

ORDINANCE NO. 8

AN ORDINANCE TO ADOPT THE FOX CANYON GROUNDWATER MANAGEMENT AGENCY CODE

The Board of Directors of the Fox Canyon Groundwater Management Agency ordains as follows:

1. The Board hereby repeals Ordinance Nos. 1.3, 3.2, 4.3 and 5.9, and
2. The Board will periodically review the effectiveness of this ordinance toward meeting its purpose and intent. This review shall occur at least once every five years. If necessary, this ordinance will be amended by the Board to ensure that the goals of the Agency are met.
3. The Board hereby adopts the Fox Canyon Groundwater Management Agency Ordinance Code as follows:

FOX CANYON GROUNDWATER MANAGEMENT AGENCY ORDINANCE CODE

Adopted June 26, 2002

CHAPTER 1.0 Definitions

As used in this code, the following terms shall have the meanings stated below:

- 1.1 "**Agency**" means the Fox Canyon Groundwater Management Agency.
- 1.2 "**Agency Boundary**" where an outcrop exists means the outside edge of the horizontal surface exposure of the outcrop of the lower aquifer system. In areas where no outcrop exists, the boundary is the intersection of the vertical projection of the Fox Canyon Aquifer on the surface of the ground.
- 1.3 "**Agency Coordinator**" means the individual appointed by the Board to administer Agency functions.
- 1.4 "**Agricultural extraction facility**" means a facility whose groundwater is used on lands in the production of plant crops or livestock for market, and uses incidental thereto.
- 1.5 "**Annual**" means the calendar year January 1 through December 31.
- 1.6 "**Aquifer**" means a geologic formation or structure that yields water in sufficient quantities to supply pumping wells or springs. A confined aquifer is an aquifer with an overlying less permeable or impermeable layer.

- 1.7 "**Board**" means the Board of Directors of the Fox Canyon Groundwater Management Agency.
- 1.8 "**Developed Acreage**" means that portion of a parcel within the boundaries of the Agency that is receiving water for reasonable and beneficial agricultural, domestic or municipal and industrial (M & I) use.
- 1.9 "**East Las Posas Sub-basin**" That part of the former North Las Posas Basin that is East of the fault described by significant changes in groundwater levels and located for record purposes on maps in the Agency Offices.
- 1.10 "**Excess extraction**" means those extractions in excess of an operator's extraction allocation or adjusted extraction allocation.
- 1.11 "**Expansion area**" means the lower aquifer system (LAS) outcrop in the North and Northeasterly portion of the Agency plus the area "outside the outcrop". "Outside the outcrop" shall be defined as that area outside the Agency Boundary where the natural surface drainage allows surface water to flow into the Agency or where the groundwater gradient would allow groundwater to flow into the Agency. The width of this area, "outside the outcrop", shall not exceed a distance of 1.5 miles perpendicular to the Agency boundary. Map Number Two, entitled Fox Canyon Outcrop, Las Posas Basin, 1995 shows the expansion area and is available in the County Water Resources Division office.
- 1.12 "**Extraction**" means the act of obtaining groundwater by pumping or other controlled means.
- 1.13 "**Extraction allocation**" means the amount of groundwater that may be obtained from an extraction facility for a given calendar year, before a surcharge is imposed.
- 1.14 "**Extraction facility**" means any device or method (e.g. water well) for extraction of groundwater within a groundwater basin or aquifer.
- 1.15 "**Foreign Water**" means water imported to Ventura County through the State Water Project facilities or other water as approved by the Board.
- 1.16 "**Groundwater**" means water beneath the surface of the earth within a zone in which the soil is sufficiently saturated with water to allow collection and extraction.
- 1.17 "**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 extraction facilities.
- 1.18 "**Historical extraction**" means the average annual groundwater extraction based on the five (5) calendar years of reported extractions from 1985 through 1989 within the boundaries of the Agency. This average will be expressed in acre-feet per year. **All historical extraction allocations became effective on January 1, 1991.**

- 1.19 **"Inactive Well"** An inactive well is a well that conforms to the County of Ventura Ordinance Code requirements for an active well, but is being held in an idle status in case of future need. Inactive wells are not required to have a flow meter. Pumping to meet Ventura County Ordinance Code requirements shall not exceed 12 hours in a 12 month period. Meters shall be installed on inactive wells and the well shall revert to a groundwater extraction facility if the requirement exists to pump the well for more than 12 hours in any 12 month period. The pumping to meet Ventura County Ordinance Code requirements shall be for beneficial use and the 12 hour pumping limitation shall not be used to justify the lack of a meter for any well that serves a primary purpose. The application of an inactive well status implies that there is a minimum of one additional source of water to serve as a primary supply.
- 1.20 **"Injection/storage facility"** means any device or method for injection/storage of water into a groundwater basin or aquifer within the boundaries of the Agency.
- 1.21 **"Irrigated Agricultural Land"** means lands, which are designated as **Prime Agricultural Lands, Agricultural Lands of Statewide Importance, or Unique Agricultural Lands** as described by the Ventura County Agricultural Lands Conservation Program. As an additional qualification to meet this definition, all of the land must have received water for irrigation purposes at some time during the base period of 1985 - 1989.
- 1.22 **"LAS outcrop"** or **"outcrop"** means the area of Lower Aquifer System surface exposure as defined by Map Number One, Fox Canyon Outcrop, Las Posas Basin, 1982. This map is available for inspection in the Ventura County Water Resources Division office.
- 1.23 **"Metering Equipment"** or **"Meters"** means a manufactured instrument for accurately measuring and recording the flow of water in a pipeline.
- 1.24 **"Municipal and Industrial (M & I) Provider"** means a municipality, waterworks district, water company, mutual water company or person which provides water for domestic, industrial, commercial, or fire protection purposes within the boundaries of the Agency.
- 1.25 **"Municipal and Industrial (M & I) Operator"** An owner or operator that supplied groundwater for M & I use during the historical allocation period and did not supply water for agricultural irrigation during the historical period."
- 1.26 **"Municipal and Industrial (M & I) user"** means a person or other entity that used or uses water for any purpose other than agricultural irrigation. **"Municipal and Industrial (M & I) use,"** means any use other than agricultural irrigation.
- 1.27 **"Non-exempt well operators"** means all well operators except those operating extraction facilities supplying a single family dwelling on one acre or less, with no income producing operations and those operators granted an exemption by the Board of Directors.
- 1.28 **"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.

- 1.29 "**Overdraft**" means the condition of a groundwater basin where the average annual amount of water extracted exceeds the average annual supply of water to a basin or aquifer.
- 1.30 "**Perched or Semi-perched Aquifer**" means the water bearing area that is located between the earth's surface and the clay deposits that exist above the Oxnard Aquifer in Sealing Zone III.
- 1.31 "**Person**" includes any state or local governmental agency, private corporation, firm, Partnership, individual, group of individuals, or, to the extent authorized by law, any federal agency.
- 1.32 "**Recharge**" means natural or artificial replenishment of groundwater storage by percolation or injection of one or more sources of water at the surface.
- 1.33 "**Safe Yield**" means the condition of groundwater basin when the total average annual groundwater extractions are equal to or less than total average annual groundwater recharge, either naturally or artificially.
- 1.34 "**West Las Posas Sub-basin**" That part of the former North Las Posas Basin that is West of the fault described by significant changes in groundwater levels and located for record purposes on maps in the Agency Offices.

CHAPTER 2.0

Registration of Wells and Levying of Charges

2.1 Registration of wells

- 2.1.1 All groundwater extraction facilities within the boundaries of the Agency shall be registered with the Agency within 30 days of notice given to the operator. The operator of an extraction facility shall register his extraction facility and provide the following information on a form provided by the Agency:
 - 2.1.1.1 Name and address of the operator.
 - 2.1.1.2 Name and address of the owner of the land upon which the extraction facility is located.
 - 2.1.1.3 A description of the equipment associated with the extraction facility.
 - 2.1.1.4 Location of the water extraction facility.

2.2 **Reporting Extractions.** The method for computing extractions shall be as specified by Chapter 3. The operator of a registered extraction facility shall file a groundwater extraction statement semi-annually with the Agency. Extraction statements shall cover the periods from January 1 to June 30 and from July 1 to December 31. Statements are due thirty (30) days following the end of each reporting period. Statements shall contain the following information on forms to be provided by the Agency:

2.2.1 The information required under 2.1.1 above.

2.2.2 The method of measuring or computing groundwater extractions.

2.2.3 The crop types or other uses and the acreage served by the extraction facility.

2.2.4 Total extraction of each extraction facility in acre-feet for the proceeding six (6) month period.

2.3 **Groundwater Extraction Charges**

2.3.1 All persons operating groundwater extraction facilities shall pay a groundwater extraction charge for all groundwater extracted after July 1, 1993, in the amount as established by Resolution of the Board. Payments are due semi-annually, and shall accompany the statement required pursuant to 2.2.

2.4 Payments not received or postmarked by thirty days after the end of each reporting period shall be charged interest in the amount of 1 1/2 percent per month, or part of month that the charge remains unpaid. Charges for pumping that are less than \$50.00 must be reported, but will not accrue interest and will be deferred until the billing accumulates to \$50.00. When the \$50.00 minimum has been reached, the surcharge will be billed and interest will start to accrue when the bill is due and payable.

CHAPTER 3.0

Installation and Use of Metering Equipment for Groundwater Extraction Facilities

3.1 Installation and Use of metering Equipment

3.1.1 **Installation Requirement.** Operators of extraction facilities shall install metering equipment on each well that extracts groundwater. Meters are not required on for inactive wells as defined in this ordinance, nor are meters required for extraction facilities supplying a single family dwelling on one acre or less, with no income producing operations.

3.1.2 **Back-up Metering Equipment.** Water meters occasionally fail, losing periods of record before the disabled or inaccurate meter is either replaced or repaired. Well operators shall be prepared to provide another acceptable method of computing pumpage during these periods of meter failure to avoid the loss of record on wells that require metering under this ordinance.

3.1.2.1 Back-up Methods. Two acceptable back-up methods consist of using an hour meter and records on pumping rates or use of power company records and a pump efficiency test which is no more than one year old. It is the operator's responsibility to maintain the meter.

3.1.2.2 Special Cases. If special circumstances exist where neither of these back-up procedures can be used or are impracticable to use, the operator shall request Agency Coordinator's approval of another alternative back-up procedure.

3.1.3 Meter Readings. Functional meters shall be read and the readings reported semi-annually on the extraction statements required under 2.2. above.

3.2 Implementation

3.2.1 Metering Information. The Agency will obtain current information from meter manufacturers, distributors, or installers on meter specifications, availability and cost and will make this information available to well owners and operators on request.

3.2.2 Notification of Metering Equipment Requirement. Operators will be notified in writing of the metering equipment requirement following adoption of this ordinance by the Agency's Board of Directors.

3.2.3 Installation of Metering Equipment. Non-exempt well operators will be required to install metering equipment on said wells by July 1, 1994.

3.2.4 Inspection of Metering Equipment. The Agency may inspect metering equipment installations for compliance with this ordinance at any reasonable time.

3.3 **Altering Metering Equipment.** Any person who alters, removes, resets, adjusts, manipulates, obstructs or in any manner interferes or tampers with or procures or causes or directs any person to alter, remove, reset, adjust, manipulate, obstruct or in any manner interfere or tamper with any metering equipment affixed to any groundwater extraction facility required by this act, so as to cause said metering equipment to improperly or inaccurately measure and record said groundwater extraction is guilty of an intentional violation of this ordinance as described in Chapter 8.

CHAPTER 4.0 Protection of the South, East and West Las Posas Basins

4.1 This chapter has the following purpose and intent:

4.1.1. To eliminate overdraft from the aquifer systems within the boundary of the East and West Las Posas sub-basins and bring these sub-basins to a "safe yield" condition by the year 2010.

4.1.2 Protection of the Las Posas Basin outcrop as a source of groundwater recharge.

4.1.3 Preventing groundwater quality degradation by way of the expansion area.

4.1.4 This ordinance is only one means by which this goal will be met.

4.2 Las Posas Basin Anti-degradation and Extraction Prohibition

4.2.1 Prohibition

4.2.1.1 Except as permitted by 4.2.1.3 below, increasing the quantity of all types of groundwater use in the expansion area from extraction facilities located in the East or West Las Posas sub-basin is prohibited after June 30, 1988.

4.2.1.2 To qualify for expansion of agricultural groundwater use, irrigation systems consistent with best management practices and typical for permanently established citrus and avocado orchards in the area must be installed and trees must be planted prior to July 1, 1988. To qualify for expansion of a municipal or industrial groundwater use, a water system conforming to California Health and Safety Code and Uniform Plumbing Code requirements must be installed prior to the effective date of Ordinance 4, or must be installed and used to continuously supply the project with an adequate quantity of groundwater prior to July 1, 1988.

4.2.1.3 Subsequent to the effective date of this ordinance, any new use of water on the expansion area shall be specifically approved and conditioned by the Agency to:

4.2.1.3.1 Ensure that the outcrop is not exposed to potential degradation of water quality of any type.

4.2.1.3.2 Ensure that the ability of the outcrop to provide recharge by percolation is not diminished.

4.2.1.4 Groundwater from inside the Agency shall not be used on the expansion area of the East or West Las Posas Basin or any other area outside the Agency Boundary. As a minimum, these requirements shall preclude:

4.2.1.4.1 Uses on the outcrop that require groundwater in excess of the historical allocation or the granting of new baseline or new efficiency allocations.

4.2.1.4.2 Uses that reduce or lead to the reduction of the capability of the outcrop to provide recharge to the Lower Aquifer System.

4.2.2 Monitoring

4.2.2.1 The Agency will monitor the anti-degradation and extraction prohibition by regular review of discretionary permit applications to the Ventura County Water Resources and Engineering Department.

4.2.2.2 In addition to the above reviews, the Agency may conduct surveys of the expansion area.

4.3 East and West-Las Posas Basins Extraction Facility Prohibition

4.3.1 New Extraction Facilities. New and replacement extraction facilities in the East or West Las Posas Basins to extract groundwater for use in the expansion area must be approved as provided by 4.3.2 below. Such facilities shall conform to the requirements of this and all other Agency Ordinances.

4.3.2 Permit Required. No operator or person shall construct a new extraction facility or a replacement extraction facility within the East and West Las Posas Basins after June 30, 1988 unless such work is done pursuant to an unexpired written permit for such work issued by the Agency. This paragraph does not provide authority to deny a well permit.

4.3.3 Permit Application. Application to construct an extraction facility shall be made to the Agency on the approved Ventura County Water Well Ordinance form available from the Ventura County Public Works Agency and shall include all information required by the Ventura County Well Ordinance and the following:

4.3.3.1 Location(s) of groundwater use including acreage accurately plotted on copy of the Ventura County Assessor's Parcel Map.

4.3.3.2 The proposed crop type(s) or Municipal and Industrial use(s) at each location.

4.3.3.3 A brief description of the type of irrigation or distribution system and metering equipment to be used.

4.3.3.4 The estimated average annual quantity of water use proposed for each location of use.

4.3.4 Monitoring. The Agency will monitor compliance with this Article by reviewing County well permit applications and reported groundwater extractions and by conducting necessary field surveys.

CHAPTER 5.0

Reduction of Groundwater Extractions

5.1 **Purpose.** The purpose and intent of this Chapter is to eliminate overdraft from the aquifer systems within the boundaries of the Agency and bring the groundwater basins to safe yield by the year 2010. This ordinance is only one means by which this goal will be met. It is not the intent or purpose of this ordinance to determine or allocate water right entitlements, including those which may be asserted pursuant to California Water Code sections 1005.1, 1005.2 or 1005.4.

5.2 Extraction Allocations

5.2.1 General

5.2.1.1 The Agency Coordinator shall establish an operator's extraction allocation for each extraction facility located within the boundaries of the Agency. The extraction allocation shall be the historical extraction as reported to the United Water Conservation District and/or to the Agency pursuant to Chapter 2 (or its successor), or as otherwise provided for in paragraph 5.6 of this ordinance.

5.2.1.2 Notwithstanding any provision in this ordinance, the annual allocation shall be an allocation based on 60 percent irrigation efficiency of the current crop or the historical allocation, whichever is less. The irrigation efficiency for the operator's crop shall be determined using the formula described in paragraph 5.6.1.2.3. This 60 percent irrigation efficiency is totally unrelated to the 80 percent efficiency described in 5.6.1.2, "Annual Efficiency Extraction Allocation".

5.2.1.3 Where an operator operates more than one extraction facility, the extraction allocations for the individual facilities may be combined.

5.2.1.4 The Agency Coordinator may, on written request from a land owner or well operator, waive allocation requirements for the extraction of groundwater from the Perched or Semi-perched aquifer of Sealing Zone III when the pumping of that groundwater is specifically for the purpose of lowering the water table to reduce the high water table threat to property, including the root zone of crops, or for dewatering construction sites. The Agency Coordinator shall require that the groundwater extraction facility used for this purpose be perforated only in the Perched or Semi-perched zone, and shall also require the landowner and/or the operator to protect the Agency from damage potentially caused by transferring water to another location.

5.2.2 Necessity for Extraction Allocations.

5.2.2.1 No extraction facility may be operated or otherwise utilized so as to extract groundwater within the boundaries of the Agency without a valid extraction

allocation issued by the Agency or compliance with either paragraph 5.2.1.1 or 5.6 of this Ordinance.

5.2.3 Compliance. An operator shall comply with all provisions of this ordinance and all other Agency ordinances prior to receiving an extraction allocation.

5.2.4 Violation. Any operator or other person who violates the provisions of this Article is subject to the criminal and civil sanctions set forth in the Agency's enabling act and its ordinances.

5.3 Adjustments to Extraction Allocations

5.3.1 Adjustments to extraction allocations may be necessary to provide some flexibility, while still maintaining the goal of reaching a safe yield condition by the year 2010. Adjustments may be accomplished by a transfer or an assignment of historical extraction allocation from one operator to another.

5.3.2 Types of Adjustments

5.3.2.1 Municipal and Industrial (M & I) Transfer Adjustments. When irrigated agricultural land(s) changes to M & I use, an extraction allocation shall be transferred from the agricultural extraction facility(ies) to the M & I provider, in accordance with the following conditions:

5.3.2.1.1 Unless the M & I provider complies with the criteria set forth in 5.3.2.1.2 below, the agricultural extraction facility(ies) shall transfer to the M & I provider and the M & I provider shall receive the historical extraction allocation associated with the respective agricultural extraction facility(ies), up to a maximum of two (2) acre-feet per acre per year. Historical allocation in excess of two (2) acre-feet per acre per year shall be eliminated. Two (2) acre-feet per acre per year represents a reasonable use of water for M & I purposes. The following conditions shall apply to the transfer of allocation:

5.3.2.1.1.1 The transfer of allocation shall include the mutual consent of the owner(s) of the irrigated agricultural land(s) being transferred and the M & I provider. If the owner(s) of the agricultural extraction facility holding the historical allocation for the land being transferred is not the owner of the land being transferred, then the owner(s) of that extraction facility must also join the consent to transfer. The responsibility for obtaining all agreements to transfer allocation resides with the owners of the land and/or the M & I provider.

- 5.3.2.1.1.2 The Agency Coordinator must concur that the historical allocation to be eliminated is sufficient to have served the agricultural operation under the circumstances of service.
 - 5.3.2.1.1.3 The transfer shall be effective when The M & I provider has annexed the irrigated agricultural land(s) to be transferred to M & I use and has provided written intent to provide water service to those land(s), or when the land is taken out of agricultural production.
- 5.3.2.1.2 An M & I provider shall receive two (2) acre-feet per acre per year for irrigated agricultural land(s) transferred to M & I use when all of the following conditions have been met:
- 5.3.2.1.2.1 The irrigated agricultural lands, which are the subject of transfer, are included in comprehensive water use study prepared by the M & I provider and approved by the Board after consideration in a public hearing. The study shall show the sphere of influence of the M & I provider and must demonstrate that the cumulative allocation transferred to M & I use includes an allocation of two acre feet per acre per year for all agricultural lands reported within the study boundaries and results in a net water savings to the GMA when compared to the historical extraction allocation assigned to wells that provide groundwater to all the agricultural lands reported in the study area. To the extent practical, the study shall rely on the historical water use data available from the GMA and shall include a clear designation for the study boundaries and the lands included in the analysis; and identification of any data or assumptions relied upon which are not a part of the GMA database.
 - 5.3.2.1.2.2 The transfer of allocation shall include the mutual consent of the owner(s) of the irrigated agricultural land(s) being transferred and the M & I provider. If the owner(s) of the agricultural extraction facility holding the historical allocation for the land being transferred is not the owner of the land being transferred, then the owner(s) of that extraction facility must also join the consent to transfer. The responsibility for obtaining all agreements to transfer allocation resides with the owners of the land and/or the M & I provider.

5.3.2.1.2.3 The Agency Coordinator must concur that the historical allocation to be eliminated is sufficient to have served the agricultural operation under the circumstances of service.

5.3.2.1.2.4 The transfer shall be effective when the M & I provider has annexed the irrigated agricultural land(s) to be transferred to M & I use and has provided written intent to provide water service to those land(s), or when the land is taken out of agricultural production.

5.3.2.2 Assigned Extraction Allocation Adjustments. Except as provided by other assignment and, or adjustment procedures, an Operator A may assign an extraction allocation to Operator B as long as Operator B provides water to Operator A equal in amount to the full assigned extraction allocation. In order to prevent the creation of a secondary market in extraction allocations, upon the change of ownership of either property, the assigned extraction allocations revert to Operator A. The assigned extraction allocations may subsequently be re-assigned by the new owner.

5.3.2.3 Adjustments to M & I Allocations. The Board may adjust the historical allocation of an M & I operator when that operator has supplied groundwater to an M & I user during the historical allocation period and discontinues service to the M & I user for any reason. This adjustment may be made by transferring the supplied portion of the historical allocation from the M & I operator to the M & I user. This adjustment will avoid increased pumping due to windfall allocations that could otherwise result when the M & I operator discontinues service. To avoid retroactive inequities, where an M & I operator has discontinued service to an M & I user prior to September 1, 1994, the amount of the supplied portion of the historical allocation will be allocated to both the M & I operator and the M & I user.

5.3.2.4 Transfer of Allocation. Upon request, the Board may transfer allocation provided there is a net benefit to the aquifers within the GMA. The transfer of allocation will be of indefinite duration, approved on a "case-by-case" basis, and the GMA Coordinator shall determine the rate of extraction and the point or points of extraction. Requests for the transfer of allocations shall be submitted jointly by the parties involved and shall include the specific details of their proposal. To ensure that there is a net benefit to the aquifer systems, transfers of allocation shall be subject to other conditions as approved by the Board.

5.3.2.5 Historical allocation is subject to adjustment as provided in 5.4 below.

5.3.3 Procedures for Adjustment

5.3.3.1 Procedures for adjusting extraction allocations will be accomplished using the following procedure:

5.3.3.1.1 It shall be necessary for the operator of the extraction facility to file a verified Application for Adjustment with the Agency Coordinator.

5.3.3.1.2 Adjustments of extraction allocations, pursuant to the Applications for Adjustment, shall be considered for approval by the Board after reviewing the findings and recommendations of the Agency Coordinator and, if approved, shall be effective for the remainder of the calendar year and for all subsequent calendar years until modified by a subsequent Board approved adjustment.

5.4 Reduction of Extraction Allocations

5.4.1 Unless otherwise exempted, historical extraction allocations, adjusted or otherwise, shall be reduced in order to eliminate overdraft from the aquifer systems within the boundaries of the Agency for agricultural and M & I uses. The reductions shall be as set forth below:

1992 - 1994 extraction allocation = 95% of historical extraction, as adjusted.

1995 - 1999 extraction allocation = 90% of historical extraction, as adjusted.

2000 - 2004 extraction allocation = 85% of historical extraction, as adjusted.

2005 - 2009 extraction allocation = 80% of historical extraction, as adjusted.

After 2009 extraction allocation = 75% of historical extraction, as adjusted.

5.5 Exemptions from Reductions

5.5.1 Certain types of extraction allocations are exempt from the reductions set forth in 5.4.1. They are set forth below:

5.5.1.1 Baseline Extraction Allocations - as set forth in 5.6.1.1.

5.5.1.2 Annual Efficiency Extraction Allocations - as set forth in 5.6.1.2.

5.5.1.3 Non-metered Extraction Facilities. Reductions in extraction allocations shall not apply to those extraction facilities as identified in Chapter 3 that do not require meters. Neither retroactive adjustments nor refunds will be made, except that any outstanding surcharges for non-metered extractions that have not been paid on the effective date of this ordinance will be waived.

5.6 Alternative Extraction Allocations

5.6.1 As an alternative to historical extractions, the Agency Coordinator may establish a Baseline, or Annual Efficiency extraction allocation for an operator, as follows:

5.6.1.1 Baseline Extraction Allocations. If no historical extraction exists, an operator may request that a Baseline extraction allocation be established by the Agency Coordinator at one (1) acre-foot per acre per year for developed acreage that relies solely on groundwater. A Baseline extraction allocation may also be established by the Agency Coordinator at one (1) acre-foot per acre per year for lands, which are developed after the effective date of this ordinance, regardless of the source of water.

5.6.1.1.1 To obtain a Baseline extraction allocation, an operator must submit a detailed report to the Agency Coordinator. The report shall describe historical extractions, if any, groundwater use during the period between the end of calendar year 1984 and the end of calendar year 1989, future water requirements, type and amount of water use, crop type and acreage involved. The report shall include copies of Assessor's maps identifying the parcels where groundwater is presently being used. For the purpose of this ordinance, one (1) acre-foot per acre per year represents a reasonable use of water for a Baseline extraction allocation.

5.6.1.2 Annual Efficiency Extraction Allocation. If an operator can demonstrate to the Agency Coordinator that water used for agriculturally developed land is at least 80 percent overall irrigation efficient, based on evapotranspiration requirements, an Annual Efficiency extraction allocation shall be established for one calendar year. An 80 percent overall irrigation efficiency has been determined by the Agency to be reasonable on agricultural lands within the Agency's boundaries.

5.6.1.2.1 To prove that irrigation efficiency is at least 80 percent, the operator must submit a detailed report covering a minimum period of the immediately preceding calendar year. This report shall be submitted to the Agency Coordinator no later than February 1st of the following year unless otherwise extended by the Board of Directors. The report shall include a complete crop and irrigation history for the extraction facility and acreage involved. The report shall include the reference evapotranspiration (ET_o) rates and crop factors (K_c) for the calendar year period similar to that provided by the California Irrigation Management Information System (CIMIS) as developed and modified by the California Department of Water Resources. The report shall include a summary sheet that compares the water use to the evapotranspiration requirements for each crop and the corresponding acreage covered in the calendar year.

The Board may extend the time to apply for an efficiency allocation for any year. Failure to submit the required form by the specified due date shall result in a late fee of \$150 per month for each month that an application for an efficiency allocation is not submitted. This late fee shall apply for a period of six months, after which an efficiency allocation shall no longer be available unless specifically approved by the Board.

5.6.1.2.2 Irrigation efficiency will include an appropriate amount of water necessary to avoid salt build-up based on the quality of irrigation water used.

5.6.1.2.3 Irrigation Efficiency (I.E.) will be calculated using the following formula:

$$\text{I.E.} = \frac{[\text{ETo} \times \text{Kc}] - \text{ER} \times 100}{\text{Actual Water Applied (inches)}}$$

Where:

ETo is the reference evapotranspiration measured in inches using turf grass as a standard.

Kc is a crop factor, which is a dimensionless number that relates water use by a given plant in comparison to turf grass.

ER is the effective rainfall measured in inches as determined by the Agency Coordinator.

5.6.1.3 Exceptions. The Board may grant exceptions to 5.6.1.1 and 5.6.1.2 on a case-by-case basis. However, individual exceptions shall not become the norm. Where agricultural efficiency cannot be measured as set forth in 5.6.1.2, then the most efficient practices of record for the type of agricultural use shall be the measurement of efficiency utilized by the Board in its deliberations.

5.7 Credits

5.7.1 Credits can be obtained by operators, but are not considered as extraction allocations or adjustments to extraction allocations. Credits are not subject to any reductions as set forth in 5.4.1. However, at the operator's option, credits can be saved or used to avoid paying extraction surcharges. Credits shall be accounted for through the normal reporting and accounting procedure and are carried forward from year to year. Credits can be transferred, but only between commonly operated extraction facilities with the approval of the GMA Coordinator. Upon request, the Board may transfer credits provided there is a net benefit to the aquifers within the GMA. The transfer of credits will be of indefinite duration, approved on a "case-by-

case" basis, and the GMA Coordinator shall determine the rate of extraction and the point or points of extraction. Requests for the transfer of Credits shall be submitted jointly by the parties involved and shall include the specific details of their proposal. To ensure that there is a benefit to the aquifer systems, transfers of credits shall be subject to other conditions as approved by the Board. Under no circumstances shall credits earned as a result of agricultural use be transferred to an M & I Provider, M & I Operator or an M & I User unless the transfer is specifically approved by the Board and a net benefit to the aquifer systems involved can be shown. The types of credits are:

5.7.1.1 Conservation credits. An operator can obtain conservation credits by extracting less groundwater than the historical extraction allocation. No conservation credits will be given to an operator with an Annual Efficiency, Baseline, or for an extraction facility that is not required to have a meter. Credits shall be determined by the Agency Coordinator after submission of annual extraction data. Subsequent to determining the amount of credits earned, a confirmation shall be mailed to the pumper showing the current allocation, the groundwater extracted during the previous calendar year, and the credits or surcharges for the previous year. This confirmation must be signed by the owner/operator and returned to the GMA with any surcharge payment within thirty days (30) of the date the confirmation was mailed to the owner/operator by the GMA. Proof of the date of return will be by the postmark of the returned confirmation. If the confirmation is not returned within 30 calendar days, the credits earned for the previous year will no longer be available, or interest shall begin to accrue on surcharges due.

5.7.1.2 Storage credits. An operator can obtain storage credits for foreign water injected or spread and percolated in a Board approved injection/storage facility. The Agency Coordinator will determine the amount of storage credits based upon documentation of expected losses provided by the operator seeking the storage credit. A written application for approval of an injection/storage facility shall include:

5.7.1.2.1 Operator of proposed project.

5.7.1.2.2 Purpose of proposed project.

5.7.1.2.3 Location, depth, casing diameter, perforated interval and other information regarding proposed injection/extraction facilities, if applicable.

5.7.1.2.4 Method of operation including source, quantity and quality of water, planned scheduling of injection/extraction or percolation operations and proposed use of extracted water.

5.7.1.2.5 Any other information deemed necessary by the Agency Coordinator.

5.7.4.2.6 Following Board approval of the application, successful injection of water and reporting of results, an operator will obtain credit as determined by the Agency Coordinator.

5.8 Extraction Surcharges and Late Penalty

5.8.1 Necessity for Surcharges

5.8.1.1 Extraction surcharges are necessary to achieve safe yield from the groundwater basins within the Agency and shall be assessed annually when annual extractions exceed the historical and/or baseline allocation for a given extraction facility or the combined sum of historical allocation and baseline allocation for combined facilities. The extraction surcharge shall be fixed by the Board and shall be based upon (1) the cost to import potable water from the Metropolitan Water District of Southern California, or other equivalent water sources that can or do provide non-native water within the Agency jurisdiction; and (2) the current groundwater conditions within the Agency jurisdiction.

5.8.1.2 The Board shall fix the surcharge by resolution at a cost sufficiently high to discourage extraction of groundwater in excess of the approved allocation when that extraction will adversely affect achieving safe yield of any basin within the Agency and may adjust the surcharge by resolution; provided however, that the then existing extraction surcharge shall remain in effect until adjusted by the Board.

5.8.1.3 Surcharge for No Allocation. In circumstances where an individual or entity extracts groundwater from a facility(s) having no valid extraction allocation, the extraction surcharge shall be applied to the entire quantity of water extracted. Imposition and acceptance of payment of the surcharge imposed on an individual or entity who extracts water from a facility(s) that holds no extraction allocation shall not be deemed a waiver of the Agency's authority to limit or enjoin the unauthorized extractions.

5.8.1.4 Efficiency Surcharge Facilities relying on the annual, efficiency, allocation shall also be subject to surcharge for inefficient use. The extraction allocation for efficiency is the amount of water used at 80% efficiency as defined in 5.6.1.2 of this ordinance. Extraction surcharges will be applied to the difference between the water extracted which correlates with the actual efficiency achieved and the water that would have been extracted to attain the 80% efficiency allocation. For example, an actual efficiency of 70% would be subject to surcharges on the difference between the amount of water used at 70% efficiency and the amount of water that would have been used at 80% efficiency. If an efficiency of less than 60%

is achieved, no efficiency allocation will be available, and the operator shall revert to a historical, baseline or to no allocation whichever applies to that facility. Extraction surcharges would then apply to the difference between actual water used and the applicable allocation, if any. For example, a facility operating at an actual efficiency of 59%) with no historical or baseline allocation, would be subject to surcharges on all water used.

5.8.2 Payment of Extraction Surcharges

5.8.2.1 Payment of Extraction. Surcharges shall be assessed annually and shall become due and payable by the owner/operator within 30 days of date the confirmation of credits form was postmarked. Payments shall normally be made with credits, if available. Credits may be retained if a special arrangement is made to pay with cash. The Board may extend the 30-day time allowed to pay surcharges for a period of up to twelve months when circumstances exist that in the opinion of the Board warrant such extension. The Board may also approve the payment of surcharges in installments of up to 24 months with terms suitable to the Board.

5.8.2.2 Deferral of Charges. Surcharges that are less than \$50.00 will be deferred until the total accumulated surcharge owed reaches \$50.00. No interest will be charged until the account has accumulated to the \$50.00 minimum. When the \$50.00 minimum has been reached, the surcharge will be billed and interest will start to accrue when the bill is due and payable.

5.8.3 Late Penalty. The operator shall pay a late penalty for any extraction surcharge not satisfied by the due and payable date. The late penalty shall be 1 1/2 percent per month, or any portion thereof, of the amount of the unsatisfied extraction surcharge. The Board may waive interest for surcharges and pumping fees when circumstances exist to render the charge inappropriate.

5.8.4 Collection of Delinquent Extraction Surcharges and Late Penalties. The Board may order that any given extraction surcharge and/or late penalty shall be a personal obligation of the operator or shall be an assessment against the property on which the extraction facility is located. Such assessment constitutes a lien upon the property, which lien attaches upon recordation in the office of the County Recorder. 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 such taxes. All laws applicable to the levy, collection and enforcement of ad valorem taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by

this section shall not attach to such real property and an assessment relating to such property shall be transferred to the unsecured roll for collection.

- 5.8.5 Use of Extraction Surcharges and Late Penalties. Revenues generated from extraction surcharges and late penalties shall be used exclusively for authorized Agency purposes, including financial assistance to support Board approved water supply, conservation, monitoring programs and water reclamation projects that demonstrate significant reductions in overdraft.

CHAPTER 6.0

Appeals

- 6.1 Any operator aggrieved by a decision or determination made by the Agency Coordinator may appeal to the Board within thirty (30) calendar days thereof by filing with the Agency Coordinator a written request that the Board review the decision of the Agency Coordinator. The Board shall act on the appeal within 120 days after the filing.

CHAPTER 7.0

Severability

- 7.1 If any section, part, clause or phrase in this ordinance is for any reason held invalid or unconstitutional, the remaining portion of this ordinance shall not be affected but shall remain in full force and effect.

CHAPTER 8.0

Penalties

- 8.1 Any operator or person who intentionally violates any provision of this ordinance shall be guilty of an infraction and may be required to pay a fine to the Agency in an amount not to exceed five hundred dollars (\$500).
- 8.2 Any operator or person who negligently or intentionally violates any provision of this ordinance may also be liable civilly to the Agency for a sum not to exceed one thousand dollars (\$1000) per day for each day of such violation, in addition to any other penalties that may be prescribed by law.
- 8.3 Upon the failure of any operator or person to comply with any provision of this 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 ordinance or otherwise allowed by law. The Agency may petition the Superior Court of the County to recover any sums due the Agency.


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

ADOPTED this 26th day of June, 2002 by the following vote:

AYES: Directors Lynn Maulhardt, Mike Conroy, John Flynn and Al Fox

NOES: None

ABSENT: Director Roseann Mikos



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

ATTEST: Karen Schoonover
Karen Schoonover, Clerk of the Board