

**Before the Board of Directors of the
Salinas Valley Basin Sustainable Groundwater Management Agency**

Resolution No. 2019-03

Charging a Groundwater Sustainability Fee to)
fund the Salinas Valley Basin Groundwater)
Sustainability Agency’s implementation of the)
regulatory program known as the Sustainable)
Groundwater Management Act.)

WHEREAS, in the fall of 2014 the California legislature adopted, and the Governor signed into law, three bills (SB 1168, AB 1739, and SB 1319) collectively referred to as the “Sustainable Groundwater Management Act” (“SGMA”), that initially became effective on January 1, 2015, and that has been amended from time-to-time thereafter; and,

WHEREAS, the stated purpose of SGMA, as set forth in California Water Code section 10720.1, is to provide for the sustainable management of groundwater basins at a local level by providing local groundwater agencies with the authority, and technical and financial assistance necessary, to sustainably manage groundwater; and,

WHEREAS, SGMA requires the designation of Groundwater Sustainability Agencies (“GSAs”) for the purpose of achieving groundwater sustainability through the adoption and implementation of regulatory programs known as Groundwater Sustainability Plans (“GSPs”) or an alternative plan for all medium and high priority basins as designated by the California Department of Water Resources (“DWR”); and,

WHEREAS, in December of 2016 a joint powers authority, known as the Salinas Valley Basin Groundwater Sustainability Agency (“SVBGSA”) was formed for the purpose of being a GSA for the Salinas Valley Groundwater Basin (“Basin”), and the sub-basins therein (with limited exceptions), within Monterey County; and,

WHEREAS, SGMA authorizes GSAs to impose fees to fund various regulatory activities, including the development and implementation of GSPs; and,

WHEREAS, the SVBGSA is currently in the process of preparing a GSP for the 180/400 foot aquifer sub-basin, which is due to be filed with DWR no later than January, 2020; and,

WHEREAS, upon completion of the GSP for the 180/400 foot aquifer sub-basin, the SVBGSA must immediately undertake preparation of other GSPs for various sub-basins in the Basin, all due to DWR no later than January, 2022; and,

WHEREAS, the SVBGSA has undertaken a study to determine its annual expenses associated with its regulatory activities in implementing SGMA, including the preparation of GSPs; and,

WHEREAS, a report (“Report”) entitled Salinas Valley Basin Groundwater Sustainability Agency 2018 Regulatory Fee Study, prepared by Hansford Economic Consulting, has been provided to the Board of Directors and in which is set forth the proposed methodology for charging a regulatory fee, to be known as the SVBGSA Groundwater Sustainability Fee (“Fee”), to fund the annual regulatory activities of the SVBGSA in implementing SGMA; and,

WHEREAS, numerous public meetings were held before the Board of Directors and its various committees concerning the Fee, and numerous public outreach meetings were held to obtain the views of stakeholders throughout the Basin regarding the Fee; and,

WHEREAS, a public meeting was noticed for the regular Board of Directors meeting of March 14, 2019, for the purpose of considering approval of the Fee, as required by SGMA; and,

WHEREAS, the data upon which the Fee is based, in the form of the Report, was made available to the public at least ten days prior to the public meeting, also as required by SGMA; and,

WHEREAS, the Board has received evidence, in the form of expert opinion, that the surface water and groundwater within the Basin are essentially one system, and that surface water users will benefit from a sustainable groundwater basin because surface water supplies will not be depleted; and,

WHEREAS, the Board has also received evidence that, at the interface of surface water and groundwater in the Basin, it is difficult if not impossible to differentiate the two; and,

WHEREAS, the public meeting has been held and the Board has received public input regarding the Fee; and,

WHEREAS, it is the intent of the Board that nothing in this resolution or the Fee is to 1) affect the water rights or other entitlement to the use of water of any holder of such rights or entitlements within the Basin, 2) affect the rights or obligations held by any party to prior litigation, whether by settlement or final judgement, or 3) suggest, imply or determine that lands subject to the Fee have different, greater or lesser rights under any applicable GSP than lands not subject to the Fee; and,

WHEREAS, as proposed, the Fee will comply with the requirements of the California Constitution and state law; NOW, THEREFORE,

BE IT RESOLVED, by the Board of Directors of the Salinas Valley Basin Groundwater Sustainability Agency, as follows:

1. Substantial evidence in the record before the Board supports the above Recitals.
2. The Report is hereby received and approved.
3. There is hereby charged a Groundwater Sustainability Fee on the terms and conditions set forth in Attachment 1, attached hereto and incorporated herein by reference.

4. The General Manager is authorized and directed to annually request the Monterey County Auditor – Controller and Board of Supervisors to collect the Fee in the same manner as ad valorem property taxes pursuant to Water Code section 10730 (d) and as more fully described in Attachment 1, and provide the Auditor – Controller with the required information no later than August 1 of each year.
5. Should the Fee not be able to be collected in the same manner as ad valorem property taxes for any reason, the General Manager is hereby authorized and directed to cause the direct billing of the Fee as more fully set forth in Attachment 1.
6. Upon adoption of this resolution, the General Manager is authorized and directed to notice the California Public Utilities Commission (CPUC) of the Fee by way of letter to the Director of the Water Division.
7. Notwithstanding anything to the contrary in Attachment 1, the Fee shall not be charged on any current or future connections of the Marina Coast Water District pending execution of a Management Area Agreement between the District and the SVBGSA.
8. The General Manager and Agency Counsel are hereby authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this resolution.

PASSED AND ADOPTED on this 14th day of March, 2019 by the following vote, to-wit:

AYES: Directors Brennan, Calcagno, Granillo, McIntyre, Lipe, Pereira, Scuito, Secondo, Stefani, and Chair Pro Tem Gunter

NOES: None

ABSENT: Director Alejo

ABSTAIN: None

I, Ann Camel, Clerk of the Board of Directors of the Salinas Valley Basin Groundwater Sustainability Agency, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Directors duly made and entered in the minutes thereof of for the meeting of March 14, 2019.

Dated: 3/14/19

Ann Camel, Clerk of the Board of Directors of the Salinas Valley Basin
Groundwater Sustainability Agency,
County of Monterey, State of California



ATTACHMENT 1

SALINAS VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY

GROUNDWATER SUSTAINABILITY FEE

SECTION 1. DEFINITIONS

1.1 “Agricultural Fee” means that component of the Fee charged within the Management Area to those parcels of real property bearing an APN that includes Irrigated Acres.

1.2 “APN” means Assessor’s Parcel Number.

1.3 “Basin” means the Salinas Valley Groundwater Basin as set forth in Bulletin 118 of the California Department of Water Resources, as may be amended from time-to-time.

1.4 “Connection” means a connection between the customer’s piping or constructed conveyance and the water system’s meter, service pipe, or constructed conveyance.

1.5 “Connection Fee” means that component of the Fee charged within the Management Area to Small Water Systems, Public Water Systems, or the owner of any real property with one or more Connections.

1.6 “De Minimis Extractor” means a person who extracts, for domestic purposes, two acre-feet or less per year.

1.7 “Fee” means a regulatory fee known as the SVBGSA Groundwater Sustainability Fee, which includes the Agricultural Fee and the Connection Fee, charged as set forth herein.

1.8 “General Manager” means the General Manager of the SVBGSA.

1.9 “Irrigated Acre” or “Irrigated Acres” means all real property classified as Monterey County Assessor Land Use Codes 4C, 4D, 4F, 4G, 4K, and 4N, whether or not all of the acres bearing the same APN upon which the Fee is imposed are currently irrigated, and whether or not the acres are irrigated with groundwater or surface water.

1.10 “Management Agreement” means an agreement between the SVBGSA and another Groundwater Sustainability Agency within the Basin that provides for the sustainable management of groundwater within a specific area.

1.11 “Management Area” means the area that includes those parcels of real property within the Basin, and those parcels of real property adjacent to the Basin, that use groundwater or surface water derived, extracted, or otherwise obtained from within the Basin excluding therefrom the area within the jurisdictional boundaries of the Marina Coast Water District, the City of Greenfield, and any area for which the SVBGSA has entered into a Management Agreement that provides that the Fee shall not be charged within such area, or any portion thereof.

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1.12 “Person” means the owner of property charged the Agricultural Fee, or a Public Water System, Small Water System, or the owner of real property with a Connection, charged the Connection Fee.

1.13 “Public Water System” means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

1.14 “Small Water System” means a water system with 2 to 14 connections that is regulated by the County Health Department pursuant to Monterey County Code Chapter 15.04.

1.15 “SVBGSA” means the Salinas Valley Basin Groundwater Sustainability Agency.

SECTION 2. ESTABLISHMENT OF FEE

- 2.1 There is hereby charged within the Management Area the Fee pursuant to Section 10730 of the California Water Code, and as more fully set forth herein.
- 2.2 Each parcel of real property bearing an APN that includes Irrigated Acres shall be charged an Agricultural Fee of \$4.79 per Irrigated Acre per year.
- 2.3 Each Small Water System, and each parcel of real property with a Connection to a Public Water System, shall be charged a Connection Fee of \$2.26 per Connection per year.
- 2.4 The Fee shall be payable to the SVBGSA as follows:
 - 2.4.1 The SVBGSA shall determine those parcels of real property that include Irrigated Acres and shall annually request the Monterey County Auditor – Controller and Board of Supervisors to collect the Agricultural Fee in the same manner as ad valorem property taxes pursuant to Water Code section 10730 (d), and shall provide the required information to the Auditor – Controller no later than August 1 of each year.
 - 2.4.2 The SVBGSA shall annually request the Monterey County Auditor – Controller and Board of Supervisors to collect the Connection Fee for Small Water Systems in the same manner as ad valorem property taxes pursuant to Water Code section 10730 (d), and shall provide the required information to the Auditor – Controller no later than August 1 of each year.
 - 2.4.3 The SVBGSA shall request each Public Water System to provide a list of real property parcels with Connections, or GIS files showing such parcels. If a list or GIS files are provided by June 1 of each year, the SVBGSA shall request the Monterey County Auditor - Controller to collect the Connection Fee for each parcel with a Connection to the Public Water System in the same manner as ad valorem property taxes pursuant to

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Water Code section 10730 (d), and shall provide the required information to the Auditor – Controller no later than August 1 of each year.

If a complete list or GIS files are not provided by a Public Water System by June 1 of each year, the SVBGSA will directly bill the Public Water System no later than August 1 of each year using the number of Connections reported most recently by either a) California Environmental Health Tracking Program, or b) annual filings to the Monterey County Water Resources Agency, said bill to be due and payable no later than November 1 of each year.

2.4.4 If any Person fails to pay the Fee as charged, the Person shall pay interest to the SVBGSA at the rate of 1 percent per month on the delinquent amount of the Fee and a 10-percent penalty, pursuant to Water Code section 10730.6.

2.4.5 In addition to the interest and penalty set forth in Section 2.4.4, the Board of Directors may elect to utilize any of the remedies available to it for failure to pay the Fee as set forth in Water Code section 10730.6.

2.5 De Minimis Extractors and the Federal Government are exempt from the Fee.

SECTION 3. APPEAL

3.1 Should a Person wish to contest the number of Irrigated Acres upon which the Agricultural Fee is charged, or the number of Connections upon which the Connection Fee is charged, the Person shall first be required to pay the Fee as charged. Within thirty (30) days following payment of the Fee, the Person may file an appeal with the SVBGSA, on a form approved by the General Manager, setting forth the basis upon which the appeal is made. The appeal will be considered timely filed if, within the time allowed, 1) the form is postmarked, United States first class mail, 2) delivered to the General Manager or Clerk of the Board of Directors by electronic mail, or 3) personally delivered to the General Manager.

3.2 Within thirty (30) days of filing the appeal, the General Manager shall meet with the Person to discuss the basis of the appeal. The General Manager is authorized to grant the appeal, in whole or in part, or deny the appeal. The determination shall be made no later than fifteen (15) days following the meeting, and shall be in writing and delivered to the Person in the same manner as the filing of the appeal.

3.3 If the Person who filed the appeal is dissatisfied with the determination of the General Manager, the Person may file an appeal to the Executive Committee within fifteen (15) days of delivery of the determination, following the procedures for filing of an appeal as set forth in Section 3.1, above.

3.4 The appeal will be placed on the agenda for the next available Executive Committee meeting occurring not less than fifteen (15) days following the filing of the appeal. The Executive Committee shall receive evidence, and hear from the appellant and staff regarding

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the merits of the appeal. The Executive Committee is authorized to grant the appeal, in whole or in part, or deny the appeal. The determination of the Executive Committee shall be memorialized in a minute order of the Committee and shall be final, with no further appeal to the full Board of Directors.

SECTION 4. PERIODIC REVIEW

4.1 Annually during the budget process, the Board of Directors shall review the Fee to determine if the Fee is sufficient to cover expenses, consistent with the California Constitution and state law. The Board of Directors may increase or decrease the Fee as necessary or appropriate in compliance with the California Constitution and state law.

4.2 At least every five (5) years, the Board of Directors shall perform a comprehensive review of the Fee and its methodology to determine if the methodology for calculating and charging the Fee continues to be appropriate or should be changed. The Board of Directors may authorize the retention of a consultant to assist with the review, and shall hold at least 1 public meeting to receive testimony from the public regarding the Fee. Any change in the methodology for calculating and charging the Fee shall be subject to the requirements of the California Water Code, the California Constitution, and state law.