

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

In the Matter of)	Resolution No.: <u>2023 - 150</u>
)	
THE SUSTAINABLE)	RESOLUTION REVISING RULES FOR
GROUNDWATER MANAGEMENT)	APPEAL OF DETERMINATION OF USE
ACT)	OF GROUNDWATER ALLOCATION
)	
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_____)	

RECITALS

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

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.

WHEREAS, the County of Madera ("County") is the exclusive GSA for the portions of the Madera Subbasin (Basin No. 5-22.06) in the San Joaquin Valley Groundwater basin, as defined by Bulletin 118 from California's Department of Water and Natural Resources ("DWR"), that are in unincorporated areas of Madera County and not otherwise covered by another public agency (hereinafter "County GSA"), and the County Board of Supervisors is the Board of Directors (hereinafter "Board") for the County GSA.

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, which 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 but will incrementally decrease during the GSP implementation period.

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, on August 17, 2021, the County GSA Board of Directors adopted Resolution 2021-113, which established certain refinements to the groundwater allocations. Among the refinements was the establishment of an appeal process for the County GSA’s determination of the evapotranspiration of applied water (“ETAW”) for the annual allocation, which read as follows:

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 flow meter installation and records to determine if the

flowmeter records will be accepted as measurement for determining if a grower exceeded the allocation. The third party's acceptance or denial of the appeal will be final. The appellant shall pay the cost of the appeal if the appeal is denied.

WHEREAS, the County GSA desires to revise the rules for the appeal process for the County GSA's determination of ETAW for the annual allocation.

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), as well as Executive Order N-7-22 from the Governor of the State of California.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Madera, State of California, sitting as Board of Directors for the County of Madera GSA for the Madera, Chowchilla, and Delta-Mendota Subbasins, as follows:

1. The recitals above are hereby incorporated by reference in this Resolution.
2. Resolution No. 12 in Resolution 2021-113 is hereby rescinded.
3. The rules governing appeals for the County GSA's determination of ETAW for the annual allocation are attached hereto as **Exhibit A**.
4. The Director of the Department of Water and Natural Resources is hereby authorized and directed to take all necessary actions in the furtherance of this Resolution.

* * * * *

The foregoing Resolution was adopted this 7TH day of NOVEMBER, 2023, by the following vote.



Director Wamhoff voted: Yes
 Director Rogers voted: Yes
 Director Poythress voted: Yes
 Director Gonzalez voted: Yes
 Director Macaulay voted: Yes

David B. Rogers
 Chairman, Board of Directors

ATTEST:

Haven Sosivner
 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: 2023.08.11 13:00:09 -0700

EXHIBIT A



Pursuant to Resolution 2021-113, specifically Paragraph 12, if a participant in the Allocation Approach intends to appeal the County GSA-determined ETAW, the following process will be followed:

1. The appellant shall provide the following two reports for all flow meters associated with all wells used to pump groundwater delivered to the irrigated areas subject to the Allocation Approach:
 - 1.1. Installation Inspection Report documenting that the meter is installed and has been maintained per the manufacturer's specifications.
 - 1.2. Certified Calibration Report consistent with the calibration options detailed at <https://www.maderacountywater.com/measurement/>:
 - 1.2.1. Laboratory Certified Calibration Report
 - 1.2.2. Field Certified Calibration Report
2. The appellant shall provide detailed numerical volume data recorded at least monthly during the period being appealed, documenting the totalized volume of groundwater pumped at that location, and shall provide a legible photograph of the flow meter reading associated with each documented measurement period (e.g. a picture each month of the meter's totalized value). This requires a photograph at the start of the year, and a photograph each month throughout the year, even if the volume produced since the prior photograph is zero.
 - 2.1. For any month where a flow meter reading photograph is not available to document zero flow for that period, the following options are accepted:
 - 2.1.1. For electric pumps: the appellant shall provide a copy of the electrical power supplier bill indicating zero power usage during the period not documented by a photograph. An electric bill showing power usage greater than zero is not an acceptable alternative for the



flow meter photograph.

- 2.1.2. For diesel pumps: the appellant shall provide a copy of a valid Rule 1160 emissions report sent to San Joaquin Valley Air Pollution Control District, which confirms that the diesel engine was not operated during subject period. An emissions report showing engine operation hours greater than zero is not an acceptable alternative for the flow meter photograph.
3. The appellant shall provide:
 - 3.1. A detailed and legible map of the area irrigated by the volume of water being measured by the flow meter. The map can be submitted in hard copy or digital format (e.g., PDF, Google Earth KMZ, or shapefile), with a preference for digital. The map shall make clear:
 - 3.1.1. Which fields are irrigated by water produced by which well and measured by which associated flow meter.
 - 3.1.2. Irrigated area of each field in acres.
 - 3.1.3. Crop in each field and age of permanent crop, if present.
 - 3.2. Description of the irrigation system type on each field.
 4. If water sources other than groundwater are used to irrigate the area, such sources shall be accurately measured and such accounting provided by the appellant to the County GSA. Documentation from certified flow meters measuring surface diversions or records from the water supplier should be included. Importantly, there cannot be any other unmeasured water applied to the irrigated area.
 5. The appellant will electronically submit their documentation for appeal to an independent third party.
 - 5.1. All of the aforementioned requirements will be submitted as a single, complete submission no later than March 1 for the prior year.
 - 5.2. Submission will be sent via Email to both:
 - 5.2.1. MaderaCountyGSAappeals@GElconsultants.com and
 - 5.2.2. wnr@maderacounty.com.
 6. The independent third-party will:
 - 6.1. Inventory the information received.
 - 6.2. Evaluate the submitted data.
 - 6.3. Reply via email to the appellant with a copy to wnr@maderacounty.com

with a technical memorandum indicating approval or non-approval and providing a basis for the decision.

7. The third party's acceptance or denial of the appeal will be final.