

## THE GLENN COUNTY PRIVATE PUMPER ADVISORY COMMITTEE

Glenn County Department of Agriculture, 720 North Colusa Street, Willows, CA 95988  
TELEPHONE: 530-934-6501

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### MEETING OF THE GLENN COUNTY PRIVATE PUMPER ADVISORY COMMITTEE

LOCATION: The Glenn County Farm Bureau, 831 5<sup>th</sup> Street, Orland, CA 95963

DATE: March 27, 2017

TIME: 1:00 pm - 4:00 pm

## AGENDA

ALL ITEMS ARE OPEN FOR PUBLIC COMMENT

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Members of the public may appear before the Glenn County Private Pumper Advisory Committee and present evidence and/or make comments concerning any Private Pumper Advisory Committee business. If the matter is not listed on the agenda, such comments shall be presented during the unscheduled matters portion of the agenda. If the matter concerns an item listed on the agenda, the comments must be made at the time the agenda item is considered by the Private Pumper Advisory Committee. In the event that the agenda item gathers a large audience and/or group with the same or similar views, we encourage that one individual be assigned to speak on behalf of that group. Comments may be limited to three (3) minutes by the Chairman in the interest of time. Additional comments may be submitted in writing. The purpose of this procedure is to allow members of the public to provide information to the Private Pumper Advisory Committee.

If you wish to receive an agenda by mail, you may submit self-addressed stamped envelopes to the Glenn County Department of Agriculture, 720 North Colusa Street, Willows, CA 95988. A complete agenda packet, including back-up information, is available for public inspection during normal work hours at 720 North Colusa Street, Willows, CA 95988.

After posting of this Meeting Agenda, the public may request copies of support information for public agenda items listed.

1. **CALL TO ORDER**

2. **INTRODUCTIONS**

3. **UNSCHEDULED MATTERS**

Comments from the Committee and the Public on Unscheduled Matters (No action)

4. **REGULAR AGENDA**

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- a. Approval of February 27, 2017 minutes.
- b. SGMA Update- County staff will provide an update on County and regional SGMA planning and implementation efforts.
- c. Presentation on the Brown Act/ Committee Powers and Restrictions
- d. Review procedure for providing recommendations to the Board of Supervisors or Board Representatives.
- e. State Water Resources Control Board (SWRCB) Draft Emergency Regulation (ER) for State Intervention Fees
  - 1. Provide a recommendation for the Board of Supervisors to either:
    - a) Send a comment letter in response to the SWRCB Draft ER for State Intervention Fees
    - OR
    - b) Decline sending a comment letter in response to the SWRCB Draft ER for State Intervention Fees.
  - 2. If Item e.1.a is approved, prepare a list of comments for consideration by the Board of Supervisors, or Board Representatives for Board of Supervisors potential comment letter on said fees.
- f. Outreach to the Public
  - 1. Further develop a list of outreach ideas and actions for Board Representatives' consideration.
- g. Suggestions for future agenda items.

**5. COMMUNICATIONS RECEIVED**

**6. ADJOURNMENT**

In compliance with the Americans with Disabilities Act, The Private Pumper Advisory Committee will make available to persons with a disability disability-related modification or accommodations. Notification three days prior to the meeting will enable the Private Pumper Advisory Committee to make arrangements to provide reasonable accommodations. If requested, this document and other agenda materials can be made available in an alternative format for persons with a disability who are covered by the Americans with Disabilities Act. Contact Lisa Hunter, Water Resource Coordinator at: 530-934-6501.

**CERTIFICATION: Pursuant to Government Code § 54954.2 the agenda for this meeting was properly posted on or before 1:00 pm on March 24, 2017.**

**THE GLENN COUNTY PRIVATE PUMPER ADVISORY COMMITTEE**

**Glenn County Department of Agriculture, 720 North Colusa Street, Willows,  
CA 95988 TELEPHONE: 530-934-6501**

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**MINUTES**

**LOCATION: The Glenn County Farm Bureau, 831 5<sup>th</sup> Street, Orland,  
CA 95963 DATE: February 27, 2017  
TIME: 1:00 pm**

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**1. CALL TO ORDER**

Sharron Ellis, Private Pumper Advisory Committee Chair, called the meeting to order at 1:20 PM and the Pledge of Allegiance was recited.

**2. INTRODUCTIONS**

Those in attendance introduced themselves as shown below.

Private Pumper Advisory Committee

Members Present :

- Rick Beale
- Sharron Ellis (Chair)
- Vacant
- Ben Kermen
- Larry Maben
- Richard Olney
- Ronald Stilwell (Vice-Chair)

Others in Attendance:

John Viegas, Board of Supervisors  
Lisa Hunter, Glenn County Department of Agriculture  
Erin Smith, Department of Water Resources  
George Pendell, Stony Creek  
Jason Hammond, California Water Service  
Lisa Humphreys, Glenn County Farm Bureau  
Andrea Jones, Orland-Artois Water District  
Kandi Manhart, Glenn County Resource Conservation District  
Linda Mendez, UC Davis  
Hank Wallace, Taxpayer

**3. UNSCHEDULED MATTERS**

None

**4. REGULAR AGENDA**

**a. Approval of January 23, 2017 minutes.**

The meeting minutes from January 23, 2017 were approved as submitted.

Motion: Rick Beale Second: Larry Maben Approved: 5-0

**b. SGMA Update-County staff will provide an update on County and regional SGMA planning and implementation efforts.**

County staff recently participated in a kick off meeting with the consultants for the County's Proposition 1 Grant. Colusa County also has Proposition 1 funding. Staff from both counties and the consulting team will be holding a coordination meeting to see what kind of cost efficiencies there might be between the two counties if tasks are coordinated. Staff participated in a webinar on the new Department of Water Resources SGMA portal for new and updated GSA applications. The County participates in an Advisory Group through Rural County Representatives of California (RCRC) and California State Association of Counties (CSAC). Staff has been attending other counties SGMA work group meetings and staying involved with their SGMA processes. Biweekly coordination calls with the facilitator and County Supervisors are ongoing. A meeting between Glenn and Colusa Supervisors was held to begin coordination on county to county interaction. The County sent out a letter to eligible GSA's to understand their intended involvement in SGMA. A response is requested by March 7. There have been two SGMA work group meetings since the last PPAC meeting. Those meetings involved discussion on Colusa's draft MOA, Glenn County's critical path, Glenn County's draft MOA and movement towards a JPA. At the work group meeting the eligible agencies present confirmed their preliminary commitment to participate in a joint GSA. There has been preliminary discussion on membership and funding structures. The SGMA work group will send a letter to mutual water companies to initiate discussion about their level of interest and participation in the SGMA process. There is a SGMA joint work group meeting for the Colusa Subbasin (Glenn and Colusa) on March 8. The SGMA risk assessment and work plan being done by David's Engineering is moving forward.

#### **c. Glenn County SGMA Principles**

1. Review DRAFT Glenn County SGMA Principles.
2. Prepare list of comments and recommendations for consideration by the Board of Supervisors, or Board Representative.

The County principles were developed with the intent to convey subject matter significant to protecting the interests of the County and those individuals the County represents. The County would like the draft SGMA Principles to be vetted from a private pumper perspective. The County will be using these principles to inform the projected content of the MOA/JPA. Items were reviewed and discussed at length.

Sharron Ellis submitted a document titled *re: Role of Private Pumper in Glenn County Governance*. The PPAC agreed by consensus to include this document in their recommendation to the Board Representative. By consensus, the PPAC approved the recommendations and comments that were documented during the course of the meeting and are included as an attachment

#### **d. Colusa Subbasin DRAFT MOA**

1. Receive update on Colusa Subbasin DRAFT MOA
2. Review and prepare list of comments and recommendation for consideration by the Board of Supervisors, or Board of Representatives.

Lisa Hunter specified that the Colusa Subbasin Draft MOA was developed for Colusa County, but the County would like PPAC members to evaluate it through a Glenn County perspective. This document has gone through the Colusa County Legal Review Committee and there have been a few changes. Ms. Hunter asked if members of the PPAC were comfortable with her adding in changes from the previous meeting and for this meeting to focus specifically on additional content. There were some consistency issues with definitions and discussion on the interconnectedness of groundwater and surface water. Private pumper representation was brought up similarly to the Glenn County SGMA Principles document. The PPAC reiterated that they would like a voting seat on the impending GSA governing board. There was discussion on the content of some surface water diverter principles and the idea that their environmental obligations are separate and should not be included in this document from a private pumper perspective.

The group reviewed the Colusa Subbasin draft MOA in the same fashion as the previous document. Sharron Ellis submitted a document titled *RE: Comments on MOU*. By consensus, the PPAC approved the recommendations and comments that were documented during the course of the meeting and the document submitted by Ms. Ellis. Both documents are included as attachments.

**e. Suggestions for future agenda items.**

- Voting Structure
- Fee Structure
- List of eligible agencies that are currently participating in the Glenn SGMA work group meetings and a map of their service areas.
- Glenn Critical Path
- Potential Basin Boundary Modifications in 2018

**5. COMMUNICATION**

There was an additional comment on the Draft MOU from the January 23 PPAC meeting. It will be emailed to PPAC members or brought to the next meeting.

**6. ADJOURNMENT**

The meeting was adjourned at 4:15 PM.

## COUNTY OF GLENN DRAFT PRINCIPLES 1.20.2017

The Sustainable Groundwater Management Act (SGMA) of 2014<sup>5</sup> (Amended 2016) offers an unprecedented opportunity to the County of Glenn (County) to coordinate with other local agencies and serve all County “beneficial users” of groundwater (California Water Code [CWC]10723.2). Achieving sustainable groundwater resources is a statutory requirement and is defined by avoiding impacts to the following applicable conditions:

- Groundwater levels
- Aquifer capacity
- Impacts to surface waters interconnected with groundwater
- Subsidence
- Groundwater quality
- Seawater intrusion

More importantly, sustainability is a goal embraced by the County. By ensuring perpetual availability of groundwater, we maintain and enhance our economic strength and diversity, and the quality of life of all beneficial users. For the benefit of all beneficial users, the County seeks to:

1. Ensure that SGMA implementation is affordable and transparent
2. Support robust education, outreach and collaboration about SGMA and the management of groundwater resources
3. Maintain local control of groundwater resources and avoid State intervention
4. Ensure that all groundwater extractors avoid negative impacts to neighboring extractors
5. Protect and enhance the economic well-being of domestic, public, industrial and agricultural interests
6. Protect the natural resources and the environment of the County, particularly those associated with groundwater conditions

## PRINCIPLES

### SGMA and GSA Formation

1. The County is committed to achieve local solutions to SGMA compliance and avoid State intervention and associated management of groundwater resources.
2. The County is committed to provide all beneficial users with educational opportunities about water use as a means to create balanced understanding about how water resources (surface and groundwater) are diverted, extracted, applied, used, and managed. The County believes that the best way to ensure mutual water interests are protected is to ensure that all citizens have information about these complex water resource systems.
3. The County Government is committed to balance and represent, the common and unique interests of groundwater users beneficial users located in the areas outside of other GSA eligible agency boundaries, white areas of the County (CWC §10724).

**Comment [GA1]:** Add in paragraph: Affects all citizens of Glenn County and offers beneficial opportunities to achieve sustainable gw conditions in a manner that will support our vital ag economy, our other industries and domestic and public water uses.

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**Comment [GA2]:** Very strong word- consider something softer- attempt or encourage

**Comment [GA3]:** Consider adding to the extent feasible

**Comment [GA4]:** This line could be problematic

**Comment [GA5]:** Move to Community Section

4. SGMA affects all citizens of the County. The County will implement SGMA in a manner that optimizes the law's beneficial opportunities to achieve sustainable groundwater conditions to support our vital agricultural economy, other industry, and domestic and public water uses.
5. The County has formed a Private Pumper Advisory Committee (PPAC) that reports to the Board of Supervisors. The PPAC will advise the County on diverse groundwater conditions and management approaches throughout the County's jurisdictional portion of the GSA. The County will represent all private pumpers on the GSA Board.
6. The County supports involvement in the GSA by mutual water companies and water corporations regulated by the Public Utilities Commission (CWC 10723.6). The specific method of involvement should be decided by the GSA Board once convened.
7. The County supports diverse representation on a multi-party Groundwater Sustainability Agency (GSA) board including all current and future eligible local agencies and private pumper representation (CWC §10723).
8. The County supports a partnered approach to SGMA implementation. A partnered approach to groundwater management is in the best interest of County citizens because it will maximize efficiencies, keep costs at a minimum and capitalize on skills and strengths of various partners.
9. The County supports formation of, and participation in, one multi-party GSA covering the portions of the Colusa Subbasin that lie within County boundaries.
10. SGMA implementation is new to all of us and there are many unknowns. Willingness by all participants to adapt and adjust during GSA formation and GSP development and implementation is crucial to our success.
11. The County recognizes and honors the rights of existing federal surface water diverter contracts and does not expect or support the proposed GSA to impact these rights.

**Comment [GA6]:** Recommend adding private pumper seats on the GSA Board. See Sharron's handout on private pumpers.

**Comment [GA7]:** Ensure that includes Orland Unit

**Comment [GA8]:** Rephrase to make stronger, 3<sup>rd</sup> person

#### Sustainability

1. Achieving and maintaining groundwater sustainability for the good of all beneficial users in the County should be a GSA's first priority and main focus, especially in the early stages of SGMA implementation while agencies learn to work together and implement the new law and its requirements.
2. Data collection and groundwater studies are essential to increase knowledge and to support groundwater management decisions. Funding and implementing such studies is a priority and a shared responsibility among all beneficial users in the County.
3. The County intends to preserve and exercise all existing authorities necessary to protect its citizens while working cooperatively with other agencies.
4. The County is committed to pursue financial and infrastructure solutions and beneficial partnerships with other agencies to provide sustainable water supplies for all beneficial users.

5. Groundwater impacts throughout the County and region are not equal. Conditions will vary by location and water year type. While all beneficial users will share the burden, this burden may not be equal across all parts of the County and solutions will need to reflect these differences.
6. The County recognizes the interconnectedness of groundwater and surface water resources, and the contributions to the system from surface water applications.

#### **Community**

1. Extensive landowner outreach throughout the County shall be a priority among GSA members to inform and update all beneficial users about SGMA implementation and potential impacts, and to ensure beneficial users are involved in the SGMA process.
2. The County expects all beneficial users of groundwater to cooperate with the GSA(s) and abide by the guidelines put forth in the Groundwater Sustainability Plan(s) for the Glenn County portion of the Colusa Subbasin.

DRAFT

From: Sharron Ellis  
February 27, 2017

Re: Role of Private Pumper in Glenn County Governance

Private Pumpers, as defined in SGMA is, "Landowners outside of a Districts who operate Ag wells". They occupy the "white areas" and so fall under the jurisdiction and responsibility of a County's GSA. This distinction of what constitutes a Private Pumper is important because of their importance as stakeholders and their reliance on groundwater.

GSA eligible agencies within the County, including Glenn County itself have been asked to work on a coordinated agreement and governance structure that will be responsible for the sustainable management of groundwater within Glenn County and the Colusa Basin.

It is critical to the success and implementation of SGMA that a GSA governance structure includes a balanced, proportionate representation in the management of shared resources. As Private Pumpers we should have a direct role in this process. It doesn't make sense to create a "local" agency to manage our groundwater without representation from those who depend on it the most.

Like in Colusa County, which is doing a great job of developing their governance structure and which also we have to coordinate with because of a shared basin, and collaborative MOA, they have recognized the importance of Private Pumpers and they have a place at the table and a vote. If we are going to be successful groundwater pumpers need to be represented at the table, meaning an equal voice for Private Pumpers and due representation.

To reiterate the intent of our request is to create a GSA with balanced representation of all stakeholders. To achieve and maintain sustainability there are going to be very difficult decisions for GSA members. Private Pumper landowners must have a voting role in the process for it to be successful.

## **WORKING DRAFT**

### **Memorandum of Agreement Defining Colusa Subbasin Groundwater Sustainability Interests Version 7 – February 23, 2017**

This Memorandum of Agreement (MOA) is made and entered into by and among the County of Colusa, the City of Colusa, the City of Williams, Glenn Colusa Irrigation District, Princeton-Codora-Glenn Irrigation District, Provident Irrigation District, Colusa County Water District, Maxwell Irrigation District, Westside Water District, Reclamation District 108, Reclamation District 479 (*Structure to be determined: Reclamation District 1004, Colusa Drain Mutual Water Company, Colusa County Private Pumpers*) which are referred to herein individually as a "Party" and collectively as "Parties," for the purposes of developing a joint exercise of powers agreement and joint powers agency to serve as the Groundwater Sustainability Agency in the Colusa County portion of the Colusa Subbasin in support of Senate Bills 1168, 1319 and 13, and Assembly Bill 1739, known collectively as the Sustainable Groundwater Management Act (the Act). This MOA shall hereinafter be known as the Colusa County Groundwater Sustainability Agency MOA.

#### **Recitals**

WHEREAS, on September 16, 2014 Governor Jerry Brown signed the Act into law; and

WHEREAS, the Act went into effect on January 1, 2015; and

WHEREAS, the Act was amended on January 1, 2016; and

WHEREAS, the Act requires, among other things, sustainable management of groundwater basins, local management of groundwater, minimum standards for sustainable groundwater management, and provides local agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater; and

WHEREAS, section 10720.7 of the Act requires that all basins designated as high-or-medium priority basins designated in Department of Water Resources Bulletin 118 be managed under a Groundwater Sustainability Plan, or coordinated Groundwater Sustainability Plans, pursuant to the Act; and

WHEREAS, the Colusa Subbasin is located within the Sacramento Valley Basin and is designated as a medium priority basin; and

WHEREAS any local public agency is eligible to become a Groundwater Sustainability Agency (GSA); and

WHEREAS, a local public agency is defined in Section 10721 of the Act as an agency having water supply, water management, or land use responsibilities within a groundwater basin; and

WHEREAS, each of the Parties to this MOA is a local public agency within or partially within the County of Colusa and the Colusa Subbasin; and

WHEREAS several of the Parties have filed notices that they will act as a GSA for some portion of the subbasin within Colusa County.

**2/23/17 Draft (with County, PID/PCGID/CCWD, GCID and Maxwell legal Edits, and Governance Committee Comments from 01/27/17 meeting, and 2/23/17 meeting)**

WHEREAS, there are groundwater extractors in the Colusa Subbasin, including private individuals and corporations, which are outside of the boundaries of public agencies signatory to this MOA, other than the County (“Unaffiliated Extractors”); and

WHEREAS, Unaffiliated Extractors in the Colusa Subbasin include Native American Tribes and federal agencies; and

WHEREAS, the water laws of the State of California recognize the priority of overlying groundwater rights relative to appropriative groundwater rights, and further recognize the correlative nature of overlying groundwater rights (that is, properties overlying a groundwater basin share an equal right and priority to the reasonable and beneficial use of the sustainable yield of the groundwater basin); and

WHEREAS, the Parties acting through this MOA intend to maintain an open line of communication and to work cooperatively with local Native American Tribes and federal agencies during SGMA planning and implementation; and

WHEREAS, the Parties, acting through this MOA intend to work cooperatively with other local agencies and Unaffiliated Extractors in the Colusa Subbasin to manage the Subbasin in a sustainable manner pursuant to the requirements set forth in the Act; and

WHEREAS, the Parties intend to execute a Joint Exercise of Powers Agreement pursuant to the Joint Exercise of Powers Act, Government Code Section 6500, et seq., for the purpose of forming a single GSA to manage the Colusa Subbasin consistent with the Act and pursuant to the principles in this MOA; and

WHEREAS upon future request and notification, the Parties will add other local public agencies as signatories to the intended joint powers agreement and members of the GSA;

NOW, THEREFORE, the Parties hereby agree as follows.

**Section 1. Definitions**

As used in this MOA, unless context requires otherwise, the meanings of the terms set forth below shall be as follows:

1. “Act” refers to the Sustainable Groundwater Management Act.
2. “Agency” means the Colusa County Groundwater Sustainability Agency, formed pursuant to the Agreement.
3. “Agreement” means the Joint Exercise of Powers Agreement, as authorized by Government Code section 6500, et seq., contemplated in this MOA, which will establish the Agency for purposes of developing and implementing the Plan contemplated herein.
4. “Beneficial Uses and Users” include, without limitation, all current and future potential beneficial uses and users of groundwater in the Colusa Subbasin, as well as other parties responsible for implementing and carrying out the Plan.
5. “Committee” shall mean any committee established pursuant to this MOA.
6. “County” shall mean the County of Colusa in its role as a local public agency (as defined in the Act) and as a governing jurisdiction.
7. “Department” means the California Department of Water Resources.
8. “Effective Date” means the date on which the last Party executes this MOA.

**Comment [GA1]:** Unmanaged area rather than white area and use consistently. Define water year. Use SGMA or the Act and be consistent throughout

**2/23/17 Draft (with County, PID/PCGID/CCWD, GCID and Maxwell legal Edits, and Governance Committee Comments from 01/27/17 meeting, and 2/23/17 meeting)**

9. "Fiscal Year" means July 1 through June 30.
10. "Governing Board" means the governing body of the Agency.
11. "Member's Governing Body" means the respective Board of Directors or other voting body that controls each individual local public agency that is signatory to this MOA.
12. "Party" and "Parties" shall mean all organizations, individuals and collectives that are signatories to this MOA.
13. "Plan" refers to the Groundwater Sustainability Plan adopted by the Agency in coordination with the [Stakeholders/Beneficial Interests] pursuant to the Agreement.
14. "State" means the State of California.
15. "Subbasin" or "Colusa Subbasin" means the Colusa Subbasin as defined in State of California Bulletin 118.

**Section 2. Purpose**

2.1 The purpose of this MOA is to describe general and specific principles that reflect mutual understanding of the Parties concerning commitments and obligations associated with implementing the Act in the Colusa Subbasin to lead to the creation of a multi-party joint powers agency that will serve as the Agency.

2.2 This MOA also describes the Parties' understanding of the Agency's initial tasks and associated potential costs to implement the Act (as described in Section 6).

2.3 A potential purpose for this MOA is to serve as the legal agreement by which the Parties operate as a Groundwater Sustainability Agency during the time that the Parties are creating a multi-party joint powers agency that will serve as the Agency.

**Section 3. Term**

3.1 This MOA shall become effective upon execution by each of the Parties and shall continue in full force and effect until the earliest of the following events occurs:

- 3.1.1. Execution of the Agreement, or
- 3.1.2. Twelve months from the date of execution of this MOA.

**Section 4. General Principles of Understanding**

This Section 4 reflects the mutual general goals, objectives and understandings of the Parties to this MOA with respect to development of the Agreement.

4.1 A **partnered approach** should be fostered for sustainable groundwater management in the Colusa Subbasin that, among other things, supports the Act; achieves sustainable conditions in the Subbasin; reflects mutual respect for each Party's discretion, governmental authority, expertise, knowledge of groundwater conditions, rights, needs and concerns; and ensures appropriate representation of all Beneficial Uses and Users.

**Comment [GA2]:** Should include private pumper representation.

**2/23/17 Draft (with County, PID/PCGID/CCWD, GCID and Maxwell legal Edits, and Governance Committee Comments from 01/27/17 meeting, and 2/23/17 meeting)**

4.2 Local control of groundwater and compliance with the Act should be preserved to the maximum extent practicable, and State intervention to implement the Act should be avoided to the extent possible.

4.3 Implementation of the Act may be expensive and all Beneficial Uses and Users will need to contribute to implementation. Failure to implement the Act locally could result in State intervention and even greater costs and regulation.

4.4 A partnered approach to groundwater management and implementation of the Act is in the best interest of Beneficial Use and Users within the Agency boundaries because it will maximize efficiencies, keep costs at a minimum and capitalize on skills and strengths of various partners provided that such proposed partnership also creates and maintains collegial relationships and flexible implementation of the Act.

4.5 As authorized by Section 10723.6 (a) of the Water Code, the Parties intend to form and participate in a single multi-agency GSA covering the portions of the Subbasin that lie within the County. To this end, the Parties intend to execute an Agreement and form the Agency not later than June 30, 2017, and the Agreement will include procedures for other local agencies within the Colusa Subbasin to be added to the Agreement and the Agency at a later date.

4.6 Local agencies within the Colusa Subbasin that are Parties to this MOA, and which have previously filed with the Department notices to become GSA's for their respective service areas, will concurrently with one another, and upon execution of the Agreement formally withdraw said notices, not later than June 30, 2017, and will comply with and carry out the Act through the Agency in cooperation with Beneficial Uses and Users. If the Agreement is not executed and the Agency is not formed by June 30, 2017, the local agencies will comply with and carry out the Act in cooperation with Beneficial Uses and Users through this MOA until one of the events in Section 3.1 occurs.

4.7 Pursuant to the Act, all Beneficial Uses and Users of groundwater will be subject to the Agreement and Plan, and the Parties intend that all Beneficial Uses and Users will cooperate with the Agency and abide by the guidelines put forth in the Agency's Plan for the Subbasin.

4.8 Being a Party to this MOA is not a condition to participate in Plan development. All Beneficial Uses and Users have an equal opportunity, either directly or through appropriate representation on the governing board of the Agency, to participate in Plan development.

4.9 No Party's land or property use, or any other authority, is limited by this MOA.

4.10 Sustainable groundwater conditions in the Colusa Subbasin are critical to support, preserve, and enhance the economic viability, social well-being and culture of all Beneficial Uses and Users, including tribal, domestic, municipal, agricultural, and industrial users.

4.11 Unsustainable groundwater practices threaten the groundwater resources of all groundwater users in the Colusa Subbasin.

4.12 Aquifers within the basin can be threatened by unsustainable management of groundwater resources.

**2/23/17 Draft (with County, PID/PCGID/CCWD, GCID and Maxwell legal Edits, and Governance Committee Comments from 01/27/17 meeting, and 2/23/17 meeting)**

4.13 Economic prosperity and healthy natural resources in the County can be threatened by the lack of available groundwater and surface water resources, and such threats should be avoided to the maximum extent practical.

**Comment [GA3]:** Add in a statement about the benefits of interconnectedness of gw and sw

4.14 All Beneficial Uses and Users should have an open, transparent and timely opportunity to engage with the Agency and to provide input on Plan development and implementation of the Act. Extensive outreach is a priority of all Parties to this MOA, to inform Beneficial Uses and Users about implementation and potential effects of the Act, and to ensure Beneficial Uses and Users are involved in the process where practical.

4.15 Implementation and enforcement of the Plan should take place at the most local level possible and should allow each Party maximum input to any Plan chapter or section applicable to the Party and the Beneficial Uses and Users that exist or will exist in a Party's service area or jurisdiction, and should reflect the Party's authority and desire to manage the water resources available to its constituents or customers, provided such management is consistent with sustainability requirements of the Act and Plan.

4.16 Overlying landowners in the Colusa Subbasin have a right to share in the sustainable yield of the Subbasin for reasonable and beneficial use on overlying land.

4.17 Act implementation is new for all County Beneficial Uses and Users, and there are many unknowns. Willingness by Parties and Beneficial Users to adapt and adjust during Agency formation and Plan development and implementation is crucial to success.

4.18 Achieving and maintaining groundwater sustainability for the good of all groundwater beneficial users in the County is the Agency's first priority and main focus, especially in the early stages of Act implementation while all Beneficial Uses and Users work together to alleviate any existing fear and distrust.

4.19 The Parties understand and agree that this MOA and a Party's execution of the Agreement and participation in the Agency are subject to multi-party agreements being executed in other portions of the Colusa Subbasin outside of Colusa County for purposes of compliance with the Act. If similar multi-party agreements are not executed in other portions of the Colusa Subbasin outside of Colusa County, than a Party whose jurisdiction extends to portions of the Colusa Subbasin outside of Colusa County may withdraw from this MOA or the Agreement, and proceed independently under the Act.

### **Section 5. Specific Principles of Understanding**

This Paragraph 5 reflects the Parties' mutual specific goals, objectives and understanding concerning development of the Agreement and the Agency, and future implementation of the Act.

#### **5.1 Governance and Implementation of the Act**

5.1.1 Pursuant to Water Code section 10724, and for purposes of making appointments to the governing board of the Agency, the County will represent the common and unique interests of

**2/23/17 Draft (with County, PID/PCGID/CCWD, GCID and Maxwell legal Edits, and Governance Committee Comments from 01/27/17 meeting, and 2/23/17 meeting)**

groundwater extractors located in the areas of the Subbasin that are not within the jurisdictional boundary of local agencies that are a Party to the Agreement, other than the County.

5.1.2 The Agency will implement the Act in a manner that optimizes the Act's goals to achieve sustainable groundwater conditions which support the vital agricultural economy in the County, other industry, and domestic and public water uses.

5.1.3 The governing board of the Agency will, consistent with state law regarding joint powers authorities, reflect diverse representation of Beneficial Uses and Users within the Colusa Subbasin and will include representatives of Parties to the Agreement. Mutual water companies and other private pumpers may be represented on the governing board as County appointees.

**Comment [GA4]:** Leave this statement in.

5.1.4 The Agency will pursue financial and infrastructure solutions and beneficial partnerships with Parties and other entities to provide sustainable water supplies within the Colusa Subbasin.

5.1.5 Local agencies that are signatories to the Agreement will reserve the right to withdraw from the Agreement and Agency if the local agency determines it is no longer in the Party's best interests to remain in the Agency. Any local agency that is formed after the date of the Agreement will have the right to become a Party to the Agreement and participate in the governance of the Agency.

5.1.6 Governance and implementation under the Agreement will be designed to avoid duplicative or conflicting governmental authorities to the maximum extent possible. Each Party will have maximum input regarding provisions of the Plan affecting groundwater within its own boundaries. Each Party retains and preserves powers and authority to regulate groundwater use within its boundaries so long as its actions are consistent with achieving sustainability consistent with the Groundwater Sustainability Plan (GSP).

5.1.7 As parties implement the Act within their respective boundaries, they will coordinate efforts with any adjacent areas within and outside of the Subbasin.

**Comment [GA5]:** Should this be the Plan or the GSP?

5.1.8 Among other functions, the Agency will work with local agencies and other Beneficial Uses and Users to coordinate and facilitate intra-basin water transfers as appropriate and to avoid one or more of the six undesirable results defined by the Act:

1. Chronic lowering of groundwater levels
2. A reduction in groundwater storage
3. Degradation in water quality
4. Land subsidence
5. Surface water depletion
6. Impacts on groundwater dependent ecosystems

**5.2 Sustainability**

5.2.3 Data collection and groundwater studies are essential to increase knowledge and to support groundwater management decisions. Funding and implementing such studies is a priority and a shared responsibility among all Agency Parties and other Beneficial Uses and Users. The specifics of such sharing will be an element of the Agreement.

**Comment [GA6]:** Fix numbering

**Comment [GA7]:** Agency or Parties to the Agency

**Comment [GA8]:** Clarify

**2/23/17 Draft (with County, PID/PCGID/CCWD, GCID and Maxwell legal Edits, and Governance Committee Comments from 01/27/17 meeting, and 2/23/17 meeting)**

5.2.2 Groundwater conditions throughout the County and Subbasin are not uniform. Conditions vary by location, surface water conditions, precipitation and water year type. While all Beneficial Uses and Users will share the obligation to achieve sustainability, solutions will need to reflect these geographic and hydrogeographic differences.

5.2.3 The Parties agree that the Plan encourages utilization of surface water to its full extent as available and feasible, and groundwater is conserved for use during dry periods when surface water is not readily available or affordable.

**Comment [GA9]:** What is meant by "encourages"? How will it be encouraged? Uncomfortable with the language. If sustainable, it shouldn't matter.

5.2.4 The Parties agree that the Plan should recognize the interconnectedness of groundwater and surface water resources, and contributions to the system from surface water use, distribution, and applications.

**Comment [GA10]:** May be too specific. Contributions covered in 5.2.5

5.2.5 The Agency recognizes that groundwater recharge occurs through many different means. Applied surface water, precipitation, porous supply and drain ditches, and Best Management Practices utilized by beneficial users contribute to the basins recharge. Studies will quantify the availability of such recharge and provisions will be included in the GSP to ensure that future groundwater extractions are consistent with quantified recharge and the sustainable yield of the Colusa Sub-Basin.

5.2.6 The Parties agree that the Plan should encourage all Beneficial Uses and Users, whether using surface water or groundwater in the basin, to maximize the beneficial use water consistent with their respective rights, and provide for mitigation of adverse impacts on waterways, creeks, streams and rivers.

5.2.7 The Parties agree that the Plan should encourage board members to act on behalf of and represent all landowners within their service areas to ensure collective compliance with the Act.

5.2.8 The Parties agree that the Plan should encourage surface water users to use surface water and groundwater for in-basin transfers to meet local demands. Following transfers will also occur both in and outside of the Subbasin, with transfer quantities based on avoided consumptive use.

5.2.9 The Parties agree that the Plan should encourage surface water transfers to potentially serve as a tool to settle disputes over environmental obligations such as dedication of surface water to environmental requirements in reservoirs, rivers, or the Bay-Delta or to mitigate impacts during drought periods which will include increased reliance on groundwater by surface water users. The Parties agree that the Plan should encourage Agency members to agree to coordinate and partner on actions that attempt to balance environmental solutions with groundwater sustainability.

**Comment [GA11]:** 5.2.8 and 5.2.9 are operational, not governance and do not belong in this document. Handout provided by Sharron Ellis dated February 23, 2017.

**5.3 Agency Financing and Support**

**2/23/17 Draft (with County, PID/PCGID/CCWD, GCID and Maxwell legal Edits, and Governance Committee Comments from 01/27/17 meeting, and 2/23/17 meeting)**

5.3.1 The Parties agree that the Agreement and Plan should include provisions for Party contributions of capital and operating funds, personnel, services, equipment or property to cover the Agency and Plan development.

5.3.2 The Parties agree that the Agreement and Plan should encourage and recognize that there will be costs for the development, implementation and administration of the Plan, the Parties must agree on governance that maximizes the potential for State funding, and to allocate the local share of these costs by one or more mutually agreeable and equitable formulas (to be determined)

**Comment [GA12]:** Add: minimize cost to beneficial users-see County Principles

**5.4 Flexibility of the Agency**

5.4.1 The Parties agree that the Agreement and Plan should encourage maximum flexibility to adapt to changes in Agency membership, funding, planning oversight, et cetera, as the Parties build their relationships and mutual trust.

**Section 6. Potential Projects and Costs**

To be added \_\_\_\_\_ as per work between the County and Facilitation Consultant

[signatures]

DRAFT

From: Sharron Ellis.  
Chairperson of Glenn  
PPAC

February 23, 2017

RE: Comments on MOU

As representative chairperson of PPAC I am advising you of concerns private pumpers want to address in the most recent draft of the MOA. The Section 5.2.9, page 7, of the most recent draft. It reads: 5.2.9. The Parties agree that the Plan should encourage surface water transfers to potentially serve as a tool to settle disputes over environmental obligations such as dedication of surface water to environmental requirements in reservoirs, rivers, or the Bay-Delta or to mitigate impacts during drought periods which will include increased reliance on groundwater by surface water users. The Parties agree that the Plan should encourage Agency members to agree to coordinate and partner on actions that attempt to balance environmental solutions with groundwater sustainability.

This MOA is moving towards a draft JPA agreement. As Private pumpers we do not want to commit to this agreement because:

- \* We do not want to take on obligations of surface water purveyors.
- \* SGMA is about sustainability of groundwater of this basin. It would be unsustainable for either of our counties to agree or commit to obligations to environmental or contractual agreements by water districts to mitigate surface water demands outside of this basin.
- \* The Bay-Delta plan runs counter to mandated SGMA plans. Even with this amazing, wet year, restrictions are being planned on the Sacramento River, as was instituted on the San Joaquin.
- \* Reliance on groundwater, making stakeholders reliant on

groundwater unnecessarily, because of surface water cutbacks.

This section should be eliminated from the MOA. This issue can be addressed in the GPS, down the road when we all have more data and a work plan, it doesn't belong in governance.

Respectfully  
Sharron Ellis

5.2.8  
5.2.9  
is operational  
belongs in GPS  
Not governance  
or MOA

## Draft Emergency Regulation for State Intervention Fees

The Sustainable Groundwater Management Act (SGMA) requires the State Water Resources Control Board (State Water Board or Board) to adopt, by emergency regulation, a schedule of fees to cover the costs associated with state intervention. A [draft Emergency Regulation for State Intervention Fees](#) is available for public comment until April 7, 2017.

### SGMA and State Intervention

In 2014, Governor Edmund G. Brown Jr. signed SGMA, which creates a framework for sustainable, local groundwater management for the first time in California history. SGMA requires the formation of local groundwater sustainability agencies (GSAs) in California's high- or medium-priority groundwater basins.<sup>1</sup> GSAs are required to develop groundwater sustainability plans that make basins sustainable within 20 years of implementation. If locals are unable or unwilling to sustainably manage their basin, the State Water Board is authorized to intervene. State intervention is triggered by one of the following events:

- July 1, 2017 No GSA for entire basin
- February 1, 2020 Basin is in critical overdraft and there is no plan or DWR fails plan
- February 1, 2022 No plan or DWR fails plan and basin is in long-term overdraft
- February 1, 2025 DWR fails plan and basin has significant surface water depletions

Beginning July 1, 2017, portions of basins not within the service area of a GSA are considered unmanaged. Any person that extracts groundwater from an unmanaged area must submit annual reports to the State Water Board.<sup>2</sup> If locals fail to form a GSA, fail to develop an adequate sustainability plan, or fail to implement the plan successfully, the Board may designate the basin probationary and directly manage groundwater extractions.<sup>3</sup> Any person who extracts groundwater from a probationary basin must submit annual reports to the State Water Board, although the Board has discretion to exclude certain extractors from reporting.<sup>4</sup>

Annual reports are due to the Board by December 15 of each year for extractions made during the previous water year (October 1 - September 30). A report must be submitted for each well and must identify well owner information, well location, well capacity, monthly extraction volumes, and place(s) and purpose(s) of use. Extraction volumes must be measured by a method satisfactory to the Board.<sup>5</sup>

### State Water Board Fee Authority

Any person that files an extraction report must pay a filing fee to cover the Board's SGMA-related costs.<sup>6</sup> The Board must adopt an emergency regulation specifying the fees.<sup>7</sup> The emergency regulation allows

the Board to update the fee schedule as necessary to reflect changing conditions and programmatic costs. These fees will not apply in basins where local implementation of SGMA is successful.

## Early Input

In 2016, the State Water Board held outreach meetings and presented fee schedule proposals at local events to get a better understanding of stakeholder concerns and solicit feedback on how to best structure the annual fees. The draft emergency regulation incorporates input provided by a range of stakeholders including local governments, water suppliers, businesses, and individuals.

## Levels of State Intervention

The proposed schedule of fees is tied to the “level” of state intervention occurring in a basin. Each level is associated with particular types of activities increasing staff workloads and other costs.

1. **Unmanaged Area:** An unmanaged area is a portion of a basin not within the service area of a GSA. Extractors in unmanaged areas must submit annual reports to the Board.<sup>8</sup> Board staff will have to identify unmanaged extractors, collect and review reports, verify extraction data, and evaluate the impact of unmanaged extractors on groundwater conditions in a basin.
2. **Probationary Basin:** If local failure triggers state intervention, the Board may designate the basin “probationary.”<sup>9</sup> Extractors in probationary basins are required to submit annual extraction reports to the Board.<sup>10</sup> In addition to the workload associated with locating extractors in a basin and managing reports, Board staff will have to evaluate basin conditions and investigate potential solutions for unsustainable conditions.
3. **Interim Plan:** In certain cases, the Board will need to directly manage extractions in a basin. In those instances, the Board must develop an interim plan that contains corrective actions, a timeline to make the basin sustainable, and a monitoring plan to ensure corrective actions are working.<sup>11</sup> Interim plan activities will significantly increase Board staff workloads.

## Proposed Schedule of Fees

Fee Category	Annual Fee Amount	Applicable Parties
Base Filing Fee	\$300 per well	All extractors required to report
Unmanaged Area Rate	\$10 per acre-foot, if metered	Extractors in unmanaged areas
	\$25 per acre-foot, if unmetered	
Probationary Basin Rate	\$40 per acre-foot	Extractors in probationary basins
Interim Plan Rate	\$55 per acre-foot	Extractors in probationary basins where the Board determines an interim plan is required.
De minimis Fee	\$100 per well	Parties that extract, for domestic purposes, two acre-feet or less per year from a probationary basin, If the Board decides the extractions will likely be significant.
Late Fee	25% of total fee amount per month late	Extractors that do not file reports by the due date.

In addition to the annual filing fees detailed on the previous page, the Board has the authority to order extractors in a probationary basin to prepare and submit technical or monitoring program reports. Therefore, the costs associated with these reports are not currently included in the proposed fee schedule.<sup>12</sup>

## Metered Extraction Discount

To be eligible for the \$10 per acre-foot unmanaged area rate, extractors must measure groundwater extraction volumes with a meter that meets the following requirements:

- The meter must be equipped with a totalizer and permanently attached to the well.
- No water use can occur between the point of extraction and the meter.
- The meter must be calibrated by a qualified individual to be accurate to within ± five (5) percent by volume upon installation and at least once every five years.
- The meter must be accessible for reading, inspection, testing, repair and replacement.
- The meter must be available for inspection by the State Water Board.

Extractors are responsible for the installation and maintenance of meters and all related costs.

## Fee Examples

1. The following table highlights how the different levels of state intervention would impact the annual fees required of a hypothetical 50-acre farm that extracts 175 acre-feet of groundwater (3.5 acre-feet per acre) each year from a single well:

Intervention Level	Rate per acre-foot	Total fee	Cost per acre
Unmanaged Area (metered)	\$10	\$2,050	\$41
Unmanaged Area (unmetered)	\$25	\$4,675	\$94
Probationary Basin	\$40	\$7,300	\$146
Interim Plan	\$55	\$9,925	\$199

2. The following table highlights how the different levels of state intervention would impact the annual fees required of a hypothetical municipal water supplier or industrial user extracting 5,000 acre-feet per year from a single well:

Intervention Level	Rate per acre-foot	Total fee
Unmanaged Area (metered)	\$10	\$50,300
Unmanaged Area (unmetered)	\$25	\$125,300
Probationary Basin	\$40	\$200,300
Interim Plan	\$55	\$275,300

## Simplified Fees for the 2017 Water Year

In an effort to prioritize GSA formation and well registration, and to avoid undue burden to unmanaged extractors, State Water Board staff is proposing simplified fees for the 2017 Water Year, as detailed on the following page:

- The annual fee for reports due by December 15, 2017 will be a flat fee of \$300.
- The late fee for reports due by December 15, 2017 will be \$100 for each month late up to a maximum of \$1200 (this is in addition to the \$300 annual fee).
- If a GSA forms between July 1, 2017 and September 30, 2017, extractors within the GSA service area are considered unmanaged for the 2017 water year and must report to the Board by December 15, 2017, but the annual fee will be waived.

Based on Board assumptions, the simplified fees would recuperate between \$750,000 and \$1.9 million.

#### Annual Fees when a GSA Forms or Dissolves after September 30, 2017

Typically, annual fees will be based on the volume of groundwater extracted during the entire previous water year. There is an exception for extractors in areas where a GSA forms after September 30, 2017. These extractors will be required to report for the entire water year, but the annual fee will be limited to extractions made during the months the extractors were unmanaged. For example, if a GSA forms on March 15, 2018, extractors in that area will only be charged for extractions made during the entire months of October 2017 through March 2018. On the other hand, if a GSA rescinds its formation notice and an extractor is no longer within the management of a GSA after September 30, 2017, the fee will be based on extractions made during the entire previous water year.

#### De minimis Extractors

SGMA defines a de minimis extractor as “a person who extracts, for domestic purposes, two-acre feet or less per year.”<sup>13</sup> A person who extracts two acre-feet or less per year for a non-domestic purpose is not considered a de minimis extractor. Domestic purposes do not include commercial activities. A person who extracts more than two acre-feet per year from a parcel is not a de minimis user. De minimis users are exempt from reporting in unmanaged areas. However, the State Water Board may require de minimis extractors to report in a probationary basin if necessary.<sup>14</sup>

#### Interim Plans and Groundwater Sustainability Plans

State intervention is intended to temporarily protect groundwater resources until local authorities can demonstrate their ability and willingness to manage groundwater sustainably. An interim plan is not intended for permanent management of a basin. Local efforts to address the deficiencies that caused state intervention will need to be funded by local agencies while groundwater extractors also pay State Water Board fees; this will likely result in a scenario of extractors paying both local and state fees.

#### State Water Board Flexibility

SGMA provides the State Water Board with three means of flexibility in the intervention process. The provisions described below will affect the applicability of the state intervention fees.

1. Areas in compliance with the sustainability goal will be excluded from probation.<sup>15</sup>
2. Extractors may be excluded from probationary reporting and related fees.<sup>16</sup>
3. Successful elements of a local sustainability plan will be incorporated into an interim plan.<sup>17</sup>

## Fee Development Timeline

Event	Schedule*
Release draft emergency regulation for public review and comment	March 8, 2017
State Water Board Workshop on draft emergency regulation	March 21, 2017
Public comment period for draft emergency regulation ends	April 7, 2017
Public release of proposed emergency regulation	May 6, 2017
State Water Board meeting to adopt proposed emergency regulation	May 16, 2017
Submission of adopted emergency regulation to Office of Administrative Law	June 2017
Emergency regulation effective	July 1, 2017

\*All dates are subject to change.

## SGMA Information and Resources

**State Water Board:** [waterboards.ca.gov/gmp](http://waterboards.ca.gov/gmp)

**Department of Water Resources:** [water.ca.gov/groundwater/sgm](http://water.ca.gov/groundwater/sgm)

## Contact

Jessica Bean, Groundwater Management Program

Email: [Jessica.bean@waterboards.ca.gov](mailto:Jessica.bean@waterboards.ca.gov)

Phone: 916-341-5334

## References

<sup>1</sup> Basin prioritization information available at [water.ca.gov/groundwater/sgm/SGM\\_BasinPriority.cfm](http://water.ca.gov/groundwater/sgm/SGM_BasinPriority.cfm)

<sup>2</sup> Water Code Section 5202(a)(2)

<sup>3</sup> Water Code Sections 10735.2 and 10735.8

<sup>4</sup> Water Code Section 10735.2(c)

<sup>5</sup> Water Code Sections 5202 and 5203

<sup>6</sup> Water Code Section 5202(f)

<sup>7</sup> Water Code Section 1530

<sup>8</sup> Water Code Section 5202(a)(2)

<sup>9</sup> Water Code Section 10735 et. seq.

<sup>10</sup> Water Code Section 5202(a)(1)

<sup>11</sup> Water Code Section 10735.8

<sup>12</sup> Water Code Section 10736.6

<sup>13</sup> Water Code Section 10721(e)

<sup>14</sup> Water Code Section 10735.2(c)(2)

<sup>15</sup> Water Code Section 10735.2(e)

<sup>16</sup> Water Code Section 10735.2(c)

<sup>17</sup> Water Code Section 10735.8(e)

**California Code of Regulations**

**Title 23. Division #. Chapter #. State Intervention Fees**

**Article #. Fees.**

**Section XXXX. Definitions.**

- (a) "Accuracy" means the measured volume relative to the actual volume, expressed as a percent. The percent shall be calculated as  $100 \times (\text{measured value} - \text{actual value}) / \text{actual value}$ .
  - (1) "Measured value" is the value indicated by the device or measurement method or determined through calculations, such as flow rate combined with duration of flow.
  - (2) "Actual value" is the value as determined through laboratory, design, or field testing protocols.
- (b) "Agency" means a groundwater sustainability agency as defined in Water Code section 10721(j).
- (c) "Board" means the State Water Resources Control Board
- (d) "Calibration" means the process used to check or adjust the accuracy of a meter following relevant industry established protocols.
- (e) "De minimis extractor" has the same meaning as defined in Water Code section 10721.
- (f) "Meter" means a device that measures groundwater extractions and that meets the requirements of section XXX.3.
- (g) "Qualified individual" means one of the following:
  - (1) A California-registered Professional Engineer or Professional Geologist.
  - (2) A California-licensed contractor authorized by the State License Board for C- 57 well drilling or C-61 Limited Specialty/D-21 Machinery and Pumps.
  - (3) A person under the supervision of a California-registered Professional Engineer or Professional Geologist and employed to install, operate, and maintain water measurement and reporting devices or methods.
  - (4) The manufacturer of the device or a representative of the manufacturer.
- (h) "Report" means a report of groundwater extraction as required by Water Code section 5202, prepared on a form provided by the board and including the information required by Water Code section 5203.
- (i) "Water year" has the same meaning as defined in Water Code section 10721.

**Section XXXX.1 Annual Fee Schedule.**

Except as provided in section XXX.1, any person required to file a report shall submit to the board an annual fee in accordance with the following schedule:

- (a) For persons required to file a report pursuant to Water Code section 5202(a)(2) who are not required to file a report pursuant to Water Code section 5202(a)(1):
  - (1) The annual fee is \$300 per well plus one of the following volumetric charges:

**DRAFT Emergency Regulation for State Intervention Fees 03/07/2017**

- (A) \$10 per acre-foot of groundwater extracted during the preceding water year if the person uses a meter to measure groundwater extractions and certifies on a form provided by the Board that the measurements were made using a meter.
  - (B) \$25 per acre-foot of groundwater extracted during the preceding water year if the person does not use a meter to measure groundwater extractions or fails to certify on a form provided by the Board that the measurements were made using a meter.
- (2) For persons extracting groundwater in an area that becomes part of an agency's management area during the water year and is within an agency's management area as of September 30, volumetric charges required by section XXXX.1(a)(1) will be based on the volume of groundwater the person extracted during the portion of the preceding water year when the area was not within the management area of an agency.
  - (3) For persons extracting groundwater in an area that is not within the management area of an agency as of September 30, the volumetric charges required by section XXXX.1(a) will be based on the volume of groundwater the person extracted during the entire water year.
- (b) For persons required to file a report pursuant to Water Code section 5202(a)(1):
    - (1) The annual fee is \$300 per well plus a volumetric charge of \$40 per acre-foot of groundwater extracted during the preceding reporting period, except that for de minimis extractors required to file a report, the annual fee is \$100 per well.
    - (2) For persons extracting groundwater in a basin where the board has determined pursuant to Water Code Section 10735.4(c) or 10735.6(b) that the deficiencies resulting in the probationary designation have not been remedied, an additional volumetric charge of \$15 per acre-foot of groundwater extracted during the preceding reporting period shall apply to the fee required by subdivision (b)(1).
  - (c) For persons required to file a report pursuant to Water Code section 5202 who fail to file the report by December 15, the annual fee shall include an additional charge of 25% of the annual fee described in subsections (a) and (b), plus 25% of the annual fee described in subsections (a) and (b) for each 30-day period after December 15 in which the report has not been filed. In no case shall the additional charge exceed three times the annual fee described in subsections (a) and (b).

**Section XXXX.2 Exceptions.**

The following exceptions to section XXX.1 applies for annual fees for the water year ending September 30, 2017, for which the annual fee will be one of the following:

- (a) For persons extracting groundwater in an area that is within the management area of an agency by September 30, 2017, the annual fee is waived.
- (b) For persons not subject to subdivision (a)(1), the annual fee is \$300 per well with no additional volumetric charge.
- (c) For persons who fail to file a report by December 15, 2017, the annual fee shall include an additional charge of \$100, plus \$100 for each 30-day period after December 15, 2017 in which the report has not been filed. In no case shall the additional charge exceed \$1,200.

**Section XXXX.3 Meters**

- (a) A measurement device must be all of the following to be a "meter" used to measure groundwater extractions from the well for purposes of Section XXX.1:

- (1) Equipped with a totalizer that records the total volume of groundwater extracted from the well.
  - (2) Permanently attached to the well discharge pipe between the point of extraction and the point of delivery for beneficial use.
  - (3) Calibrated to be accurate to within  $\pm$  five (5) percent by volume. The calibration must be conducted by a qualified individual upon installation and at least once every five years thereafter, or more frequently if necessary to ensure accuracy is maintained.
  - (4) Installed, maintained, operated, inspected, and monitored to ensure the accuracy requirement of subdivision (3).
  - (5) Installed in a manner such that it is readily accessible for reading, inspection, testing, repair and replacement.
  - (6) Reasonably accessible and available for inspection by an authorized representative of the board upon request.
- (b) The board may conduct a field inspection or request additional information from the extractor to determine if a meter is properly installed and meets the requirements of this section. Failure to provide reasonable access for an inspection or to provide records of calibration by a qualified individual upon request by the board is a sufficient basis for the board to determine that a meter has not been used to measure groundwater extractions for purposes of section xxx.1.

**Section XXXX.4 Enforcement.**

- (a) Failure to pay the annual fee is a violation of this regulation.
- (b) Submitting any information related to measurement methods or extraction volumes that is found to be materially false by the board is punishable by a fine of up to one thousand dollars (\$1,000) or by imprisonment in the county jail for up to six months, or both, and a civil liability for up to twenty-five thousand dollars (\$25,000), plus one thousand dollars (\$1,000) for each day on which the violation occurs. Fine and civil liability for the violation are in addition to, and do not supersede or limit, any other remedies, civil or criminal.

*Authority:* Water Code sections 1529.5, 1530, 5107, 5208, and 10736(d)(3).

*References:* Water Code sections 5202, 5202(a)(1), 5202(a)(2), 5203, 5203(e), 10735.4, and 10735.6