

Fox Canyon Groundwater Management Agency Act

Article 1. Creation

Sec. 102. A groundwater management agency is hereby created in Ventura County to be known as the Fox Canyon Groundwater Management Agency. The agency shall be governed by a board of directors as specified in Section 401, shall have the boundaries specified in Section 201, and shall exercise the powers granted by this act for purposes of groundwater management within the boundaries of the agency, together with such other powers as are reasonably implied and necessary and proper to carry out the objectives and purposes of the agency. The Legislature hereby finds and declares that the preservation of the groundwater resources within the territory of the agency for agricultural and municipal and industrial uses is in the public interest and that the creation of the agency pursuant to this act is for the common benefit of water users.

Article 2. Boundaries

Sec. 201. For the purposes of this act, the boundaries of the agency shall include all land overlying the Fox Canyon aquifer.

Sec. 202. The agency's initial boundaries shall be established by the county board of supervisors after a noticed public hearing. The boundaries shall be depicted on a map which shall be adopted by the county board of supervisors and thereafter recorded in the office of the county recorder.

Sec. 203. The board may adjust the agency's boundaries in the same manner prescribed for establishment of the agency's initial boundaries if it determines that the territory overlying the Fox Canyon aquifer is different than the territory theretofore shown on the recorded map of the agency's boundaries.

Article 3. Definitions

Sec. 301. Unless otherwise indicated by their context, the terms defined in this article govern the interpretation of this act.

Sec. 302. "Agency" means the Fox Canyon Groundwater Management Agency established by this act.

Sec. 303. "Aquifer" means a geologic formation or structure that transmits water in sufficient quantities to supply pumping wells or springs. A confined aquifer is an aquifer with an overlying less permeable or impermeable layer.

Sec. 304. "Available supply" means that quantity of groundwater which can be withdrawn in any given year from a groundwater basin or aquifer without resulting in or aggravating conditions of overdraft, subsidence, or groundwater quality degradation. Available supply of a groundwater basin or aquifer includes the natural water supply, imported water, or other water which has been spread to a basin or aquifer or otherwise added to a basin or aquifer, and return flows to the basin or aquifer attributable to these sources reaching the groundwater basin or aquifers in the course of use.

Sec. 305. "Board" means the board of directors of the agency as more particularly described in Section 401.

Sec. 305.5. "Conjunctive use" means the coordinated operation of a groundwater basin and groundwater and surface water supplies. Conjunctive use includes increased groundwater use or decreased groundwater replenishment with surface supplies in years when surface supplies are less than normal and, in years of more abundant surface supplies,

the increased use of surface water in lieu of groundwater, either to allow groundwater levels to recover or to replenish artificial groundwater supplies. Conjunctive use also includes long-term storage of water in a groundwater basin.

Sec. 306. "County" means the County of Ventura.

Sec. 307. "Extraction" means the act of obtaining groundwater by pumping or other controlled means.

Sec. 308. "Extraction facility" means any device or method for the extraction of groundwater within a groundwater basin or aquifer.

Sec. 309. "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water.

Sec. 310. "Groundwater basin" means a geologically and hydrologically defined area containing one or more aquifers which store and transmit water yielding significant quantities of water to wells.

Sec. 311. "Groundwater management activities" means programs, measures, or actions taken to preserve, protect, and enhance groundwater resources within the territory of the agency.

Sec. 312. "Groundwater rights adjudication" means the determination of substantially all rights in a groundwater basin or the area subject to the adjudication.

Sec. 313. "Lower aquifer system" means the Grimes, Hueneme, and Fox Canyon aquifers.

Sec. 314. "Member agency" means the United Water Conservation District, the county, the cities, and the special districts and mutual water companies entitled to representation on the agency's board of directors as specified in Section 401.

Sec. 315. "Notice" or a "noticed hearing" means the notice required by Section 6061 of the Government Code.

Sec. 316. "Off-basin use" means extracting groundwater from groundwater basins or aquifers for use on land not overlying the basin or aquifer.

Sec. 317. "Operator" means a person who operates a groundwater extraction facility. In the event the agency is unable to determine who operates a particular extraction facility, then "operator" shall mean the person to whom the extraction facility is assessed by the county assessor or, if not separately assessed, the person who owns the land upon which the extraction facility is located.

Sec. 318. "Overdraft" means the condition of the groundwater basin or aquifer where the average annual amount of water extracted exceeds the average annual supply of water to a basin or aquifer.

Sec. 319. "Person" includes any state or local governmental agency, private corporation, firm, partnership, limited liability company, individual, group of individuals, or, to the extent authorized by law, any federal agency.

Sec. 320. "Program" means a groundwater management program prepared by the agency pursuant to this act.

Sec. 321. "Recharge" means the natural or artificial replenishment of groundwater storage by percolation or injection of one or more sources of water at the surface.

Sec. 322. "Replenishment" means spreading water over a permeable area for the purpose of allowing it to percolate to groundwater basins or aquifers, or otherwise adding water to groundwater basins or aquifers.

Sec. 323. "Supplemental water" means surface water or groundwater imported from outside the watershed or watersheds of the groundwater basin or aquifer and flood waters that are conserved and saved within the watershed or watersheds which would otherwise have been lost or would not have reached the groundwater basin or aquifers.

Sec. 324. "Temporary surplus" means the amount of water that can be extracted from a groundwater basin or aquifer, without permanently adversely affecting the available supply of that groundwater basin or aquifer, to provide storage space for natural or artificial recharge that would be lost during wet years if it could not be stored in the groundwater basin or aquifer.

Sec. 325. "United" means the United Water Conservation District of Ventura County.

Sec. 326. "Water year" means the period from October 1 of one calendar year through September 30 of the following calendar year.

Sec. 327. "Well interference" means a substantial water level decline in a short time period in a localized area caused by pumping from extraction facilities.

Sec. 328. "Excess extractions" means those extractions in excess of an operator's extraction allocation or adjusted extraction allocation.

Sec. 329. "Extraction allocation" means the amount of groundwater that may be extracted from an extraction facility during a calendar year before a surcharge is imposed.

Sec. 330. "Extraction surcharge" means a surcharge assessed annually each time an operator exceeds his or her extraction allocation.

Sec. 331. "Safe yield" means the condition of a groundwater basin when the total average annual groundwater extractions are equal to, or less than, the total average annual groundwater recharge, either naturally or artificially.

Article 4. General Provisions

Sec. 401. The agency shall be governed by the board of directors. The board shall consist of five members. One member shall be chosen by United and one member shall be chosen by the county. The representatives of the county and United shall be chosen by their respective governing boards from their board members whose districts or divisions overlie at least in part the territory of the agency. One member shall be chosen from the members of the city councils of the cities whose territory at least in part overlies the territory of the agency. One member shall be chosen from the members of the governing boards of the following mutual water companies and special districts not governed by the county board of supervisors which are engaged in water activities and whose territory at least in part overlies the territory of the agency: the Alta Mutual Water Company, the Anacapa Municipal Water District, the Berylwood Mutual Water Company, the Calleguas Municipal Water District, the Camrosa County Water District, the Del Norte Mutual Water Company, the Pleasant Valley County Water District, and the Zone Mutual Water Company. The members representing United, the county, the cities, and the special districts and mutual water companies shall serve for a two-year term of office or until the member is no longer an eligible official of the member agency and may serve for more than one term of office. The city member shall be chosen at a public meeting where each city is represented by its mayor. The special district and mutual water company member shall

be chosen at a public meeting where each special district and mutual water company is represented by the chairman of its governing board. The fifth member of the board shall be chosen by the other four members for a two-year term to represent agricultural interests within the territory of the agency. The fifth member shall reside and be actively and primarily engaged in agriculture within the territory of the agency. Actively and primarily engaged in agriculture means deriving at least 75 percent of income from agriculture. The other four members shall select the fifth member from a list of at least five nominations from the Ventura County Farm Bureau and the Ventura County Agricultural Association acting jointly. The five nominees need not be members of either organization. An alternate board member shall be selected by each appointing agency or group in the same manner as the regular member was selected, and that alternate shall act in place of the regular member from each appointing agency or group in case of absence or inability to act.

Sec. 402. No provision of this act shall be construed as denying to the county, United, or any other member agency any rights or powers they already have or which they may be granted.

The agency shall not involve itself in activities normally and historically undertaken by its member agencies, such as the construction and operation of dams, spreading grounds, pipelines, flood control facilities, and water distribution facilities, or the wholesale and retail sale of water, but shall limit its activities to planning, managing, controlling, preserving, and regulating the extraction and use of groundwater within the territory of the agency.

Sec. 403. The board may adopt ordinances for the purpose of regulating, conserving, managing, and controlling the use and extraction of groundwater within the territory of the agency. All ordinances shall be adopted, after noticed public hearings by a majority vote of the board. Notice of the adoption of all ordinances shall be given. The ordinances of the agency shall become effective on the 31st day after adoption except that the board may, by the vote of at least four members of the board, dispense with notice of public hearing and adopt an emergency ordinance which shall become effective immediately upon adoption, if the board determines that the public health, safety, or welfare so requires.

Sec. 404. Any person who intentionally violates any provision of this act or any agency ordinance shall be guilty of an infraction and may be required to pay a fine to the agency of not to exceed five hundred dollars (\$500).

Sec. 405. Any person who negligently or intentionally violates any provision of this act or any agency ordinance may also be liable civilly to the agency for a sum not to exceed one thousand dollars (\$1,000) per day for each day of such violation, in addition to any other penalties that may be prescribed by law.

Sec. 406. Upon the failure of any person to comply with any provision of this act or any agency ordinance the agency may petition the superior court for a temporary restraining order, preliminary or permanent injunction, or such other equitable relief as may be appropriate. The right to petition for injunctive relief is an additional right to those which may be provided elsewhere in this act or otherwise allowed by law.

Sec. 407. The agency may petition the superior court of the county to recover any sums due the agency. In order to preserve and manage the groundwater resources within its territory, the agency may also commence, maintain, intervene in, defend, compromise, and assume the costs and expenses of legal actions and administrative proceedings now or hereafter begun involving groundwater, including, but not limited to, groundwater rights adjudication.

Sec. 408. The agency may contract with the county or United for staff and other services and may hire such other contractors and consultants as it considers appropriate.

Sec. 409. The agency may exclude from any of the requirements of this act, or the operation of any ordinance, any operator who extracts less than a minimum amount of groundwater as specified by ordinance adopted by the board.

Article 5. Studies and Investigations

Sec. 501. The agency may collect data and conduct technical and other investigations of all kinds in order to carry out the provisions of this act. All hydrological investigations and studies carried out by or on behalf of the agency shall be conducted by or under the supervision of licensed engineers or other persons qualified in groundwater geology or hydrology.

Sec. 502. The agency shall prepare annually or receive from its member agencies reports on groundwater and supplemental water supplies and conditions in the territory of the agency, including groundwater management and conjunctive use objectives and a plan for implementation of those objectives.

Sec. 503. The agency may recommend and encourage waste water reuse and other water development projects, where those projects will enhance and contribute to the responsible management of groundwater resources, as part of its annual plan for implementation of groundwater management objectives.

Article 6. Groundwater Management Plans

Sec. 601. The agency shall develop, adopt, and implement a plan to control extractions from the Oxnard and Mugu aquifers with the objective of balancing water supply and demand in the Oxnard Plain of Ventura County by the year 2000.

Sec. 602. (a) The agency shall develop and adopt a lower aquifer management plan for future extractions from the lower aquifer system. As a part of this plan the agency shall determine the hydrologic characteristics of the lower aquifer system in the following geographical areas:

(1) Las Posas Basins.

(2) Pleasant Valley Basin.

(3) Oxnard Plain Basin (including forebay).

(4) Offshore area.

(b) For each such area the lower aquifer system management plan shall estimate the following:

(1) Existing groundwater storage.

(2) The average annual change in storage for the period 1980-2010.

(3) Groundwater storage for the year 2010.

(4) Long-term recoverable storage, including an estimate of nonrecoverable storage.

(5) The expected adverse effects of projected extractions.

(c) The lower aquifer system management plan shall include a policy for the issuance of new well permits for lower aquifer system wells which takes into consideration the location of proposed wells and area of use, projected extractions from the wells, and the effect of the extractions on existing users and on storage in the lower aquifer system.

tem. In developing the lower aquifer system management plan the agency shall consider a ban on new irrigated acreage or new municipal water system wells. As a further part of the lower aquifer system management plan the agency shall develop a contingency plan to deal with the possible occurrence of on-land seawater intrusion within the lower aquifer system. This contingency plan shall consider the possibility that new demands could result from upper aquifer system wells that may become inoperative.

(d) Notwithstanding any other provision of this act, the agency shall not regulate existing extraction from the lower aquifer system until the agency has completed and adopted its lower aquifer system management plan, unless it has determined at a noticed public hearing that there is evidence of inland seawater intrusion in the lower aquifer system or that there is less than 50 years of water supply remaining in any one of the groundwater basins listed in subdivision (a) which comprise the lower aquifer system. If the agency makes the requisite findings and seeks to regulate extractions prior to adoption of the lower aquifer system management plan, it may regulate extractions from one or more of the groundwater basins comprising the lower aquifer system without having to regulate extractions from the others by adopting a basin management plan. The impacts associated with regulating extractions within one or more basins upon all other basins within the system must be evaluated by the agency and incorporated in the basin management plan before it can be adopted and implemented.

Sec. 603. The plans required pursuant to this article shall be completed and adopted within three years after the effective date of this act.

Article 7. Groundwater Management

Sec. 701. If the board determines after a noticed public hearing, and consideration of any relevant investigations, studies, and evidence that groundwater management activities are necessary in order to improve or protect the quantity or quality of groundwater supplies within a groundwater basin or aquifer, the board may, by ordinance, exercise any of the following powers:

- (a) Require conservation practices and measures within the affected portion of its territory.
- (b) Control groundwater extractions by regulating, limiting, or suspending extractions from extraction facilities, the construction of new extraction facilities, the enlarging of existing extraction facilities, and the reactivation of abandoned extraction facilities.
- (c) Commence and prosecute legal actions to enjoin unreasonable uses or methods of use of water within the agency or outside the territory of the agency to the extent those uses or methods of use adversely affect the groundwater supply within the agency.
- (d) Impose spacing requirements on new extraction facility construction to minimize well interference.
- (e) Impose reasonable operating regulations on extraction facilities to minimize well interference, including requiring pumpers to operate on a rotation basis.

Sec. 702. The availability of supplemental water to any operator shall not subject that operator to regulations more restrictive than those imposed on other operators.

Article 8. Registration of Groundwater Extraction Facilities

Sec. 801. The agency may, by ordinance, require extraction facilities to be registered with the agency within 30 days of notice being given to the operator of the extraction facility.

Sec. 802. The agency may require, by ordinance, that the operator of a registered extraction facility provide the agency annually with the following information regarding the extraction facility:

- (a) The name and address of the operator of the extraction facility.
- (b) The name and address of the owner of the land upon which the extraction facility is located.
- (c) A description of the equipment associated with the extraction facility.
- (d) The location of the water extraction facility.

Sec. 803. It shall be a violation to extract groundwater from any extraction facility required to be registered unless the extraction facility has been registered with the agency.

Sec. 804. The agency may, by ordinance, require extraction facilities to be equipped with waterflow measuring devices installed and calibrated by the agency or, at the agency's option, by the extraction facility operator.

Sec. 805. It shall be a violation to extract groundwater from any extraction facility required to be equipped with a waterflow measuring device unless the extraction facility has been so equipped.

Sec. 806. When an extraction facility is equipped with a waterflow measuring device, the record of extraction, as disclosed by the waterflow measuring device, may at the election of the board be presumed to be accurate, and if so shall be used as the basis for computing the water extraction of the extraction facility in completing the groundwater extraction statement.

Sec. 807. The agency may, by ordinance, require proof of the accuracy of the waterflow measuring device from the operator and may, absent adequate proof of accuracy, order the operator at the operator's sole cost to have the waterflow measuring device calibrated in a manner acceptable to the agency. If the agency has probable cause to believe that the extraction of groundwater from any extraction facility is in excess of the amount reported in groundwater extraction statements, or if no statements are filed covering an extraction facility, the agency may investigate the extraction of water from each extraction facility.

Sec. 808. It shall be a violation for any person to intentionally injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere or tamper with any waterflow measuring device affixed to any extraction facility as required by this act or any agency ordinance so that the waterflow measuring device improperly or inaccurately measures and records water extraction.

Sec. 809. The board may, by ordinance, establish reasonable methods to be used in computing the amount of water extracted by extraction facilities.

Sec. 810. (a) The agency may, by ordinance, require the operator of each extraction facility to file semiannually, or more frequently, with the agency or a member agency, a groundwater extraction statement that contains, but is not limited to, the following information:

- (1) Total extraction in acre-feet of water from the extraction facility for the preceding groundwater extraction statement period.
- (2) The static groundwater level for the extraction facility.

(3) A description of the location of the extraction facility.

(4) The crop types or other uses and the acreage served by the extraction facility.

(5) The method of measuring or computing groundwater extraction.

(b) Each groundwater extraction statement shall be verified by a written declaration under penalty of perjury that the information contained in the statement is true and correct. The operator of an extraction facility which has been permanently abandoned after January 1, 1983, shall give written notice of the abandonment to the agency.

Sec. 811. It shall be a violation for any person who is required to file a groundwater extraction statement, not to do so.

Sec. 812. It shall be a violation for any person, with intent to evade any provision or requirement of this act, to file a false or fraudulent groundwater extraction statement with the agency.

Article 9. Management Charges

Sec. 901. Each year the board may fix a management charge for the purpose of paying the costs of initiating, carrying on, and completing any of the powers, purposes, and groundwater management activities for which the agency is organized.

Sec. 902. Management charges shall be paid upon presentation one-quarter each by United, the county, the cities whose territory at least in part overlies the territory of the agency, and the special districts and mutual water companies described in Section 401. For example, if four cities overlie the territory of the agency, each of those four cities shall pay one-quarter of one-quarter of such management charges, and similarly if four special water districts and four mutual water companies overlie the territory of the agency, each special water district and mutual water company shall pay one-eighth of one-quarter of the management charges.

Sec. 903. The board may fix management charges for the first three years only after the effective date of this act.

Article 10. Groundwater Extraction Charges

Sec. 1001. The agency may, by ordinance, levy groundwater extraction charges on the extraction of groundwater from all water extraction facilities within the territory of the agency for the purposes of paying the costs of initiating, carrying on, and completing any of the powers, purposes and groundwater management activities described in this act.

Sec. 1002. The Legislature hereby finds and determines that the groundwater management activities of the agency are of equal benefit to all operators of groundwater extraction facilities within the territory of the agency.

Sec. 1003. The groundwater extraction charge rate shall be uniform for groundwater extraction within the territory of the agency.

Sec. 1004. Groundwater extraction charges shall be calculated on the basis of groundwater extraction statements required to be filed pursuant to this act.

Sec. 1005. If any operator of any extraction facility fails to pay the groundwater extraction charge when due, the

agency shall charge and collect interest at the rate of 1 1/2 percent each month on the delinquent amount of the groundwater extraction charge. In addition, the agency may exercise any of the provisions of Sections 75630 to 75633, inclusive, of the Water Code for the purpose of collecting delinquent groundwater extraction charges.

Sec. 1006. All moneys collected by the agency pursuant to this act shall be available for expenditure by the agency in carrying out its groundwater management functions pursuant to this act.

Sec. 1007. The groundwater extraction charge shall not exceed six dollars (\$6) per acre-foot pumped per year.

Sec. 1008. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, and because certain costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Article 11. Extraction Allocations and Extractions Surcharges

Sec. 1101. The agency may, by ordinance, establish an operator's extraction allocation for each groundwater extraction facility located within the agency. The agency may, by ordinance, impose upon the operator of any groundwater extraction facility located within the agency, extraction surcharges for extractions in excess of his or her extraction allocation and late penalties for nonpayment of extraction surcharges.

Sec. 1102. (a) The Legislature hereby finds and declares that extraction allocations and extraction surcharges authorized pursuant to Section 1101 are necessary to eliminate overdraft caused by excess extractions from the aquifer systems within the agency and to bring the groundwater basins underlying the territory to safe yield by the year 2010.

(b) The extraction surcharges are intended to discourage the use of groundwater beyond the extraction allocation. They are not intended to generate tax revenues or proceeds from regulatory licenses, user charges, or user fees. Consequently, they are not special taxes for purposes of Section 4 of Article XIII A of the California Constitution or proceeds of taxes for purposes of Section 8 of Article XIII B of the California Constitution.

Sec. 1103. The maximum amount of the extraction surcharge shall be two hundred dollars (\$200) per acre-foot of groundwater extracted in excess of the extraction allocation, except that the agency is authorized to increase the maximum amount of the extraction surcharge to an amount that is necessary to achieve safe yield.

Sec. 1104. (a) If an operator of a groundwater extraction facility fails to pay the extraction surcharge when due, the agency shall charge and collect a late penalty at the rate of 1 1/2 percent each month, or portion thereof, on the delinquent amount of the extraction surcharge.

(b) The agency may bring a cause of action, in any court having jurisdiction, against an operator of a groundwater extraction facility for the collection of any delinquent extraction surcharge, and Article 5 (commencing with Section 75630) of Chapter 3 of Part 9 of Division 21 of the Water Code applies to those actions.

Sec. 1105. (a) In addition to any other authority, the agency may order that an extraction surcharge or late penalty be a personal obligation of the operator or an assessment against the property, on which the extraction facility is located. The assessment constitutes a lien upon the property, and the lien attaches upon recordation in the office of the county recorder.

(b) The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for those taxes. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to an assessment, except that, if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, the lien which would otherwise be imposed by this section shall not attach to the real property and an assessment relating to the property shall be transferred to the unsecured roll for collection.