

Resolution 2009-02
of the
Fox Canyon Groundwater Management Agency

**A RESOLUTION AUTHORIZING THE IMPOSITION OF CIVIL PENALTIES AGAINST THOSE
OPERATORS WHO ARE IN VIOLATION OF THE FLOWMETER CALIBRATION
REQUIREMENTS OF ORDINANCE NO. 8.1**

WHEREAS, the Fox Canyon Groundwater Management Agency Ordinance No. 8.1 requires all water flow meters to be tested for accuracy; and

WHEREAS, the Fox Canyon Groundwater Management Agency (Agency) Board of Directors on March 22, 2006 adopted Resolution No. 2006-1 establishing the methods and procedures for accuracy testing of water flowmeters; and

WHEREAS, on September 24, 2008 the Agency adopted Amended Resolution No. 2008-04 adopting revised policies and procedures for requiring and implementing accuracy testing of water flowmeters; and

WHEREAS, despite Agency efforts, some operators have not demonstrated compliance with flowmeter calibration requirements; and

WHEREAS, a March 2009 Notice of Violation sent by the Agency informed the non-complying operators that they are subject to civil penalties for violation of Ordinance No. 8.1; and

WHEREAS, the Board made a previous finding that operators with a pump motor greater than 10 horsepower and that extract more than 10 acre feet of groundwater each year have the ability to pay the cost of compliance with the flowmeter calibration requirement; and

WHEREAS, the accurate measurement of groundwater extractions is critical to achieving the Agency's statutory mandate to bring the groundwater basins underlying the Agency boundaries to safe yield; and

WHEREAS, the Fox Canyon Groundwater Management Agency Act and Ordinance No. 8.1 authorize the imposition of a civil penalty up to one thousand dollars (\$1,000) per day for statutory and ordinance violations; and

WHEREAS, Section 3.4 of Ordinance No. 8.1 provides that non-compliance with any provision of the meter calibration requirements will subject the owner to civil penalties; and

WHEREAS, a recurring civil penalty equal to the average avoided cost of compliance with the flowmeter calibration requirement is reasonable, taking into consideration appropriate factors, including the seriousness of the violation and the length of time the operator has had to demonstrate compliance but failed to do so; and

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED, that pursuant to the statutory authority granted by the Fox Canyon Groundwater Management Agency Act Section 405 and Section 807, and Chapter 3.0 of Ordinance No. 8.1, the following civil penalties shall be imposed on any operator who was sent a Notice of Violation on March 3 and/or March 5, 2009 and who has not yet submitted proof of flowmeter calibration:

1. Effective June 30, 2009, the operator shall be liable to the Agency for a civil penalty in the amount of \$1,100.00;
2. Effective August 31, 2009, the operator shall be liable to the Agency for a civil penalty in the amount of \$1,700.00.
3. Effective October 31, 2009, the operator shall be liable to the Agency for a civil penalty in the amount of \$2,300.00.

On motion of Director Craven, and seconded by Director Bennett, the foregoing Resolution was passed and adopted on this 27th day of May 2009.



Lynn E. Maulhardt, Chair, Board of Directors
Fox Canyon Groundwater Management Agency

ATTEST: I hereby certify that the above is a true and correct copy of Resolution No. 2009-02.

By: 
Miranda Nobriga, Clerk of the Board