

RESOLUTION NO. 2022-194

**AN RESOLUTION OF THE BOARD OF DIRECTORS OF THE COUNTY OF MADERA
GROUNDWATER SUSTAINABILITY AGENCY FOR THE MADERA SUBBASIN
ADOPTING THE VOLUNTARY LAND REPURPOSING PROGRAM AND
THE PROGRAM RULES**

RECITALS

WHEREAS, the Sustainable Groundwater Management Act, 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 that are in unincorporated areas of Madera County, and not otherwise covered by another public agency (hereinafter referred to in the singular as the "County GSA"), and the Board of Supervisors is the ex officio Board of Directors (hereinafter "Board of Directors") for the County GSA; and

WHEREAS, on December 17, 2019, the County GSA, along with the Madera Irrigation District GSA, the City of Madera GSA, and the Madera Water District GSA, adopted a GSP (the "Joint GSP") for the portions of the Madera Subbasin within the control of these GSAs that described a "sustainable yield" ("SY") of native groundwater (water that naturally exists in the Subbasin from seepage and percolation) of approximately 0.5 acre-feet per acre, identified land repurposing (changing land previously utilized for irrigated agriculture to a non-irrigated use) as an action that could be utilized help achieve SGMA's sustainability objective; 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, allowing parcels meeting certain criteria (hereafter “eligible parcels”) to have 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 but will incrementally decrease during the GSP implementation period; and

WHEREAS, in furtherance of the Allocation Approach, on June 8, 2021, 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; and

WHEREAS, on August 17, 2021, the Board of Directors adopted Resolution No. 2021-113, establishing groundwater allocation refinements; and

WHEREAS, initial planning for the land repurposing program was supported by a Sustainable Agricultural Lands Conservation (“SALC”) program grant, and the program was referred to as the “SALC Program” in initial Madera County GSA planning documents; and

WHEREAS, Water Code section 10730.2, subdivision (a), provides that a GSA that has adopted a GSP “may impose fees on the extraction of groundwater from the basin to fund costs of groundwater management, including, but not limited to, the costs of the following:

- (1) Administration, operation, and maintenance, including a prudent reserve.

- (2) Acquisition of lands or other property, facilities, and services.
- (3) Supply, production, treatment, or distribution of water.
- (4) Other activities necessary or convenient to implement the plan(;)” and

WHEREAS, Water Code section 10730.2, subdivision (d), provides that “[f]ees imposed pursuant to this section may include fixed fees and fees charged on a volumetric basis,” and

WHEREAS, Water Code section 10730.2, subdivision (c), provides that “[f]ees imposed pursuant to this section shall be adopted in accordance with subdivisions (a) and (b) of Section 6 of Article XIII D of the California Constitution,” which is part of the law enacted pursuant to Proposition 218; and

WHEREAS, based on a rate study report prepared by Raftelis (“Rate Study”), the County GSA proposed a fixed fee (the “Fee”) on the extraction of groundwater under Water Code section 10730.2, in the form an annual rate of \$246.00, which was calculated per acre of land, to be imposed on those parcels enrolled in the County GSA’s allocation program (“Enrolled Acre”) to provide funds sufficient for the County GSA to cover the costs of implementing GSP projects, including groundwater recharge, participation in the proposed Sites Reservoir, land repurposing, and domestic well mitigation; and

WHEREAS, the proposed Fee rate in the Report of \$246.00 per Enrolled Acre is for a period of five years (Fiscal Years 2022/2023 through 2026-2007), and represents the average cost of service in each year over the period because the County GSA may not collect more revenue than the cost of providing service; and

WHEREAS, after providing the required majority protest notice to affected property owners pursuant to SGMA and Proposition 218, on June 21, 2022, the Board of Directors

conducted a public hearing for the proposed fee to (1) determine whether there was a majority protest for the Fee, and if not, (2) to consider whether to adopt the Fee, and after the Clerk of the Board determined at the close of the public hearing that there was no majority protest for the Fee the Board of Directors adopted the Fee; and

WHEREAS, the voluntary land repurposing program (“VLRP”) is a program available to landowners in the portion of the County GSA in the Madera and Delta Mendota Subbasins, which requires repurposing lands from currently irrigated uses to other non-irrigated uses; and

WHEREAS, under the VLRP, the participating landowners would, in a contractual agreement with the County GSA, agree to forgo irrigation and forfeit the allocation of groundwater on a portion of the lands (“Repurposed Lands”) in exchange for compensation from the County GSA and applying certain specified management requirements on the Repurposed Lands; and

WHEREAS, it is the desire of the Board of Directors to establish and adopt the VLRP and adopt rules that will govern the administration and implementation of the VLRP.

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).

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The foregoing Resolution was adopted this 20 day of December,

2022, by the following vote.



Director Frazier voted: YES

Director Rogers voted: YES

Director Poythress voted: YES

Director Gonzalez voted: YES

Director Wheeler voted: YES

Tom Wheeler
Chairman, Board of Directors

ATTEST:

Helen Schirner

Clerk, Board of Directors

Approved as to Legal form:
COUNTY COUNSEL

Michael R.

By Linden

Digitally signed by: Michael R. Linden
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