

Resolution 2012-02
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 THE ORDINANCE CODE**

WHEREAS, the Fox Canyon Groundwater Management Agency Ordinance Code requires all water flow meters to be tested for accuracy; and

WHEREAS, the Fox Canyon Groundwater Management Agency (Agency) requires certification of flowmeter accuracy to be submitted to the Agency within 120 days of written notification to the well operator; 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 Code Section 8.3 authorizes the imposition of a civil penalty up to one thousand dollars (\$1,000) per day for negligent or intentional violation of any provision of the Ordinance Code; and

WHEREAS, Section 3.4 of Ordinance Code provides that non-compliance with any provision of the meter calibration requirements will subject the owner to financial penalties and/or liens; and

WHEREAS, a 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;

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 the Ordinance Code, a Notice of Violation shall be sent via United States Postal Service certified return-receipt requested to any operator who has not submitted confirmation of flowmeter accuracy within 120 days of written notification; thereafter:


1. If proof of flowmeter accuracy is not sent within 120 days after Notice of Violation is sent, the operator shall be liable to the Agency for a civil penalty in the amount of \$1,100.00;

2. If proof of flowmeter accuracy is not sent within 150 days after Notice of Violation is sent, the operator shall be liable to the Agency for a civil penalty in the amount of an additional \$600.00 (a total of \$1,700.00).
3. If proof of flowmeter accuracy is not sent within 210 days after Notice of Violation is sent, the operator shall be liable to the Agency for a civil penalty in the amount of an additional \$600.00 (a total of \$2,300.00).

On motion of Director Naumann, and seconded by Director Kelley, the foregoing Resolution was passed and adopted on this 25th day of April 2012.


Charlotte Craven, Vice 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. 2012-02.

By: 
Jessica Rivera, Clerk of the Board