

**REGULAR MEETING AGENDA**

**October 14, 2021**

**2:00 PM**

**2222 M Street, Board Room**

**Merced, CA**

Join Zoom Meeting

<https://us02web.zoom.us/j/83274791130?pwd=MVBGS1pLQzAyeIF2YkJCMCs2VG1DZz09>

Meeting ID: 832 7479 1130

Dial in: +1 669 900 6833

Passcode: 120909

IMPORTANT NOTICE: Due to the ongoing COVID-19 Crisis, and as authorized by the Governor's Executive Order N-29-20, this meeting will be broadcast via conference call in addition to the meeting's physical location. Members of the public who wish to provide comment or observe the meeting may join in person or on the conference call.

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Lloyd Pareira, Jr., County of Merced

Chair

Nic Marchini, Western White Area Representative

Vice Chair

Michael Gallo, Eastern White Area Representative

Kole Upton, Le Grand-Athlone Water District

Gino Pedretti, Sandy Mush Mutual Water Company

Eric Swenson, Merquin County Water District

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**1. CALL TO ORDER/ROLL CALL**

**2. PLEDGE OF ALLEGIANCE**

**3. PUBLIC COMMENT PERIOD**

Public opportunity to speak on any matter of public interest within the Board's jurisdiction including items on the Board's agenda. Testimony limited to three minutes per person.

**4. APPROVAL OF MINUTES**

Action to approve the meeting minutes from the Governing Board meeting on September 16, 2021.

**5. WELL CONSISTENCY POLICY FOR GROUNDWATER WELL PERMITS**

Discussion and possible action on proposed policy options for determining whether groundwater well permit applications within the MSGSA jurisdiction are consistent with the Merced GSP.

**6. TECHNICAL ADVISORY COMMITTEE REPORT AND RECOMMENDATIONS**

Report on September 29, 2021 TAC meeting and recommendations to the Governing Board.

**7. TWO PHASED GSP IMPLEMENTATION APPROACH**

Discussion and possible direction to staff regarding the Two Phased Implementation Approach and future Board Action.

**8. GSP IMPLEMENTATION OUTREACH**

Discussion and potential direction to staff on GSP implementation outreach activities including public workshops and surveys.

**9. STAFF REPORT**

**10. BOARD REPORTS**

**11. NEXT REGULAR MEETING**

**12. ADJOURNMENT**

Alternate formats of this agenda will be made available upon request by qualified individuals with disabilities. Appropriate interpretive services for this meeting will be provided if feasible upon advance request by qualified individuals with disabilities. Please contact the Secretary at (209) 385-7654 for assistance and allow sufficient time to process and respond to your request. Copies of agendas and minutes will be available at the Merced County Community and Economic Development Department and at [www.countyofmerced.com/MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY JOINT POWERS  
AUTHORITY (JPA)  
GOVERNING BOARD**

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**MINUTES FOR MEETING OF SEPTEMBER 16, 2021**

The agenda, original minutes, and all supporting documentation (for reference purposes only) of the Merced Subbasin Groundwater Sustainability Agency Governing Board meeting of SEPTEMBER 16, 2021 are available online at [www.countyofmerced.com/MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

**I. CALL MEETING TO ORDER**

The special public meeting of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Authority Governing Board was called to order at 2:07 p.m., on July 8, 2021, in person and via conference call due to the ongoing COVID-19 crisis and as authorized by the Governor's Executive Order N-29-20.

**II. ROLL CALL OF BOARD MEMBERS**

**Board Members Present:**

|               |  |
|---------------|--|
| Kole Upton    | (Le Grand-Athlone Water District)              |
| Eric Swenson  | (Merquin County Water District)                |
| Gino Pedretti | (Sandy Mush Mutual Water Company)              |
| Michael Gallo | (Eastern White Area Representative)            |
| Nic Marchini  | Vice Chair (Western White Area Representative) |

**Board Members absent:**

Supervisor Lloyd Pareira Chair (Merced County)

**Staff Present:**

|                  |                         |
|------------------|-------------------------|
| Mark Hendrickson | Secretary               |
| Lacey McBride    | Water Resources Manager |
| Desiree Dobbs    | Recording Secretary     |

**III. PUBLIC COMMENT PERIOD**

Barbara Humbert Merced County resident and well owner shared her personal experience with a dry well in the Merquin County Water District area.

**IV. APPROVAL OF MINUTES**

Action to approve the meeting minutes from the Governing Board meeting on August 12, 2021.

**MOTION: M/S GALLO – PEDRETTI, AND CARRIED BY A VOTE OF 4 – 0, THE BOARD APPROVES THE MINUTES FROM THE AUGUST 12, 2021 MEETING.**

**V. WOODARD AND CURRAN CONTRACT AMENDMENT**

Lacey McBride presented the proposed Woodard and Curran fourth contract amendment. The amendment includes one year of quarterly Coordination and Stakeholder Committee meeting facilitation, allocation framework meeting facilitation, and on call technical support. The amendment is expected to cost \$183,615. MSGSA's fiscal year 2021-2022 budget include this proposed amendment.

Board Member Upton inquired about the number of meetings covered in the cost.

Mrs. McBride responded that the contract is expected to cover 10 meetings at approximately \$6,000 to \$8,000 per meeting. Additionally, the amendment includes an amount of \$100,060 for on call support.

Board Member Pedretti inquired if there is potential grant funding for these meetings.

Mrs. McBride commented that there is potential for grant funding if the meetings serve as part of an outreach effort.

Board Member Swenson commented that the fee is expensive and suggested requesting Woodard and Curran reduce staff to reduce the overall cost of meetings, yet still provide reasonable facilitation.

**MOTION: M/S SWENSON - GALLO, AND CARRIED BY A VOTE OF 4 – 0, THE BOARD MOVES TO ADOPT THE WOODARD AND CURRAN CONTRACT AMENDMENT NUMBER FOUR.**

**VI. GSP IMPLEMENTATION APPROACH**

GSP Implementation approach presentation by Greg Young of Tully and Young. Mr. Young provided an overview of the demand reduction objective and implementation approaches discussed by the Demand Reduction Ad Hoc Committee. Following an overview of GSP implementation methods, Mr. Young presented implementation activities of other GSAs.

Mr. Young presented the Two Phase Approach as recommended by the Ad Hoc committee.

Board Member Swenson commented that the fee per acre should reflect historical groundwater use and suggests that those with most historical pumping pay higher fees.

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Board Member Gallo inquired about the Two- Phase approach process, length of time it is anticipated to take and if there is funding available for this approach.

Mrs. McBride responded that implementation activities of this approach will require staff to return to Board for additional actions and commented that the Board will ideally be approving the implementation approach in an upcoming meeting. Mrs. McBride clarified that the land repurposing and 218 fees will need to be workshopped with the public, and commented the TAC can be used to help with the workshops.

Board Member Gallo commented that domestic wells is this something that should be added or discussed separately, as recommended in the letter from the Water Board.

Mr. Young commented that land repurposing offers potential to focus on areas that provide protection of domestic wells.

Board Member Gallo suggested developing a broad approach to domestic wells, rather than addressing individual wells as they go dry.

Board Member Upton suggested a graduating system rather than exemptions to the Prop. 218 fee, to avoid additional overdraft in areas with exemptions and requested clarification on the difference of fees assessed to address concerns and penalty fees.

Jeanne Zolezzi, Legal Counsel, clarified that Prop. 218 prohibits charging fee as penalty, which raises the concern of charging higher prices for those that pump more and commented that the GSA must demonstrate they are charging what is required to address the problem.

Board Member Pedretti commented that he agrees with the Two Phase Approach to start moving forward and to determine a more targeted approach at a later time.

Chris Heppner, EKI Technical consultant presented on Land Repurposing.

Mr. Heppner commented that the GSA is still in the concept development stage and presented slides on land repurposing.

Board Member Gallo inquired if the land repurposing scenarios have been attempted.

Mr. Heppner replied that while the plan works in dollars and acres, it remains to be seen whether landowners would be willing to idle land with the proposed payment plan.

Mr. Young commented staff ran this information past the TAC and received input on land repurposing. The TAC discussed a potential rent equivalent and further suggested that land owners can enter agreements with the GSA to earn payment

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for rotational fallowing. Mr. Young commented that the presentation by EKI demonstrates the magnitude of fees.

Board Member Swenson commented that the Shafter-Wasco Irrigation District's voluntary rotational fallowing program started last year with approximately 10,000 acres with approximately 100 percent pumping, he commented that they have done bids and the average cost to incentivize farmers not to farm is approximately \$660 per acre which is twice what the MSGSA slide estimate. Mr. Swenson further commented that landowners in the area pay approximately \$260 per acre, per year to support the project operations and commented that the cropping doesn't seem too different from the MSGSA, he included that their target long term is 17,000 acre feet, per year.

Mr. Heppner commented that a landowner that generates more income will require higher incentive to fallow, which may be the case in the example provided.

Vice Chair Marchini asked the board to consider if they like the concept of exploring a land fallowing program.

Board Member Upton agreed with land fallowing, to start allocation.

Board Member Gallo commented that he agrees with analyzing the concept and potentially incentivizing farmers to bring in surface water by building infrastructure to bring in surface water.

Board Member Swenson commented that he would like to see an adjustment on per acre allocation fees, based on sustainability zones and inquired if the Prop. 218 fee can be retired when allocation properties are established and suggested consideration of domestic well mitigation cost and plan, as well as data gaps plan in the proposed Prop. 218 fee.

Public Comment Open

Rick Drayer commented that he likes the idea of land fallowing to get some of the groundwater back, he further commented that likes the idea of not taxing the native ground.

Public Comment Close

Mrs. McBride inquired if the board would like to take action on the Two Phased Approach at a later meeting.

Board Member Upton commented that the board needs to take action.

Board Member Pedretti commented that the board needs to take action in the next few months to start moving forward.

Board Member Gallo commented that this is something that should be acted on in the next 2-3 months.

Board Member Swenson commented that if framework can be brought forward in the October meeting it would be good to press on.

**No Action Taken.**

## **VII. WELL CONSISTENCY POLICY FOR GROUNDWATER WELL PERMITS**

Mrs. McBride presented that Merced County is considering changes to the Groundwater Mining and Export Ordinance to shift responsibility to the GSA to determine if wells are consistent with the GSP. Mrs. McBride commented that this agenda item is for policy options and feedback, no action will be taken today.

Mrs. McBride presented three potential approaches to new wells and two potential approaches for replacement wells.

Board Member Upton asked who will make the determination for the modifications.

Mrs. McBride responded that the GSA board would be responsible for approving a policy which outlines conditions.

Board Member Upton inquired if the County has enough staff to accommodate the GSA's demands.

Mrs. McBride commented that the GSA board would need to determine policy, which may require a consultant to help.

Board Member Swenson commented that wells are often drilled much deeper and suggested allowing multiple smaller wells with increased pumping capacity and further commented that he is in favor of coming up with something new.

Board Member Gallo commented that temporarily continuing the existing County policy may give the GSA time to work out the details.

Board Member Pedretti inquired about legal counseling on the topic.

Ms. Zolezzi commented that staff is recommending continuation of the existing policy on a temporary basis, there is not enough information to allow a new well without knowing how much can be pumped, additionally allowing additional pumping would require a CEQA statement of overriding conditions stating the GSA knows they are allowing adverse environmental impact by allowing pumping. Ms. Zolezzi commented that if the GSA allows Phase I to go through, they will have reduction from the following program and will be able to issue new wells with restrictions.

Vice Chair Marchini inquired about a timeline for this transition.

Mrs. McBride responded that the County potentially has the shift occurring by the end of the year and states that it would be good to have an interim policy in place.

Vice Chair Marchini inquired if the transition can be delayed.

Public Comment open

George Park, Lone Tree Mutual Water Company, commented that the County policy works for the time being and urged the Board to think long term and make a seamless policy that doesn't place growers crops at risk.

Frank Amaral from Stevinson spoke against the current County Policy stating, "one size fits all" doesn't work for all growers in MSGSA.

Mrs. McBride commented that the next step is to take this to the TAC.

Board Member Pedretti inquired about sending a letter to the County regarding keeping the Ordinance as is.

**No Action Taken.**

## **VII. INTERBASIN COORDINATION UPDATE**

Mrs. McBride presented an update on the 5<sup>th</sup> Regional Interbasin Coordination meeting, which was held on Sept 1<sup>st</sup>. The meeting was held to compare water budgets and projects. Meetings are anticipated to become less frequent.

Vice Chair Marchini asked how the meetings have been with the Delta-Mendota and Chowchilla, Madera subbasins

Mrs. McBride commented that the neighboring basins feel they are being impacted by the pumping and would like to see mitigation.

Board Member Swenson commented that the last meeting had a much more encouraging tone and that he felt more accommodation. Mr. Swenson further commented that he is stepping down from the coordination committee to allow direct representatives of subsidence areas to step in.

## **X. STAFF REPORT**

Mrs. McBride presented an update on the letter which the State Water Board sent to DWR commenting on the Merced GSP.

Mrs. McBride notified the Board of a grant letter of support from the GSA for an agricultural conservation easement, requested by the American Farmland Trust.

Mrs. McBride presented an update on the data gaps plan commenting that the information requested by the Board on data gaps has been shared in order to help identify existing wells to include in the monitoring network.

## **XI. BOARD REPORTS**

Board Member Upton has requested MSGSA meetings be held on the 2<sup>nd</sup> Thursday and not the 3<sup>rd</sup> Thursday of the month due to conflicts.

**XII. NEXT REGULAR MEETING**

Next meeting will be held on Thursday October 14, 2021.

**XIII. ADJOURNMENT**

There being no further business, the meeting adjourned at 4:22 p.m.

DRAFT

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: OCTOBER 14, 2021**

**SUBJECT: WELL CONSISTENCY POLICY FOR GROUNDWATER WELL PERMITS**

### **SUMMARY:**

This item is a continuing discussion from the September 2021 Governing Board meeting with possible action by the Board on the policy options.

Changes to the Merced County Groundwater Mining and Export Ordinance have been proposed. The proposed change would require the Groundwater Sustainability Agencies within Merced County to determine whether a well application, within their jurisdiction, is consistent with the Groundwater Sustainability Plan adopted within the respective subbasin, in order for a permit to be issued.

At this time, the GSA is not anticipated to have an allocation policy in place before the Groundwater Ordinance is potentially updated to shift responsibility to the GSAs, to determine whether new well permit applications are consistent with the Merced Subbasin GSP.

To be prepared for potentially high volume of permit requests, staff is proposing policy options for the Board to discuss and consider as a stopgap until an allocation policy is in place.

**NEW WELLS:** there are three potential approaches:

1. Continue existing County policy
2. Temporarily continue existing County policy until the MSGSA has resolved other GSP implementation factors (such as: establishing an allocation, and complying with CEQA requirements)
3. Allow new wells, but with pumping limited to a per-acre quantity tied to allocation considerations. This would require that likely allocation limits be established now, and complicated CEQA compliance issues be addressed.

**REPLACEMENT WELLS:** there are two potential approaches:

1. Continue existing County policy
2. Modify County policy to:
  - a. Address concerns of pumping within areas where subsidence equals or exceeds GSP objectives so as to condition the replacement to limit pumping above/below the Corcoran Clay
  - b. Limit pumping to a per-acre quantity tied to allocation considerations

### **REQUEST/RECOMMENDATION/ACTION NEEDED:**

Discussion and possible action on proposed policy options for determining consistency of well permit applications with the Merced GSP.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: OCTOBER 14, 2021**

**SUBJECT: TWO PHASED GSP IMPLEMENTATION APPROACH**

### **SUMMARY:**

This item is continuing discussion of the Two Phased GSP Implementation Approach, which was presented before the Governing Board at the September 2021 meeting. This item anticipates Board action in the November 2021 meeting and provides opportunity for Board members to discuss and suggest potential modifications to the approach, prior to consideration of action at the next Governing Board meeting.

### **Phase 1 – Starting 2021 through end of Water Year 2025**

1. Pursue and achieve the MSGSA Water Year 2025 objective to reduce consumptive use of groundwater by 15,000 acre-feet per year
2. Focus on land repurposing/fallowing and importing surface water into the GSA (flood waters or purchased water)
3. Develop and release year-to-year water budgets for growers to raise awareness
4. Design and adopt by Summer 2022 an additional Phase I Proposition 218 fee to fund the implementation of the Water Year 2025 objective
5. Hold public meetings to workshop allocation elements and approaches starting in 2021

### **Phase 2 – Starting in 2026**

1. Adopt by the end of Water Year 2025 and implement starting in 2026 an allocation approach in combination with the continued land repurposing/fallowing and imported surface water into the GSA
2. Design and adopt an additional Phase 2 Proposition 218 fee

### **REQUEST/RECOMMENDATION/ACTION NEEDED:**

Discussion and possible direction to staff regarding the Two Phased GSP Implementation Approach and potential future Board action.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: OCTOBER 14, 2021**

**SUBJECT: GSP IMPLEMENTATION OUTREACH**

### **SUMMARY:**

In July 2021 the Merced Subbasin GSA Governing Board adopted a resolution establishing a near-term goal of reducing the consumptive use of groundwater by 15,000 acre-feet annually by the end of water year 2025. Additionally, the MSGSA has an estimated long-term reduction of 130,000 acre-feet annually by 2040.

The Merced Subbasin GSA Governing Board has expressed interest and desire for more outreach to landowners, growers and stakeholders in the GSA's jurisdiction. With the GSA Board considering management actions at future meetings to implement these consumptive use reductions, stakeholder outreach is imperative. Providing stakeholders with the ability to attend meetings and receive information, in addition to providing valuable feedback on proposals is a necessary element of any implementation plan the Board adopts.

This item presents two potential public outreach activities to be completed before the end of 2021, a public workshop in November and a landowner survey.

### **REQUEST/RECOMMENDATION/ACTION NEEDED:**

Discussion and potential direction to staff on GSP implementation outreach activities including public workshops and surveys.