

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

In the Matter of)	Resolution No.: <u>2021 - 113</u>
)	
SUSTAINABLE GROUNDWATER)	RESOLUTION ESTABLISHING
MANAGEMENT ACT)	GROUNDWATER ALLOCATION
)	REFINEMENTS
)	
_____)	

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, 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” (“SY”) 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 SY and is estimated within each adopted GSP as an excess of 111,000 acre-feet annually in the Madera Subbasin and 59,700 acre-feet annually in the Chowchilla Subbasin.

WHEREAS, the GSPs identified demand reduction as a critical management action to achieve to SGMA’s sustainability goal in the Subbasins within 20 years of the implementation of the GSPs to reduce the estimated excess consumptive use of groundwater.

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.

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 provides parcels meeting certain criteria (hereafter “eligible parcels”) access to groundwater classified using two designations:

- a. The SY of native groundwater; and
- b. “Transitional water” (TW) that is continued overdraft of the Subbasins that will incrementally decrease during the GSP implementation period.

WHEREAS, the Allocation Approach is a process whereby eligible parcels enrolled into the Allocation Approach are offered SY, and in most circumstances also offered TW, whereby enrollment is offered to all eligible parcels every year, and whereby enrollment will include (a) the opportunity to pump a designated quantity of SY within each year, (b) the opportunity to pump a designated quantity of TW within each year, (c) the requirement to pay for pumped quantities of SY and TW based upon a rate structure that is to be established at a future date, and (d) County GSA authorized administrative fees, oversight, reporting, monitoring, and penalties, as the County GSA may establish.

WHEREAS, eligible parcels enrolled in the Allocation Approach are authorized to group enrolled parcels so as to share the County GSAs’ per-acre (parcel-based) allocations of

sustainable yield and transitional water within designated “farm units” to allow flexibility and reflect real-world farming conditions in which resources are shared among commonly operated or managed parcels.

WHEREAS, because a farm unit is for the purpose of allowing a landowner and/or land manager to group eligible parcels together that are commonly operated or managed, demonstration of an existing relationship must be provided to the satisfaction of the County GSA for any eligible parcels to be grouped into a farm unit.

WHEREAS, in furtherance of the Allocation Approach, the County GSA Board of Directors adopted Resolution 2021-069, providing for a per-acre allocation of SY and TW for enrolled eligible parcels within each County GSA based on best available data, to be limited to the use within the eligible parcel, or within a County GSA approved farm unit, that represents a combination of eligible parcels.

WHEREAS, pursuant to Resolution 2021-069, an eligible parcel includes agricultural lands that are (1) currently irrigated as of June 8, 2021, (2) were last irrigated as recently as January 1, 2015, but now may otherwise be non-irrigated (e.g. fallowed or idle), (3) are part of active irrigated agricultural operations or permitted confined animal operations (e.g. equipment storage area or milking parlors), or (4) can demonstrate to the satisfaction of the County GSA that irrigation will occur in the following calendar year, and whereby in determining what constitutes an eligible parcel, the County GSA may rely upon (1) Madera County Assessor records, (2) satellite or aerial imagery, (3) evapotranspiration analysis performed by a remote sensing service, (4) County GSA staff inspection, and (5) the submittal by parcel owner or representative of pertinent documentation when enrolling the eligible parcel into the GSA

Allocation Approach and acceptance of associated requirements imposed therein, any and all of which must be to the satisfaction of the County GSA.

WHEREAS, in furtherance of the intent of a farm unit to provide flexibility for existing irrigated lands as they transition to further limited allocations, the County GSA will limit the parcels included in a farm unit to certain eligible parcels.

WHEREAS, in Resolution 2021-069, the Board of Directors for the County GSA chose to use the estimated 2020 evapotranspiration of applied water (ETAW) as the baseline quantity for the allocation, which will be quantified using County GSA-managed remote sensing technology.

WHEREAS, to effectuate the allocations adopted by the Board, a process for the distribution of allocations of SY and TW to enrolled eligible parcels is necessary.

WHEREAS, SGMA allows a GSA to establish accounting rules to allow unused groundwater extraction allocations to be carried over from one year to another if the total quantity of groundwater extracted in any five-year period is consistent with the GSP.

WHEREAS, because the Allocation Approach allows allocations to be shared within designated "farm units," a process is warranted to officially recognize changes that take place (e.g. property sale) that may modify the eligible parcels designated within a farm unit so as to ensure that proper allocations are made to such farm units.

WHEREAS, because allocations of sustainable yield and transitional water will be made to agricultural lands that are currently irrigated, clarity is needed as to the fate of an allocation available to an enrolled eligible parcel if irrigated acres are subsequently taken out of production.

WHEREAS, because the Allocation Approach is parcel-based, further definition as to how the acreage on a particular parcel will be measured for the purpose of determining that parcel's allocation is warranted.

WHEREAS, consistent with established water law, the County GSA recognizes that those groundwater users who endeavor to bring surface water into the Subbasins should have their allocation credited based on the amount of groundwater recharge that takes place as a result of the use of that surface water.

WHEREAS, because disputes may arise as to whether a groundwater user exceeded the established allocation for the ETAW on an enrolled eligible parcel or within a farm unit, the County GSA desires to establish a process for the administrative consideration of such disputes.

WHEREAS, the County GSA has the authority to adjust eligible parcel requirements as may be necessary to assure the objectives of the GSP are being achieved.

WHEREAS, this Resolution is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15307 (action of a regulatory agency to protect natural resources), 15308 (action of a regulatory agency to protect the environment), and 15061(b)(3) (the "common sense" exemption where a project is exempt if can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

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. The estimated 2020 ETAW shall be utilized as the baseline quantity available for the County GSA to distribute pursuant to the Allocation Approach for the allocations of SY and TW through 2025, which are quantified in the table (“Table”) that is attached hereto as **Exhibit A**, and is hereby approved and adopted.
3. Commencing in the fall season, but no later than December 1 of each year, eligible parcels enrolled in the Allocation Approach will be subject to the GSA Administrative Fee and will receive an allocation of SY and, if eligible, TW for the next calendar year.
4. Upon each one-year enrollment period, eligible non-enrolled parcels may opt-in for SY for the following calendar year by demonstrating that the water will be put to reasonable and beneficial use on the specific eligible parcel, with the understanding such eligible parcels shall not include the eligible parcel into a farm unit, and such eligible parcels are not offered an allocation of TW.
5. The Allocation Approach shall not apply to parcels where the consumptive use of groundwater is for domestic purposes and/or stock water associated with livestock grazing.
6. If, at the end of any calendar year, an enrolled eligible parcel or farm unit has used less than the allocation of SY and TW made available to the enrolled eligible parcel or farm unit for that calendar year, the participant may request the County GSA to carry over the difference between the allocation and the actual measured use on the enrolled eligible parcel or farm unit, subject to the following conditions:

- a. Current year SY shall be the first water used in that same year, such that the quantity of carryover requested shall be assumed to be TW up to the amount of the available TW before considered to be SY.
 - b. The participant shall pay all required extraction fees associated with the total allocation quantity of SY and TW made available to the enrolled eligible parcel or farm unit.
 - c. Any TW carried over will be the first water used after SY in the following year. The County GSA may constrain future multi-year carryover water and will re-evaluate the carryover policy yearly.
 - d. A request for carry-over may be denied, or otherwise limited, if such action is determined by the County GSA as potentially jeopardizing the objectives of the GSP.
 - e. The County GSA may refine carryover rules as it may deem warranted to assure the functionality of carryover provisions meet their intent.
7. Commencing in the fall season, but no later than December 1 of each year, the County GSA will allow a farm unit to modify the makeup of its enrolled eligible parcels to reflect property changes or lease changes. This change shall be reflected in the allocation for the following year.
 8. If an enrolled eligible parcel within a farm unit that is currently irrigated is taken out of production, or irrigation is ceased, the enrolled eligible parcels that remain within the farm unit may access the SY and TW available to all parcels within the original farm unit, including parcels no longer irrigating.

9. The allocation of SY shall be based upon the total acres in an Assessor's Parcel Number ("APN"), as that value is determined by the County Assessor.
10. The allocation of TW shall be based upon (1) the total acreage in an APN, as that value is determined by the County Assessor if 80 percent of the parcel was irrigated as of June 8, 2021, or the acreage was last irrigated as recently as January 1, 2015, but now may otherwise be non-irrigated (e.g., fallowed or idle), and/or (2) the total APN acreage that is part of active irrigated agricultural operations or permitted confined animal operations (e.g. equipment storage area or milking parlors), as demonstrated to the satisfaction of the County GSA.
11. For credits associated with the use of surface water supplies by an enrolled eligible parcel, the County GSA shall evaluate each surface water supply project to reflect the supply benefits and to equitably share such benefits among County GSA determined beneficiaries. The determination of the benefits and beneficiaries of such a project will be on a case-by-case basis until such time as the County GSA updates the methodology.
12. If a participant in the Allocation Approach intends to appeal the County GSA-determined ETAW, such appeal shall be based upon use of a flow meter, and the participant shall (1) demonstrate that the flow meter was installed and maintained per the manufacturer's specifications, and (2) provide an engineer-certified calibration report where such calibration occurred within the last two calendar years of the appeal. The flow meter volume shall be recorded at least monthly, and a photograph of the meter reading shall be taken and submitted to the County GSA for verification purposes. An independent third party will evaluate

* * * * *

The foregoing Resolution was adopted this 17th day of August, 2021, by the following vote:



Director Frazier voted:	<u>Absent</u>
Director Rogers voted:	<u>Absent</u>
Director Poythress voted:	<u>YES</u>
Director Gonzalez voted:	<u>YES</u>
Director Wheeler voted:	<u>YES</u>



 Robert Poythress
 Chairman, Board of Directors

ATTEST:



 Clerk, Board of Directors

Approved as to Legal Form:
COUNTY COUNSEL

Michael R.
 By Linden

Digitally signed by: Michael R. Linden
 DN: CN = Michael R. Linden email =
 mlinden@lozanosmith.com C = US O
 = LOZANO SMITH
 Date: 2021.08.17 16:22:39 -07'00'

Exhibit A							
Year	Madera County GSAs						
	Madera Subbasin		Chowchilla Subbasin		Delta Mendota Subbasin		
	SY	TW	SY	TW	SY	TW	
2020	90,000	113,000	22,500	63,400	1,500	2,000	2%
2021	90,000	110,740	22,500	62,132	1,500	1,960	2%
2022	90,000	108,480	22,500	60,864	1,500	1,920	2%
2023	90,000	106,220	22,500	59,596	1,500	1,880	2%
2024	90,000	103,960	22,500	58,328	1,500	1,840	2%
2025	90,000	101,700	22,500	57,060	1,500	1,800	2%