

Resolution 2012-01
of the
Fox Canyon Groundwater Management Agency

**A RESOLUTION APPROVING RE-DIRECTION OF GROUNDWATER EXTRACTION
SURCHARGES TO PRESERVE NATURAL RESOURCES AND TO RESOLVE AN APPEAL
FROM NYELAND ACRES MUTUAL WATER COMPANY**

WHEREAS, the Fox Canyon Groundwater Management Agency, established by the State Legislature in 1982, is charged with the preservation and management of groundwater resources within the areas or lands overlying the Fox Canyon aquifer for the common benefit of the public and all agricultural, municipal, and industrial users; and

WHEREAS, on July 31, 2009, Agency staff prepared and sent Nyeland Acres Mutual Water Company a request for payment of \$96,696.88 for outstanding surcharges owed the Agency for excess groundwater extracted during calendar years 2006, 2007, and 2008; and

WHEREAS, Nyeland Acres Mutual Water Company submitted a formal appeal of the Agency Executive Officer's surcharge assessment on February 24, 2010, after holding two meetings with Agency staff to discuss possible solutions wherein Nyeland requested full relief from the imposed surcharges as detailed in the Agency's billing letter dated July 31, 2009; and

WHEREAS, the Agency Board held a hearing at its March 24, 2010 Board meeting on a proposed Resolution for Nyeland Acres Mutual Water Company, and expressed interest in a settlement for Nyeland Acres Mutual Water Company if certain conditions were met including meter installation and a tiered water rate structure; and

WHEREAS, the Nyeland Acres Mutual Water Company serves a low-income community of slightly more than 300 mostly retail domestic water service connections; and

WHEREAS, the Nyeland Acres Mutual Water Company has proposed major system upgrades to: 1) install water flowmeters on all their present service connections, 2) provide semi-annual progress reports to the FCGMA, 3) conduct a final leak detection evaluation to prove system integrity and full project completion designed to serve both Nyeland's and the Agency's long-term interests by providing water conservation and water savings for their local community resulting in a net benefit to the groundwater resource; and 4) adopted a tiered water rate structure; and

WHEREAS, timely and consistent application of the Agency's Ordinance and associated Groundwater Management Plan are critical to the success of the Agency; and

WHEREAS, enforcement is a critical ingredient in creating the deterrence needed to encourage the regulated community to anticipate, identify, and correct violations. Appropriate penalties and other consequences for violations offer some assurance of equity between those who choose to comply with requirements and those who violate them; and

WHEREAS, at the June 24, 2009 FCGMA Board meeting, the Board adopted Guiding Principles for Enforcement which have been applied to a proposed formal resolution that would serve to document and memorialize an alternative to extended debt payments; and

WHEREAS, adoption of this Resolution is in line with those Principles, including the provisions for Fair, Firm, and Consistent Regulation and Enforcement, Public Participation, and Environmental Justice.

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED, that the Fox Canyon Groundwater Management Agency Board of Directors adopts the following:

Nyeland Acres Mutual Water Company shall be assessed the full amount owed to the Agency of \$226,335.93 for surcharges incurred during calendar years 2006 through 2010 resulting from excess groundwater extractions. However, \$206,000 is waived and suspended if, and only if, Nyeland Acres Mutual Water Company completes all of the following conditions:

1. Submit payment of \$20,124.37 or equivalent number of credits within 60 days of adoption of this Resolution.
2. Submit proof of payment for installation of remaining 10% of water meters and infrastructure improvements no later than December 31, 2012.
3. Submit progress reports with their Semi-Annual Groundwater Extraction Statements, with a final completion report no later than December 31, 2012, including results from a water main leak detection evaluation.

On motion of Director Craven, and seconded by Director Zaragoza, the foregoing Resolution was passed and adopted on this 25th day of January 2012.

By: 
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. 2012-01.

By: 
Miranda Nobriga, Clerk of the Board