

**AN ORDINANCE TO ESTABLISH AN EXTRACTION ALLOCATION SYSTEM
FOR THE LAS POSAS VALLEY GROUNDWATER BASIN**

Adopted December 14, 2020

Last Amended February 24, 2021

ARTICLE 1. FINDINGS

- 1.1 The Las Posas Valley Groundwater Basin (“Basin”) is located within Fox Canyon Groundwater Management Agency (“Agency”) and has been categorized by the California Department of Water Resources as a high priority groundwater basin.
- 1.2 On December 13, 2019, the Agency adopted a groundwater sustainability plan for the Basin in accordance with provisions of the Sustainable Groundwater Management Act (“SGMA”) and regulations adopted by the California Department of Water Resources.
- 1.3 The groundwater sustainability plan identifies different management areas within the Basin based on hydrogeologic differences.
- 1.4 The groundwater sustainability plan includes estimates of sustainable yield for each of the management areas of the Basin which are less than the total average annual groundwater extractions from the management areas.
- 1.5 A comprehensive adjudication of the Basin is currently pending in the Superior Court of the State of California for the County of Santa Barbara.
- 1.6 A stipulated agreement has been reached in the adjudication which provides a percentage of the Basin allocation to the Ventura County Waterworks Districts.
- 1.7 SGMA and the Agency’s enabling legislation authorize the Agency to eliminate excess pumping by establishing an extraction allocation for all extraction facilities within the Basin.
- 1.8 The measures set forth in this ordinance are necessary to improve and protect the quantity and quality of groundwater supplies within the Basin.
- 1.9 This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Water Code section 10728.6 and CEQA Guidelines sections 15061(b)(3), 15307 and 15308.
- 1.10 The extraction allocations established under this ordinance are consistent with the land use elements of the applicable general plans to the extent that there is sufficient sustainable yield in the Basin to serve the land use designations therein.

ARTICLE 2. PURPOSE

The purpose of this ordinance is to facilitate the transition from the Agency's current groundwater management programs to sustainable groundwater management under SGMA. It is not the purpose of this ordinance to determine or alter water right entitlements, including those which may be asserted pursuant to California Water Code sections 1005.1, 1005.2 or 1005.4. In the event the superior court

comprehensively determines groundwater rights to the Basin, it is the intent of the Board to amend this ordinance in a manner consistent with water right priorities in any final judgment entered in the adjudication.

ARTICLE 3. PERIODIC REVIEW PROCEDURE

The Board will periodically review the effectiveness of this ordinance toward meeting its purpose. This review shall occur at least once every five years. If necessary, this ordinance will be amended to ensure that the sustainability goals of the groundwater sustainability plan are met.

ARTICLE 4. DEFINITIONS

- 4.1 "Adjudication" shall mean the comprehensive groundwater adjudication filed in Las Posas Valley Water Rights Coalition et al. v. Fox Canyon Groundwater Management Agency et al., Santa Barbara Superior Court Case No. VENCI00509700.
- 4.2 "Agency" shall mean the Fox Canyon Groundwater Management Agency.
- 4.3 "Agricultural Operator" shall mean an owner or operator of an extraction facility used to produce groundwater for use on lands in the production of plant crops or livestock for market and uses incidental thereto.
- 4.4 "Assessor's Parcel Map" shall mean an official map designating parcels by Assessor's Parcel Number.
- 4.5 "Assessor's Parcel Number" shall mean the number assigned to a parcel by the County of Ventura for purposes of identification.
- 4.6 "Available Yield" shall mean the maximum amount of groundwater that may be extracted from the Basin in a given water year. The Available Yield for the Basin as a whole is equal to the cumulative extractions from the Basin during 2018, as reported to the Agency.
- 4.7 "Base Period" shall mean calendar years 2009 through 2013.
- 4.8 "Basin" shall mean the Las Posas Valley Groundwater Basin.
- 4.9 "Board" shall mean the Board of Directors of the Agency.
- 4.10 "Domestic Operator" shall mean an owner or operator that provides water for domestic use and provides water service to no more than four residences.
- 4.11 "East Las Posas Management Area" shall mean the geographic area identified as such in the groundwater sustainability plan.
- 4.12 "Epworth Gravels Management Area" shall mean the geographic area identified as such in the groundwater sustainability plan and for purposes of allocation the wells screened exclusively within the Epworth Gravels Aquifer.
- 4.13 "Executive Officer" shall mean the individual appointed by the Board to administer Agency functions or his/her designee.

- 4.14 “Extraction Allocation” shall mean the amount of groundwater that may be obtained from an extraction facility during a given water year before a surcharge is imposed.
- 4.15 “Extraction Facility” shall mean any device or method (e.g., water well) for extraction of groundwater within the Basin.
- 4.16 “Groundwater Sustainability Plan” shall mean the plan developed and adopted by the Agency for the Basin pursuant to the Sustainable Groundwater Management Act.
- 4.17 “Municipal and Industrial Operator” shall mean an owner or operator that supplied groundwater for domestic, industrial, commercial or other non-agricultural use.
- 4.18 “Municipal and Industrial (M&I) Use” shall mean any use other than agricultural use.
- 4.19 “Mutual Water Company” shall mean a corporation organized for, or engaged in the business of, selling, distributing, supplying, or delivering water to its stockholders and members at cost for irrigation purposes or for M&I use.
- 4.20 “Operator” shall mean a person operating a groundwater extraction facility. The owner of a groundwater extraction facility shall be conclusively presumed to be the operator unless a satisfactory showing is made to the Agency that the groundwater extraction facility actually is operated by some other person.
- 4.21 “Owner” shall mean a person owning a groundwater extraction facility or an interest in a groundwater extraction facility other than a lien to secure the payment of a debt or other obligation and shall include any mutual water company and incorporated ownership.
- 4.22 “Parcel” shall mean a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.
- 4.23 “Person” shall mean any state or local governmental agency, private corporation, firm, partnership, individual, group of individuals, or, to the extent authorized by law, any federal agency.
- 4.24 “Sustainable Groundwater Management Act or SGMA” shall mean Part 2.74 of Division 6 of the California Water Code, sections 10720 et seq.
- 4.25 “Sustainable Yield” shall mean the maximum quantity of water that can be withdrawn annually from the Basin as established in the groundwater sustainability plan.
- 4.26 “Undeveloped Lands” shall mean lands which, as of December 31, 2015, had not made beneficial use of underlying groundwater, including un-irrigated land and irrigated land that had been served by a water supplier.
- 4.27 “Water Market” shall mean a program which, by ordinance, allows the transfer of extraction allocations through a market administered by or on behalf of the Agency.
- 4.28 “Water Supplier” shall mean a Ventura County Waterworks District or a mutual water company that supplies water to others for agricultural use.

- 4.29 “Water Year” shall mean the period from October 1 of one calendar year through September 30 of the following calendar year.
- 4.30 “West Las Posas Management Area” shall mean the geographic area identified as such in the groundwater sustainability plan.

ARTICLE 5. GENERAL PROVISIONS

- 5.1 Notwithstanding any other Agency ordinance provision to the contrary, including article 2 of Emergency Ordinance E, the Executive Officer shall establish an operator’s extraction allocation for each extraction facility located within the Basin as set forth herein. The alternative extraction allocations authorized under section 5.6 of the Agency Ordinance Code shall not be available to an operator for extracting groundwater from the Basin. Except as expressly provided herein, the provisions governing extraction allocations set forth in section 5.2 of the Agency Ordinance Code shall apply to groundwater extractions from the Basin.
- 5.2 An extraction allocation established under this ordinance is assigned to an extraction facility. An operator with more than one extraction facility in a management area may combine the extraction allocations for the individual facilities. An operator seeking to combine extraction allocations assigned to extraction facilities in different management areas shall apply for a variance under article 14.
- 5.3 Except as provided in section 5.6, all extractions during a water year in excess of the allocations established by this ordinance shall be subject to extraction surcharges as provided in the Agency Ordinance Code for extractions that exceed the historical and/or baseline allocation.
- 5.4 Extraction allocations may be transferred or adjusted as provided in article 11 of this ordinance.
- 5.5 In the event of a local, State, or Federal declaration of emergency with the potential to affect water supplies within the Agency, at the next regularly scheduled meeting, the Board will consider whether to allow an operator to request an adjustment of the extraction allocation as a result of the emergency. The information required in support of the request will be set forth in a Resolution adopted by the Board.
- 5.6 For the period beginning with the operative date of this ordinance of October 1, 2021, and ending at the end of the water year on September 30, 2022, extraction surcharges shall be imposed on extractions that exceed the greater of: (a) the allocation established by this ordinance; or (b) an operator’s reported extractions which did not incur surcharges in calendar year 2018 for M&I and domestic operators, and crop year 2017/18 for agricultural operators.

ARTICLE 6. INITIAL ALLOCATION

Until such time as the reductions in article 13 are implemented and except as otherwise provided, an operator’s extraction allocation shall be the greater of: (a) average annual extractions during the Base Period, excluding any extractions that incurred surcharges; (b) extractions in 2015 unless in excess of the extraction allocation for that year; or (c) the minimum allocation as provided in article 8 of this ordinance. In the event cumulative allocations established under this article 6 exceed the available yield for a management area, extraction allocations for each operator within an allocation pool established

under article 7, other than minimum allocations, shall be reduced on a pro rata basis to bring cumulative allocations in line with available yield for the management area.

ARTICLE 7. ALLOCATION POOLS

The available yield of the Basin shall be divided among allocation pools as provided in this article.

7.1 Management Area Pools

7.1.1 The East Las Posas Management Area (ELPMA) Allocation Pool No. 1 shall consist of all operators within the East Las Posas Management Area, except Ventura County Waterworks District Nos. 1 and 19 wells within the ELPMA.

7.1.2 The East Las Posas Management Area (ELPMA) Allocation Pool No. 2 shall consist of Ventura County Waterworks District Nos. 1 and 19 wells within the ELPMA.

7.1.3 The Epworth Gravels Management Area (EGMA) Allocation Pool shall consist of all operators extracting groundwater exclusively from the Epworth Gravels Aquifer.

7.1.4 The West Las Posas Management Area (WLPMA) Allocation Pool No. 1 shall consist of all operators extracting groundwater from the West Las Posas Management Area except Ventura County Waterworks District No. 19 wells in the WLPMA.

7.1.5 The West Las Posas Management Area (WLPMA) Allocation Pool No. 2 shall consist of Ventura County Waterworks District No. 19 wells in the WLPMA.

7.2 Reserve Allocation Pools

7.2.1 The ELPMA Reserve Allocation Pool shall consist of all undeveloped lands within the East Las Posas Management Area.

7.2.2 The WLPMA Reserve Allocation Pool shall consist of all undeveloped lands within the West Las Posas Management Area.

7.3 Yield Shares

7.3.1 The ELPMA Allocation Pool No. 1 Yield Share shall be 87.41 percent of the ELPMA available yield, less 670 acre-feet per year to be set aside for the ELPMA Reserve Allocation Pool.

7.3.2 The ELPMA Allocation Pool No. 2 Yield Share shall be 12.59 percent of the ELPMA available yield.

7.3.3 The ELPMA Reserve Allocation Pool Yield Share shall be 670 acre-feet per year.

7.3.4 The WLPMA Allocation Pool No. 1 Yield Share shall be 88.11 percent of the WLPMA available yield, less 320 acre-feet per year to be set aside for the WLPMA Reserve Allocation Pool.

7.3.5 The WLPMA Allocation Pool No. 2 Yield Share shall be 11.89 percent of the WLPMA available yield.

7.3.6 The WLPMA Reserve Allocation Pool Yield Share shall be 320 acre-feet per year.

ARTICLE 8. MINIMUM ALLOCATIONS

A minimum allocation shall be established for the following classes of operators as provided in this article.

8.1 Agricultural Operators

8.1.1 The minimum allocation for each agricultural operator within ELPMA Allocation Pool No. 1 shall be the cumulative share of the ELPMA Allocation Pool No. 1 Yield Share which consists of agricultural extractions divided by the total irrigated acreage within the East Las Posas Management Area. The initial minimum allocation in the ELPMA shall be 1.367 acre-feet per year per irrigated acre subject to revision per section 8.1.3 of this ordinance.

8.1.2 The minimum allocation for each agricultural operator within WLPMA Allocation Pool No. 1 shall be the cumulative share of the WLPMA Allocation Pool No. 1 Yield Share which consists of agricultural extractions divided by the total irrigated acreage within the West Las Posas Management Area. The initial minimum allocation in the WLPMA shall be 1.280 acre-feet per year per irrigated acre subject to revision per section 8.1.3 of this ordinance.

8.1.3 Minimum allocations for the purpose of setting a floor for allocation reductions per Article 13 of this ordinance may be updated through a resolution adopted by the Board based on analysis of total irrigated acreage and water sources in the ELPMA and WLPMA.

8.2 Domestic Operators – The minimum allocation for each domestic operator within the Basin shall be 2 acre-feet per year per well serving one to four residences.

8.3 Other Operators – The minimum allocation for other than an agricultural or domestic operator shall be the Temporary Extraction Allocation established for that operator under Emergency Ordinance E, including all scheduled reductions and any variance granted by the Executive Officer.

8.4 A minimum allocation may not be transferred for use on any other property.

An operator seeking a minimum allocation shall submit a written application that identifies the state well number, parcel(s) served by the well, other sources of water serving the operator, and other information that may be determined as necessary by the Executive Officer. Requests by agricultural operators shall also include the number acres to be irrigated by the well. Requests by domestic operators shall also identify the address of the residence(s) to be served by the well. Requests by other operators shall also identify the account to which a Temporary Extraction Allocation was assigned.

ARTICLE 9. ADDITIONAL REQUIREMENTS FOR REPORTING EXTRACTIONS

In order to improve the Agency's ability to carry out the provisions of SGMA and the Agency's enabling legislation, operators in the Basin shall comply with the following reporting requirements in addition to those specified in the Agency Ordinance Code.

9.1 Agricultural operators not subject to section 9.2 shall report the following:

- 9.1.1 Each assessor's parcel number being supplied with groundwater produced by the operator's extraction facility;
 - 9.1.2 The number of irrigated acres within each parcel; and
 - 9.1.3 The source of all water used to irrigate those lands.
- 9.2 Mutual water companies, special districts and municipalities supplying groundwater or in lieu deliveries for agricultural use shall report the following:
- 9.2.1 Total volume of water from each source being supplied by the mutual water company, special district, or municipality;
 - 9.2.2 Location and identifier of each agricultural turnout and meter owned by the mutual water company, special district, or municipality;
 - 9.2.3 Monthly water deliveries for all water being supplied by the mutual water company, special district, or municipality; and
 - 9.2.4 List of assessor's parcel numbers (or a GIS shape file) served by the mutual water company, special district, or municipality.
- 9.3 Mutual water companies, special districts and municipalities supplying groundwater or in lieu deliveries for municipal and industrial use shall report the following:
- 9.3.1 Total volume of water from each source being supplied by the mutual water company, special district, or municipality;
 - 9.3.2 Monthly water deliveries for all water being supplied by the mutual water company, special district, or municipality; and
 - 9.3.3 List of assessor's parcel numbers (or a GIS shape file) served by the mutual water company, special district, or municipality.
- 9.4 Domestic and municipal and industrial well operators shall report the following:
- 9.4.1 Each assessor's parcel number being supplied with groundwater produced by the operator's extraction facility.

ARTICLE 10. ALLOCATION CARRYOVER

Except as otherwise provided and subject to the provisions of this article, an unused extraction allocation may be carried over for use in a subsequent water year. A maximum of fifty percent of an extraction allocation shall be available for carry over. The first water extracted during any water year shall be deemed to be an exercise of the carryover authorized by this article. The cumulative allocation carryover shall not exceed one hundred percent of an extraction allocation. An unused carryover extraction allocation is not transferable between operators, except in an Agency-approved water market, and shall expire five (5) years after it was accrued. Annual allocation carryover for extraction facilities combined under a single operator in accordance with section 5.2 shall be evenly divided among the combined extraction facilities. The Board may limit the use of carry over allocations consistent with the provisions

of the groundwater sustainability plan, provided that any such limitation shall be imposed on all operators on an equal basis.

ARTICLE 11. ALLOCATION TRANSFERS

- 11.1 Allocation transfers may be necessary to provide flexibility during and after the transition from the Agency's current groundwater management program to sustainable groundwater management under SGMA. Notwithstanding section 5.3 of the Agency Ordinance Code, transfers of allocation established under this ordinance shall comply with the provisions of this article or be allowed under an Agency-approved water market.
- 11.2 Groundwater extracted from the Basin may not be transferred for use outside of the Basin or from one management area within the Basin to another. Operators with extraction facilities in more than one management area may transfer allocation between commonly operated extraction facilities, provided that any extractions in excess of the operator's allocation during the water year in which the transfer occurs shall balance within a running five-year period.
- 11.3 Except as otherwise provided, transfers or temporary assignments of an extraction allocation are authorized provided the Agency finds that it does not impede achievement of the sustainability goals of the groundwater sustainability plan and would not be detrimental to an Agency-approved water market. In making this determination, the Agency shall, at a minimum, consider the location of the extraction facilities, the total quantity of groundwater extracted in any water year, groundwater quality impacts of the transfer and whether the proposed transfer or temporary assignment could be approved under an Agency-approved water market. Requests for the transfer or temporary assignment of extraction allocations shall be submitted jointly by the operators and owners involved and shall include the specific details of their proposal. To ensure consistency with the sustainability goals of the groundwater sustainability plan, transfers or temporary assignments of an extraction allocation shall be subject to conditions as determined by the Executive Officer. A temporary assignment of allocation shall not exceed one year.
- 11.4 Where there is a sale or transfer of a part of the acreage served by any extraction facility, the extraction allocation for that facility shall be equitably apportioned between the real property retained and the real property transferred by the owner of the extraction facility. This apportionment shall be approved by the Executive Officer who may modify the apportionment to assure equity.
- 11.5 When irrigated acreage changes to M&I use, the extraction allocation used to irrigate the acreage shall be transferred from the agricultural operator to the M&I operator on a one-to-one basis.

ARTICLE 12. RESERVE ALLOCATIONS

- 12.1 A reserve allocation may be established by the Executive Officer for lands which are developed within the Basin after calendar year 2015. Allocations established under this article shall be limited to availability of water from the Reserve Pool for the management area in which the undeveloped land is located. The Agency may amend this ordinance to provide additional reserve allocations consistent with any final judgment entered in the adjudication. The allocation established under this article shall be set at an amount equal to the minimum allocation as

established in article 8 and shall be subject to reduction in the same manner as a minimum allocation. Reserve allocations shall be established in the following order of priority:

12.1.1 Allocations for a new or increased water use served by a well that did not exist prior to 2016.

12.1.2 Allocations for well permits approved after 2015 for a new or increased water use.

12.1.3 Allocations for well permits approved after 2015 for a water use that existed during the Base Period.

12.1.4 Allocations for a new or increased water use served by a well with an existing allocation.

12.2 An application for a reserve allocation shall be submitted by a land owner or authorized representative no less than 90 days prior to the beginning of the water year in which it is to be used and shall establish eligibility under one of the priority categories and include a description of any prior extractions, type and amount of proposed water use, crop type and acreage involved and such other information as required by the Executive Officer to carry out the purpose of this ordinance. Agricultural operators applying for a reserve allocation within a management area in which the operator has an existing allocation shall demonstrate that the operator's existing water use is less than the fiftieth percentile of all agricultural use within the management area on a per-acre basis.

12.3 A reserve allocation shall expire and be made available for use on other lands unless the operator demonstrates that groundwater extractions have been put to beneficial use on a continuous basis for a period of 10 years.

ARTICLE 13. REDUCTION OF ALLOCATIONS

Extraction allocations, adjusted or otherwise, shall be subject to reduction according to a schedule and method to be determined by the Board in order to bring the Basin to sustainable yield by the year 2040. No reductions will occur until such time as a fixed minimum allocation for agricultural operators has been established in accordance with article 8.

ARTICLE 14. VARIANCES

The Executive Officer may, on written request from a land owner or operator, grant a variance from the requirements of this ordinance based on the standards set forth in this article.

14.1 Variance Purpose and Standards - The sole purpose of any variance shall be to enable an owner or operator to make reasonable use of groundwater in the same manner as other users of groundwater in the Basin. Before any variance may be granted, the owner or operator must establish and the Agency must determine that all of the following standards are met:

14.1.1 That there are special circumstances or exceptional characteristics applicable to the owner or operator which do not apply generally to comparable owners or operators in the Basin; and

- 14.1.2 That granting a variance will not confer a special privilege inconsistent with the limitations upon other owners and operators in the Basin; and
 - 14.1.3 That denial of a variance will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of this ordinance; and
 - 14.1.4 That the granting of a variance will not be inconsistent with the groundwater sustainability plan or the provisions of SGMA or with other regulations or ordinances of the Agency or detrimental to the Agency's ability to improve and protect the quantity or quality of groundwater supplies within the Basin; and
 - 14.1.5 That the granting of a variance will not substantially impede the Agency's ability to achieve sustainable groundwater management or the actual sustainability of groundwater in the Basin.
- 14.2 Burden of Proof – A person seeking a variance shall have the burden of proving to the satisfaction of the Executive Officer that the above standards can be met.
 - 14.3 The Agency may recognize and consider other mitigating factors demonstrated or proposed by the applicant. The Agency at its discretion may include and impose those or other factors as conditions of granting the variance request.
 - 14.4 The Executive Officer may consider any prior requests, permits, other Agency decisions, or enforcement actions associated with the owner or operator.
 - 14.5 Any new or increased extraction allocation granted by the Agency pursuant to a variance request may not be transferred without prior Agency approval.
 - 14.6 Variance Procedures – All requests for a variance shall be filed in writing with the Agency.
 - 14.7 Application Period – For the water year beginning October 1, 2021, variances may be applied for by June 30, 2021. For all subsequent water years, variances may be applied for by September 30 for use in the following the water year.
 - 14.8 Review Period – The Executive Officer shall make reasonable efforts to render a decision on all applications within 90 days from the date the variance is requested. The Executive Officer's decision shall be in writing and include the findings made relative to the standards set forth in section 11.1.
 - 14.9 Appeals – The Executive Officer's decision under this article is appealable in accordance with chapter 6.0 of the Agency Ordinance Code.

ARTICLE 15. CONFLICTS

Should any conflicts occur between the provisions of this ordinance and any other duly enacted Agency code or ordinance, the provisions of this ordinance shall govern.

ARTICLE 16. SEVERABILITY

Should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

ARTICLE 17. EFFECTIVE DATE; OPERATIVE DATE

This ordinance and amendments hereof shall become effective on the thirty-first day after adoption.