approach to allocating groundwater (the “Allocation Approach”) in the Subbasins.

WHEREAS, the Allocation Approach includes access to groundwater classified using two designations:

- a. A “sustainable yield” of native groundwater; and
- b. “Transitional water” that is continued overdraft of the subbasins but will incrementally decrease during the GSP implementation period.

WHEREAS, the Allocation Approach is a process whereby sustainable yield access is offered to overlying groundwater rights users every five years, and whereby participation will include (a) the opportunity to pump a designated quantity of sustainable yield within each year, (b) the opportunity to pump a designated quantity of transitional water within each year, and (c) the requirement to pay for pumped quantities of sustainable yield and transition water based upon a volumetric rate structure that is to be established at a future date.

WHEREAS, the Allocation Approach allows the County GSAs’ per-acre (parcel-based) allocations of sustainable yield and transition water to be shared within designated “farm units” so as to allow flexibility and reflect real-world farming conditions in which resources are shared among commonly operated or managed lands.

WHEREAS, in furtherance of, and in addition to, the Allocation Approach, the County GSAs desire to adopt a policy (“Policy”) to address and govern the functionality of lands within

the County GSAs that historically have never been irrigated for agricultural purposes (“never-irrigated” lands or parcels) that may exist within a farm-unit with a two-tier system.

WHEREAS, under the Policy, Tier 1 will reflect historic farming operations that employed sustainable management practices on irrigated, non-irrigated and never-irrigated lands, where the individual parcels have been owned and managed by one entity (e.g., grandfathering these operations), while Tier 2 will reflect newer farming operations combining existing irrigated lands with never-irrigated lands to gain access to the sustainable yield allocation available to never-irrigated lands.

WHEREAS, under Tier 1, a landowner must demonstrate to the satisfaction of the County GSA an existing relationship of owning/managing the never-irrigated parcel(s) and the irrigated parcel(s) existed prior to January 1, 2015.

WHEREAS, under Tier 1, for each acre of an irrigated parcel, the owner/operator may include into a designated farm unit the sustainable yield from never-irrigated parcel(s) with the following limits:

- a. Total acres of never-irrigated parcel(s) is capped at the total acres from which the sustainable yield of the never-irrigated parcels plus the sustainable yield of the irrigated parcels does not exceed the ETAW of the irrigated parcel(s) within the farm unit; and
- b. Never-irrigated parcels must opt-in and pay GSA fees; and
- c. Never-irrigated parcels must remain with original irrigated lands, and any proposed change to add/replace irrigated parcels associated with never-irrigated parcels in a designated farm unit must shift those parcels to Tier 2 limitations.

WHEREAS, under the Policy, Tier 2 will address the proposed inclusion of never-irrigated parcel(s) in a farm unit not qualifying under Tier 1, and will be limited to the lesser of:

- a. 25% of the total irrigated parcels in the farm unit; or
- b. 2,000 acres of never-irrigated parcels.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors for the County GSAs, as follows:

- 1. The above Recitals are hereby incorporated by reference and are made a substantive part of this Resolution.
- 2. A true and correct copy of the Policy is attached hereto as **Exhibit A** and is hereby approved and adopted.
- 3. Except as otherwise may be provided in the Allocation Approach and the Policy, never-irrigated lands are not eligible for transitional water.
- 4. The Director of the County Department of Water and Natural Resources (“Department Director”) is hereby authorized and directed to take all measures in furtherance of, and consistent with, this Resolution.

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The foregoing Resolution was adopted this _____ day of _____, 2021, by the following vote:

| | |
|---------------------------|-------|
| Director Frazier voted: | _____ |
| Director Rogers voted: | _____ |
| Director Poythress voted: | _____ |
| Director Gonzalez voted: | _____ |
| Director Wheeler voted: | _____ |

 Robert Poythress
 Chairman, Board of Directors

ATTEST:

 Clerk, Board of Directors

Approved as to Legal Form:
COUNTY COUNSEL

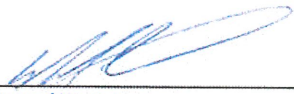
By  _____
 MICHAEL LINDEN, DEPUTY

Exhibit A



Madera County GSAs Never-Irrigated Lands Farm-Unit Participation Policy May 11, 2021

1. A two-tier system will be used to govern the functionality of never-irrigated lands within a farm unit. These tiers are designed to reflect:
 - a. Tier 1 – Historic farming operations that employed sustainable management practices on irrigated, non-irrigated and never-irrigated lands, where the individual parcels have been owned and managed by one entity (e.g., grandfathering these operations).
 - b. Tier 2 – Newer farming operations combining existing irrigated lands with never-irrigated lands to gain access to the sustainable yield allocation available to never-irrigated lands.
2. Tier 1
 - a. Landowner must demonstrate to the County GSA an existing relationship of owning/managing the never-irrigated parcel(s) and the irrigated parcel(s) existed prior to January 1, 2015.
 - b. For each acre of an irrigated parcel, the owner/operator may include into a designated farm unit the sustainable yield from never-irrigated parcel(s) with the following limits:
 - i. Total acres of never-irrigated parcel(s) is capped at the total acres from which the sustainable yield of the never-irrigated parcels plus the sustainable yield of the irrigated parcels does not exceed the ETAW of the irrigated parcel(s) within the farm unit.
 1. Example (quantities relate to GSA-specific SY):
 - a. Irrigated acres = 1,000
 - b. ETAW of 3,000 af/yr
 - c. Irrigated acres SY = 750 af (based upon 9"/ac)
 - d. Never-irrigated SY cap = 3,000 af – 750 af = 2,250 af
 - e. Never-irrigated acres cap = 3,000 acres (9" x 3,000 = 2,250)
 - ii. Never-irrigated parcels must opt-in and pay GSA fees
 - iii. Never-irrigated parcels must remain with original irrigated lands. Any proposed change to add/replace irrigated parcels associated with never-irrigated parcels in a designated farm unit will shift those parcels to Tier 2 limitations.
3. Tier 2



Exhibit A



- a. All proposed inclusion of never-irrigated parcel(s) in a farm unit not qualifying under Tier 1 will be limited to the lesser of:
 - i. 25% of the total irrigated parcels in the farm unit
 - ii. 2,000 acres of never-irrigated parcels

