

**April 14, 2022**

**AGENDA**

**2222 M Street, Board Room**

**Merced, CA**

**CLOSED SESSION**

**1:00 PM**

**SPECIAL MEETING**

**2:00 PM**

Join Zoom Meeting

<https://us02web.zoom.us/j/87416783715?pwd=MTRKbVFoRG1YYWg1Sys4Wk1FdU1MUT09>

Meeting ID: 874 1678 3715

Dial in: +1 669 900 6833

Passcode: 643155

IMPORTANT NOTICE: Due to the ongoing COVID-19 Crisis, and as authorized by Assembly Bill 361, 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. STATE OF EMERGENCY TELECONFERENCE FINDINGS**

Action Item: The Merced Subbasin GSA Governing Board will consider the circumstances of the State of Emergency and determine whether to make the following findings that any of the circumstances exist per AB 361:

1. The State of Emergency continues to directly impact the ability of the members to meet safely in person and/or
2. State or Local Officials continue to impose or recommend measures to promote social distancing.

**3. CLOSED SESSION**

CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION (Subdivision (b) of Government Code Section 54956.9) 2 potential cases

**4. PLEDGE OF ALLEGIANCE**



**5. 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.

**6. APPROVAL OF MINUTES**

Action to approve the meeting minutes from the Governing Board meeting on March 10, 2022.

**7. WELL CONSISTENCY DETERMINATION POLICY**

Action to adopt a well consistency determination policy as well as discussion and potential direction on policy implementation.

**8. LAND REPURPOSING PROGRAM DEVELOPMENT**

Discussion and potential direction on land repurposing program timeline and elements.

**9. PROPOSITION 218 DEVELOPMENT**

Discussion and possible direction on the Proposition 218 collection and expenditure strategy to inform the development of the Proposition 218 Fee Study.

**10. APPOINTMENT OF TECHNICAL ADVISORY COMMITTEE MEMBERS**

Action to appoint members to and update the existing membership of the Technical Advisory Committee as proposed.

**11. ASSOCIATION OF CALIFORNIA WATER AGENCIES (ACWA) JPIA MEMBERSHIP**

Action to authorize staff to submit a membership application to the ACWA JPIA in order to purchase liability insurance for the GSA.

**12. STAFF REPORT**

**13. BOARD REPORTS**

**14. NEXT REGULAR MEETING**

**15. 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).

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: APRIL 14, 2022**

**SUBJECT: STATE OF EMERGENCY TELECONFERENCE FINDINGS**

### **SUMMARY:**

In March 2020 Governor Newsom issued an Executive Order N-29-20 proclaiming a State of Emergency in California as a result of the threat of COVID-19. Under this executive order, local legislative bodies were authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or electronically to all members of the public seeking to address the local legislative body. Requirements of the Brown Act to meet physically in person and certain requirements for teleconferencing were waived.

In September 2021, the California legislature passed AB 361. Under this legislation, a local agency is authorized to use teleconferencing without complying with teleconferencing requirements under the Brown Act, when a local agency holds a meeting during a declared state of emergency. Under this legislation, every 30 days, the legislative body is required to consider the circumstances of the state of emergency and make findings that a state of emergency continues to directly impact the ability of the members to meet safely in person and/or state or local officials continue to impose or recommend measures to promote social distancing. This provision is in effect until January 1, 2024.

The Board is required to make these findings every 30 days. The last findings were made in March.

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

Action to consider the circumstances of the State of Emergency and make the finding that the State of Emergency continues to directly impact the ability of the members to meet safely in person.

**GOVERNING BOARD**  

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**MINUTES FOR MEETING OF MARCH 10, 2022**

The agenda, original minutes, and all supporting documentation (for reference purposes only) of the Merced Subbasin Groundwater Sustainability Agency Governing Board meeting of March 10, 2022 are available online at [www.countyofmerced.com/MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

**I. CALL MEETING TO ORDER**

The regular public meeting of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Authority Governing Board was called to order at 1:08 p.m., on March 10, 2022, in person and via conference call due to the ongoing COVID-19 crisis and as authorized by Assembly Bill 361.

**II. ROLL CALL OF BOARD MEMBERS**

**Board Members Present:**

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

**Board Members absent:**

NONE

**Staff Present:**

Mark Hendrickson	Secretary
Lacey McBride	Water Resources Manager
Adriel Ramirez	Environmental Health Specialist II
Ana Muñiz-Laguna	Recording Secretary

**III. STATE OF EMERGENCY TELECONFERENCE FINDINGS**

**Action Item:** The Merced Subbasin GSA Governing Board will consider the circumstances of the State of Emergency and determine whether to make the following findings that any of the circumstances exist per AB 361:

1). The State of Emergency continues to directly impact the ability of the members to meet safely in person and/or 2). State or Local Officials continue to impose or recommend measures to promote social distancing.

Public comment period open/close.

**MOTION: M/S MARCHINI – GALLO, AND CARRIED BY A VOTE OF 6 – 0, THE BOARD APPROVES THE FINDING THAT THE STATE OF EMERGENCY CONTINUES TO DIRECTLY IMPACT THE ABILITY TO MEET IN PERSON.**

**IV. CLOSED SESSION**

The GSA Board convened in closed session and reopened the public meeting at 2:16 p.m. No action during closed session. The GSA Board announced that they will continue the closed session at the end of the public meeting.

**V. PUBLIC COMMENT PERIOD**

Public comment period opened/closed.

No public comment.

**VI. APPROVAL OF MINUTES**

Action to approve the meeting minutes from the Governing Board meeting on February 10, 2022.

Board-member Swenson noted an edit on Item 8 regarding the Land Repurposing Program Development, and suggested that the minutes reflect the amount of surveys completed which were a total of 21 total responses.

**MOTION: M/S GALLO – UPTON, AND CARRIED BY A VOTE OF 6 – 0, THE BOARD APPROVES THE MINUTES FROM THE FEBRUARY 10, 2022 MEETING.**

**VII. WOODARD AND CURRAN CONTRACT AMENDMENT #6**

**Action to approve a contract amendment with Woodard and Curran, Inc. for the revisions to the Groundwater Sustainability Plan in response to DWR's evaluation and identified deficiencies, for the total cost of \$106,108. Total cost to be shared by the basin GSAs.**

Mrs. McBride gave a presentation on the subject.

Public comment period opened.

Mr. Bob Kelley, Stevinson Farmer, addressed concerns over the fee estimate with regards to technical presentations and committee proposed expenditures.

Board-member Pedretti asked if the meetings projected on the fee estimate were extra meetings.

Mrs. McBride informed that the Stakeholder and Coordination Committee meetings were

originally scheduled on a quarterly basis, but in order to address DWR comments and address the deficiencies, the meetings would need to increase to bimonthly until July and this is why there is a projected increase.

Public comment period closed.

**MOTION: M/S MARCHINI – GALLO, AND CARRIED BY A VOTE OF 6 – 0, THE BOARD APPROVES A CONTRACT AMENDMENT WITH WOODARD AND CURRAN, INC. FOR THE REVISIONS TO THE GROUNDWATER SUSTAINABILITY PLAN IN RESPONSE TO DWR’S EVALUATION AND IDENTIFIED DEFICIENCIES, FOR THE TOTAL COST OF \$106,108. TOTAL COST TO BE SHARED BY THE BASIN GSAs.**

**VIII. LAND REPURPOSING PROGRAM DEVELOPMENT AND GRANT RESOLUTION**

**Discussion and possible direction on land repurposing program elements. Action to adopt a resolution authorizing submission of an application to the California Department of Conservation’s Multi-Benefit Land Repurposing Grant Program.**

Mr. Chris Hepner, EKI Environment & Water, Inc. representative, provided presentation and discussion.

Public comment period opened.

Ms. Lindsay Hofsteen asked if there would be an opportunity for growers to provide actual water delivery and Chairman Pereira stated that the GSA has had discussions that would allow for that.

Mr. Dave Nervino, suggested looking at other income sources other than the 218 Proposition and suggested that if the 218 Process is used, it should be introduced slowly in stages to avoid any public push back.

Mrs. McBride presented and discussed the Multi-Benefit Land Repurposing Grant Program.

Mr. Dan Drumonde asked if foliar spraying would present a false reading in regards to ET.

Mr. Greg Young responded that ET would look at the measure of water transpiration coming from the crop and sprays are not typically picked up in this measure. He informed that if growers do not agree with the measurement outcomes, there would be an opportunity to appeal and contest these.

Mr. Dan Drumonde inquired if ET would count against growers during wet or rainy months.

Mr. Greg Young stated that a determination would need to be made by the Merced Subbasin GSA as to how to address effective precipitation (EP) in the area.

Public comment period closed.

**MOTION: M/S UPTON – PEDRETTI, AND CARRIED BY A VOTE OF 6 – 0, THE BOARD APPROVES ACTION TO ADOPT A RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION TO THE CALIFORNIA DEPARTMENT OF CONSERVATION’S MULTI-BENEFIT LAND REPURPOSING GRANT PROGRAM.**

**IX. WELL CONSISTENCY DETERMINATION POLICY**

**Discussion and possible action on a draft well consistency determination policy.**

Mr. Greg Young, consultant for Zanjero, Inc. provided presentation and discussion.

Public comment period opened.

Mr. Dave Nervino asked about provisions for future property owners that would like to add a new well.

Mrs. Jeanne Zolezzi, legal counsel, stated that the policy the GSA has developed is trying to address the kind of wells that the County has historically anticipated and allowed. She stated that since the County’s well ordinance is going away that the GSA would need to have a policy in place. New wells would be a part of the policy decision making that the Board would need to make as part of the allocation policy decision at a future time.

Mr. Bob Kelley asked if there will be a distinction regarding wells that pump above and/or below the Corcoran Clay layer. He asked if a well pumps both would they be allowed as replacement wells or would they be two separate wells and if there will be restrictions on pumping below the Corcoran Clay layer.

Mr. Dave Nervino commented on the policy allowing for flexibility in relocating wells within a reasonable area to assist growers in achieving sustainability.

Public comment period closed.

**Discussion item open for public review.**

**X. PROPOSITION 218 DEVELOPMENT**

**Discussion and possible action regarding elements of the Proposition 218 proceeding.**

Mrs. McBride and Mr. Greg Young provided summary and presentation.

Mr. Greg Young clarified that this would apply to assessed parcels recognized by the County Assessor’s roll as irrigated land.

Mrs. McBride asked for GSA Board direction to consider future staffing for the GSA. She asked if the Board would like to establish a subset of Prop 218 Ad Hoc Committee Board Members to meet regarding staffing.

Board-member Pareira recommended a subcommittee of Ad-hoc members.

Public comment period opened.

Mr. Bob Kelley asked if there would be a system to identify irrigated acres and non-irrigated acres and would distinctions be made with parcels such as duck clubs, etc.

Mr. Dave Nervino asked about water districts that are paying the 218 fees for their members and asked about who gets the ballots to vote in that case. Mr. Dave Nervino suggested looking into County Bonds for future funding if the 218 doesn't pass.

Mrs. McBride stated that there are three agencies that collect the 218 fees directly from the property owners and pays the fees directly to the GSA. In those cases, each of the landowners got the ballot except for the ones that chose not to participate in the 218 process.

Mrs. Jeanne Zolezzi confirmed that the 218 fee shows on the ballot.

Public comment period closed.

## **XI. SUBSIDENCE OUTREACH**

**Discussion and direction to staff regarding landowner outreach in the subsidence focus area.**

Mr. Adriel Ramirez summarized and presented the item.

Board-member Swenson noted to inquire with land owners what their method of irrigation is to give an idea of deep percolation.

**MOTION: M/S MARCHINI – UPTON, AND CARRIED BY A VOTE OF 6 – 0, THE BOARD APPROVES DIRECTION TO STAFF REGARDING LANDOWNER OUTREACH IN THE SUBSIDENCE FOCUS AREA.**

## **XII. WATER YEAR 2021 ANNUAL REPORT**

Presentation by Woodard and Curran on the Merced GSP Water Year 2021 Annual Report required to be submitted to the California Department of Water Resources April 1, 2022.

Mr. Chris Hewes, Woodard and Curran, provided presentation and report.

Public comment period opened/closed.



No public comment.

**XIII. STAFF REPORT**

Mrs. McBride informed that the GSA received correspondence from the Merced Irrigation Urban GSA, via a letter, regarding the 5-year objective to reduce the consumptive use of groundwater by 15,000 acre feet annually by water year 2025 and staff will work with the Board for a response.

Mrs. McBride also informed the GSA that Form 700's for 2021-2022 are currently being collected and due by April 1, 2022, and Recording Secretary Ana Muñiz-Laguna is continuing to collect these.

Mrs. McBride updated that Mr. Adriel Ramirez, Mr. Mark Hendrickson and Ms. Ana Muñiz-Laguna will be available for GSA Board in the interim of Mrs. McBride's absence.

**XIV. BOARD REPORTS**

Board-member Gallo updated on a call he had with DWR Chief Staff along with Mr. Greg Young regarding project funds and asked the Board for direction in writing a response letter to the meeting.

**XV. NEXT REGULAR MEETING**

Next special meeting will be held on Thursday April 14, 2022 at 2 p.m.in the Merced County Board Chambers at 2222 M Street, Merced CA 95340.

**XVI. ADJOURNMENT**

After going back into closed session and there being no further action taken the meeting adjourned at 5:35 p.m.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: APRIL 14, 2022**

**SUBJECT: WELL CONSISTENCY DETERMINATION POLICY**

**SUMMARY:**

The County of Merced Board of Supervisors adopted amendments to the Groundwater Mining and Export Ordinance on February 8, 2022, which will go into effect on May 1, 2022. The amended Groundwater Ordinance requires Groundwater Sustainability Agencies in the County to evaluate well permit applications within their jurisdiction and make determinations on whether the proposed well and its usage are consistent with the adopted Groundwater Sustainability Plan.

In order to be prepared to respond to constituents within the Merced Subbasin GSA who approach the GSA requesting well consistency determinations for their well permit applications, the Well Consistency Ad Hoc Committee has been developing a draft policy. The draft policy proposed for discussion today addresses consistency criteria for applications regarding domestic wells, agricultural replacement wells, agricultural back up wells, non-agricultural replacement wells, and public water agency wells. In order to apply this policy fairly across the GSA, the policy outlines rules and enforcement.

**REQUEST/RECOMMENDATION/ACTION NEEDED:**

Action to adopt a well consistency determination policy that will allow the Merced Subbasin GSA to provide consistency determinations to constituents, within MSGSA, for well permit applications. As well as, discussion and potential direction on the policy's implementation.

## MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY: GSP Consistency Criteria for Well Construction Applications (Criteria)

### RULE 1

#### 1.1 PURPOSE:

This Criteria shall be used by the Merced Subbasin Groundwater Sustainability Agency (MSGSA) to determine that a Groundwater Well proposed for construction with the MSGSA's boundary as filed with the California Department of Water Resources, DWR GSA ID 207 (**GSA Boundary**) is consistent with the objectives of the Merced Subbasin Groundwater Sustainability Plan, as adopted by MSGSA on December 9, 2019, or as subsequently updated and adopted pursuant to California Water Code Section 10728.2 (**GSP**).

#### 1.2 APPLICABILITY:

Capitalized terms in this Criteria shall have the meaning give in Merced County Ordinance 9.27.030 and 9.28.020 as follows:

**"Agricultural Well"** or **"Irrigation Well"** means a water well used exclusively to supply water for irrigation, livestock or other agricultural purposes, not for domestic use or to provide potable water

**"Groundwater"** means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.

**"Monitoring Well"** means an artificial excavation by any method for the purpose of monitoring the fluctuations in groundwater levels, the quality of underground waters, the presence or concentration of contaminants in subsurface soil and water, and for the purpose of vapor monitoring. Monitoring wells include remediation wells.

**"Person"** means and includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons, and public entities.

**"Public Water Agency"** means any local public agency, mutual water company, or nonprofit tax-exempt unincorporated association within, or partially within, Merced County that has authority to extract, deliver, store or regulate water.

**"Well or Water Well"** as defined in Section 13710 of the Water Code, means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. This definition shall not include: (a) oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells; or (b) wells used for the purpose of: (1) dewatering excavation during construction, (2) stabilizing hillsides or earth embankments, or (3) monitoring wells.

“**Well Construction**” means creation of an artificial excavation by any method for the purpose of obtaining water, providing cathodic protection, or monitoring subsurface water, soil, or vapors. Construction shall include excavation, placement of the annular, surface, and sanitary seals and installation of the sample faucet, as appropriate.

This Criteria applies to any “Person” or “Public Water Agency” (hereafter “**Applicant**”) that must obtain a permit from the County pursuant to the County’s Ordinance 9.28, where the Well proposed to be constructed is located within the GSA Boundary.

### 1.3 APPLICANT REQUIREMENTS:

Prior to applying for a permit from the County under Ordinance, 9.28, the Applicant must provide the following information to the MSGSA:

- 1.3.1 A completed Merced County Well Construction, Destruction, Mining, and Export Application Permit form (**Form**) and accompanying attachments. *Do not submit the form to Merced County until obtaining the necessary determination from MSGSA as required by Merced County Ordinance 9.27, specifically Section 9.27.050.*
- 1.3.2 If the applicant has indicated the proposed well is a “back-up Well” on the Form, provide a detailed description of:
  - 1.3.2.1 The proposed circumstances, quantities, and frequencies of use of the back-up Well; and
  - 1.3.2.2 The Primary Surface Water Source to which the Well will serve as back-up. As used in this Criteria, the term “Primary Surface Water Source” shall mean a surface water source that has supplied at least 75% of the total applied water to the parcel(s) that will be served by the back-up Well during the most recent 3 water years where precipitation exceeded the San Joaquin Precipitation: 5-Station Index 1991-2020 average of 39.9 inches  
([https://cdec.water.ca.gov/reportapp/javareports?name=PLOT\\_FSI](https://cdec.water.ca.gov/reportapp/javareports?name=PLOT_FSI)),
  - 1.3.2.3 The monthly and annual quantity and source of the Primary Surface Water Source during the prior five water years.
- 1.3.3 If the applicant has indicated the proposed Well is a “replacement Well” on the Form, provide a table listing the following:
  - 1.3.3.1 The planned beneficial use for the Groundwater (e.g. crop type(s)), including average acreage by crop type during the prior five water years;

- 1.3.3.2 A 5-year projection of annual pumped water quantity estimated to meet the planned use; and
- 1.3.3.3 The past 5-years of annual water pumped from the well(s) to be replaced to meet the historic use. If records indicating the actual 5-year annual amount of pumped water from wells is not available, then alternative estimates of quantities pumped may be supplied using records such as utility reading for pump electrical and pump efficiency tests for wells.
- 1.3.4 A map/drawing indicating the parcel(s) where Groundwater from the Well will be applied (indicate APN(s)). If the Well is an Agricultural Well, designate the field(s) that will be irrigated and estimated irrigated acres. If for a Public Water Agency, the map shall designate the entire area where water has historically been served during at least one full irrigation season during the past five (5) water years.
- 1.3.5 A signed statement on a form provided by MSGSA acknowledging that extractions from the Well proposed to be constructed could be restricted at any time by the MSGSA consistent with the Sustainable Groundwater Management Act.

#### 1.4 MSGSA CONSISTENCY CRITERIA:

The following criteria will determine whether a proposed Well is consistent with the GSP.

##### 1.4.1 For an Agricultural Well Application:

- 1.4.1.1 Any Agricultural Well proposed to be constructed within the GSA Boundary as a **replacement Well** is deemed consistent with the GSP if the Applicant agrees that:
  - 1.4.1.1.1 The proposed replacement Well will replace an existing Well(s) consistent with Section 9.28.110 of the Merced County Code;
  - 1.4.1.1.2 The proposed replacement Well will be located on the Historical Parcel(s) or, for a Public Agency, anywhere within the boundary of the Public agency as that boundary existed on January 1, 2022,
  - 1.4.1.1.3 The proposed replacement Well will provide water only to the acreage to which the existing well(s) historically applied water (“**Historical Parcel**”),
  - 1.4.1.1.4 Annual water pumped from the proposed replacement Well will not exceed the highest annual total applied water on the Historical Parcel(s) from the existing Well(s) based either upon: (a) over the prior five (5) years, or (b) during the most recent “Critical Year” as that term is defined for the San Joaquin Valley as indicated with a “C” in the table

found at  
<https://cdec.water.ca.gov/reportapp/javareports?name=WSIHIST>,

1.4.1.1.5 The existing Well(s) will be destroyed in accordance with County Ordinance 9.28, converted to a dedicated Monitoring Well as mutually agreed to by the MSGSA and the Applicant, or converted to a backup Well subject to the same pumping limitations placed upon the replacement well.

1.4.1.2 Any Agricultural Well proposed to be constructed within the GSA Boundary as a **backup Well** is deemed consistent with the GSP if the proposed Well will:

1.4.1.2.1 Be used to supply Groundwater only as an alternative water source during circumstances where the Applicant’s Primary Surface Water Source is restricted, or to provide an alternative location where the same groundwater would be pumped during circumstances where an Applicant’s existing Well(s) has experienced a failure and is unable to pump water.

1.4.1.2.2 Be located on the same parcel(s) as the backup Groundwater will be applied or, for a Public Agency, anywhere within the boundary of the Public Agency as that boundary existed on January 1, 2022,

1.4.1.2.3 Provide backup water only to the same parcel(s) as otherwise served by the restricted Primary Surface Water Source or the existing Well,

1.4.1.2.4 Pump no more water annually, in combination with any other source of water applied to the same parcel(s) during the same year, to not exceed the highest annual total applied water on the Historical Parcel(s) either: (a) over the last five (5) years, or (b) during the most recent “Critical Year” as that term is defined for the San Joaquin Valley as indicated with a “C” in the table found at <https://cdec.water.ca.gov/reportapp/javareports?name=WSIHIST>.

1.4.1.2.5 For circumstances where the backup Well is used when an existing Well(s) fails, no more water will be pumped than would have been pumped by the existing Well should it not have failed.

1.4.2 Any other Well not covered under Sections 1.4.1 proposed to be constructed within the MSGSA Boundary as a **replacement Well** is deemed consistent with the GSP if the Applicant agrees that:

1.4.2.1 The proposed replacement Well will replace an existing Well(s) consistent with Section 9.28.110 of the Merced County Code;

- 1.4.2.2 The proposed replacement Well will be located on the Historical Parcel(s) or, for a Public Agency, anywhere within the boundary of the Public Agency as that boundary existed on January 1, 2022,
  - 1.4.2.3 The proposed replacement Well will provide water only to the Historical Parcel(s),
  - 1.4.2.4 Annual Groundwater pumped from the proposed replacement Well will not exceed the highest annual total Groundwater used on the Historical Parcel(s) over the prior five (5) years,
  - 1.4.2.5 The purpose of use of water will be consistent with the historic purpose of use of water on the Historical Parcel(s).
  - 1.4.2.6 The existing Well(s) will be destroyed in accordance with County Ordinance 9.28, converted to a dedicated Monitoring Well as mutually agreed to by the MSGSA and the Applicant, or converted to a backup Well subject to the same pumping limitations placed upon the replacement well.
- 1.4.3 If a Well(s) proposed under sections 1.4.1 or 1.4.2 is for use by a Public Water Agency to provide water supplies within its boundaries, the Public Water Agency must agree:
- 1.4.3.1 That it will not provide any Groundwater from the Well(s) to any parcel within its boundaries that has not actively irrigated a crop for at least one growing season within the last five (5) years, documenting such use with a map indicating historic and current water use on parcels within its boundaries;
  - 1.4.3.2 That it will have an approved flow meter properly installed and calibrated;
  - 1.4.3.3 That it will provide a schematic showing proposed installation including distances along piping runs, show venting provided and measures taken to insure metering section will be filled with fluid during operation, and provide meter manufacturer and model number of proposed flow meter; and
  - 1.4.3.4 To file with MSGSA within sixty (60) days following the end of each month, a monthly accounting for the earlier month demonstrating the:
    - 1.4.3.4.1 Quantity of Groundwater pumped at the Well(s) in acre feet (AF). Starting and stopping flow totalizer readings for month;
    - 1.4.3.4.2 Water discharged from the Well(s) into the Public Water Agency's distribution system;
    - 1.4.3.4.3 Acre-feet of total Primary Surface Water Source and/or any source other than the Well(s) received by the Public Water Agency entering the distribution system;

1.4.3.4.4 Other information reasonably required by MSGSA to document Well use.

1.4.4 If any Well proposed under this Section 1.4 is to be drilled and screened within areas where the Corcoran Clay is present, as illustrated in the attached MSGSA map, the Applicant must:

1.4.4.1 For circumstances where the existing Well is screened only above the Corcoran Clay, drill and screen the Well only above the Corcoran Clay layer.

1.4.4.2 For circumstances where the existing Well is screened both above and below the Corcoran Clay layer or screened only below the Corcoran Clay layer, either:

1.4.4.2.1 Drill and screen the Well only above the Corcoran Clay layer, or

1.4.4.2.2 Drill and screen the Well only below the Corcoran Clay layer, and a sanitary seal installed which effectively isolates groundwater above the Corcoran Clay layer, or

1.4.4.2.3 Alternatively, if the well is an Agricultural Well under this section, the Applicant can propose to drill and screen two Wells - one Well below the Corcoran Clay and one Well above the Corcoran Clay as required under Sections 1.4.4.2.1 and 1.4.4.2.2, and agree that the combined quantity pumped from the Wells will be equivalent to the requirements for a single Agricultural replacement Well. If two wells are drilled in close proximity as described above, the lateral separation will be consistent with Merced County Code 9.28.060.

## 1.5 MSGSA Consistency Determination:

1.5.1 MSGSA staff will review the Applicant information to determine consistency with this Criteria (**Consistency Determination**).

1.5.2 MSGSA staff will provide written notification of the Consistency Determination to the Applicant upon review of the submitted materials.

1.5.3 If the proposed Well is not consistent with the GSP, staff and/or consultant may work with the Applicant to modify the proposed Well application to achieve a Consistency Determination. Alternatively, the Applicant may provide written information to MSGSA that the proposed well is consistent with the GSP even though it does not meet the Criteria, and MSGSA staff may make a recommendation to the MSGSA Board to undertake a CEQA analysis to see if the proposed well is consistent, with all costs to be paid for by the Applicant.



## 1.6 MSGSA Rules and Enforcement:

Consistency Determinations depend upon the representation made by the Applicant and the requirements imposed by the MSGSA. The following rules and regulations are applicable to any Well for which a Consistency Determination has been made, other than *de minimis* extractors (**Consistent Wells**):

- 1.6.1 Consistent Wells are subject to future pumping restrictions imposed by the MSGSA consistent with SGMA and the GSP. These restrictions may limit the seasonal and monthly extractions of any Well located within the GSA Boundary.
- 1.6.2 Registration. Consistent Wells shall be registered with the MSGSA within sixty (60) days of the completion of drilling and development activities. The owner of a Consistent Well shall provide the information required to complete the on-line registration form provided by the MSGSA that includes, at a minimum, the following:
  - 1.6.2.1 Name and address of the Well operator(s).
  - 1.6.2.2 Name and address of the Well owner(s) of the land upon which the Consistent Well is located, or if Well is located on an easement, then provide information on holder of easement.
  - 1.6.2.3 Well Completion Report, filed with the Department of Water Resources, pursuant to California Water Code section 13751, or if not available, construction information about the Consistent Well, including total depth of the Well casing, size of the Well casing, location or depth of perforations, type and size of perforations, and size of gravel pack if included in Well Construction.
  - 1.6.2.4 Information on the size of the Consistent Well, including pump size (horsepower) and pump test information or estimated pumping capacity. For Wells with planned operating pumping rates of 1,000 gallons per minute (gpm) or higher, provide as a minimum:
    - 1.6.2.4.1 Well development data including: static water level (SWL) prior to development, pumping water level (PWL) at a flowrate below planned pumping rate, PWL at a flowrate above planned pumping rate.
    - 1.6.2.4.2 Each development flowrate will be maintained for a minimum of two (2) hours.
    - 1.6.2.4.3 Provide SWL one (1) hour after development pumping has been discontinued (well recovery).

1.6.2.4.4 Provide development information electronically to:  
\_\_\_\_\_.

1.6.2.5 Location (latitude and longitude), parcel number and state Well number of the Consistent Well.

1.6.2.6 Information on the type of installed flowmeter for Wells greater than 150 gpm in pumping rate. Provide schematic showing proposed installation including distances along piping runs. Show venting provided and measures taken to insure metering section will be filled with fluid during operation. Provide meter manufacturer and model number of proposed flow meter.

1.6.2.7 Indicate if the proposed Well will be engine or electric motor driven. If electric motor driven indicate if pump will be equipped with a variable frequency drive (VFD).

1.6.3 Change in Owner. The name of the owner of each registered Consistent Well, the parcel number on which the Consistent Well is located, along with the names of all operators for each Consistent Well shall be reported to the MSGSA within sixty (60) days upon any change of ownership or operators, together with such other information required by the MSGSA.

1.6.4 Measurement. In order to enable verification of production:

1.6.4.1 Private owners or operators of a Consistent Well must have an accurate method for quantifying use. Use shall be generated based upon one of the following two (2) bases, to be determined by the MSGSA at the time of the Consistency Determination: (1) information provided from flowmeters which have been connected to the Consistent Well; or (2) evapotranspiration information obtained via satellite technology.

1.6.4.2 Public Agency Operators shall provide data from properly installed and calibrated flowmeters.

1.6.4.3 Criteria for Using Meters. The following criteria and information shall be provided to the MSGSA:

1.6.4.3.1 Manufacturer and Model of flowmeter;

1.6.4.3.2 Date Flow Meter Installed;

1.6.4.3.3 Diameter of Pipe and Size of Flow Meter;

1.6.4.3.4 Identification of who installed flowmeter and calibrated flowmeter per manufacturer specifications;

- 1.6.4.3.5 Inspection records will be required to submit to MSGSA per schedule outlined in the manufacturer specifications.
- 1.6.4.3.6 Pictures to identify flowmeter installed correctly (e.g. adequate straight pipe sections before and after the flowmeter); and
- 1.6.4.3.7 Detailed information on type of use as requested by MSGSA.

1.6.4.4 Meter Requirements.

- 1.6.4.4.1 It shall be the responsibility of the owner of the Consistent Well to maintain the meter in good working order at all times.
- 1.6.4.4.2 MSGSA shall have the authority to test the accuracy of meters and inspect the meters as needed.
- 1.6.4.4.3 Each month the owner shall report to the MSGSA, no later than thirty (30) days following the last day of the month, the quantity of groundwater extracted at each Consistent Well, as measured by the flowmeter(s).

1.6.4.5 Criteria for Using Evapotranspiration Method. The criteria for using crop evapotranspiration (ET) estimates for determining Well production shall be determined by the MSGSA.

1.6.5 Rights of Access. The MSGSA staff and/or other authorized agents may enter upon any land on which a Consistent Well is located for the sole and exclusive purpose of conducting MSGSA business.

1.6.6 SGMA Penalties. Any landowner, operator or other person who violates the provisions of these Rules and Regulations, or the parameters for operation of a Consistent Well, is subject to the criminal and civil sanctions set forth in the Water Code and SGMA, including, but not limited to the following:

1.6.6.1 All extractions during a water year in excess of the parameters established in the Consistency Determination shall be subject to extraction surcharges as provided in Water Code Section 10732, including (1) a civil penalty not to exceed five hundred dollars (\$500) per acre-foot extracted in excess of the amount that person is authorized to extract, plus (2) one thousand dollars (\$1,000) plus one hundred dollars (\$100) for each additional day on which the violation continues if the person fails to comply within 30 days after MSGSA has notified the person of the violation.

- 1.6.6.2 Civil Remedies. Upon the failure of any person to comply with any provision of this Criteria, the MSGSA 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 these Criteria or otherwise allowed by law. The MSGSA may petition the Superior Court to recover any sums due to the MSGSA.
- 1.6.6.3 Protest of Penalty Determination. Within thirty (30) days of the date identified in any written notification, an owner or operator of a Consistent Well may appeal a penalty determination in writing. The written appeal must be submitted to the MSGSA.
- 1.6.6.4 Submission to Board. Upon receipt of an appeal, a representative of the MSGSA may request additional information or evidence from the appellant. The representative of the MSGSA shall then submit the appeal, along with any relevant information and any recommendation, to the Board. The Board may, in its discretion, either issue a decision based upon the written appeal and supporting documentation, or hold a hearing concerning the matter.

DRAFT

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: APRIL 14, 2022**

**SUBJECT: LAND REPURPOSING PROGRAM DEVELOPMENT**

### **SUMMARY:**

In November 2021, the Governing Board adopted the Two Phased GSP Implementation Approach resolution, identifying land repurposing as the primary activity to achieve the Phase 1 target of reducing the consumptive use of groundwater by 15,000 acre feet annually. MSGSA consultants, EKI Water and Environment, Inc., have been working with the Demand Reduction Ad Hoc Committee and the Technical Advisory Committee on development of the Land Repurposing Program, according to the roadmap shared with this Board in January 2022.

The topics for discussion on the Land Repurposing Program for this Board meeting are: a review of costs and incentives and administration. Direction given by this board does not need to be formal at this time. Direction on elements of the Land Repurposing program will be included in program itself, which will be approved by the Board at a later date.

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

Discussion and potential direction on land repurposing program timeline and elements.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: APRIL 14, 2022**

**SUBJECT: PROPOSITION 218 DEVELOPMENT**

**SUMMARY:**

In November 2021, the Governing Board adopted the Two Phased GSP Implementation Approach resolution, identifying a Proposition 218 proceeding to take place in 2022 in order to fund Phase 1 of GSP implementation. The funding mechanism for Phase 1 is anticipated to be a Proposition 218 fee. In January 2022, the Chair appointed an Ad Hoc Committee to make recommendations to the Governing Board on elements of the Proposition 218, including what is funded by the fee, rate structure, and which parcels participate in the fee.

To date, the Ad Hoc Committee has met and is scheduled to meet every two weeks through April. The Ad Hoc Committee has discussed attributes of the 2022 Proposition 218 fee and is starting to make recommendations that will be shared with the Board for inclusion in the Fee Study Report.

**REQUEST/RECOMMENDATION/ACTION NEEDED:**

Discussion and possible direction on the Proposition 218 collection and expenditure strategy to inform the development of the Proposition 218 Fee Study.

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For Proposition 218 Phase 1 Fee Discussion:  
Land Repurposing Program (LRP) Duration and Ramp-up Options

Important framing for discussion of options:

1. Resolution NO.2021-02 sets objective to reduce consumptive use of groundwater by 15,000 AF per year by 2025 as part of Phase 1.
2. The resolution set this Proposition 218 fee is to sunset in 2025 and be replaced by an alternative fee. That provides up to four (4) opportunities to place the fee on the County tax bill (beginning with Fall 2022).
3. The LRP is the primary near-term method to achieve the Phase 1 Objective.
4. The LRP ad-hoc committee recommended three primary functions for the LRP:
  - a. The LRP should be entrepreneurial, which should result in land-owner offerings that optimize the benefits for the costs.
  - b. While anticipating lower costs, the LRP should raise maximum revenue to fully fund the Phase 1 Objective of 15,000 acre-feet beginning as early as the 2023 irrigation season.
  - c. The LRP should offer minimum 3-year contracts, allowing up to 5-year contracts for early adopters which would carry payment obligations into 2027.
5. The LRP ad-hoc committee's recommendation supports Option 1 in the table.
6. Fees imposed in subsequent years could be reduced if the Phase 1 Objective is being achieved at a lower cost (e.g. the fee on County tax bills in 2024 and/or 2025 could be less than the maximum approved under the Prop 218 vote).
7. The 218 Ad-hoc committee asked to see options for either a shorter duration or a ramp-up in the LRP quantity, resulting in the following additional options:
  - a. Option 2 is a ramp-up of Option 1 where the LRP program targets 50% of the Phase 1 objective in 2023, 75% in 2024 and 100% in 2025 through 2027.
  - b. Option 3 is a limited LRP that only contracts for reduced consumptive use in 2023 through 2025, with no reduction occurring due to the program beyond 2025.
  - c. Option 4 is ramp-up of Option 3 with 100% of the Phase 1 Objective only occurring in 2025.

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8. The estimated fee per acre per year that would be place on the Tax bill is based upon a range of 160,000 to 165,000 irrigated acres participating in the per-acre payment. These values were derived from information provided by the Assessor’s Office as used for the existing fee approved in 2019. Acres change during the course of each year, thus the range.

<b>Land Repurposing Program Duration and Ramp-up Options</b>							
<b>Option 1 - Maximum Participation in Year 1 and up to 5-year contracts through 2027</b>							
	2022	2023	2024	2025	2026	2027	Total
County Tax Bill	\$ 3,750,000	\$ 3,750,000	\$ 3,750,000	\$ 3,750,000	n/a	n/a	\$15,000,000
Funds from County to GSA	n/a	\$ 3,750,000	\$ 3,750,000	\$ 3,750,000	\$ 3,750,000	n/a	
GSA Expenditure	n/a	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	
Fund Balance	n/a	\$ 750,000	\$ 1,500,000	\$ 2,250,000	\$ 3,000,000	\$ -	
<b>Annual Fee (range): \$22.70 to \$23.00 per acre</b>							
<b>Option 2 - Ramp-up Participation to 2025 and up to 5-year contracts through 2027</b>							
	2022	2023	2024	2025	2026	2027	Total
County Tax Bill	\$ 3,156,250	\$ 3,156,250	\$ 3,156,250	\$ 3,156,250	n/a	n/a	\$12,625,000
Funds From County to GSA	n/a	\$ 3,156,250	\$ 3,156,250	\$ 3,156,250	\$ 3,156,250	n/a	
GSA Expenditure	n/a	\$ 1,500,000	\$ 2,125,000	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	
Fund Balance	n/a	\$ 1,656,250	\$ 2,687,500	\$ 2,843,750	\$ 3,000,000	\$ -	
<b>Annual Fee (range) \$19.10 to \$19.70 per acre</b>							
<b>Option 3 - Maximum Participation in Year 1 but no contract past 2025</b>							
	2022	2023	2024	2025	2026	2027	Total
County Tax Bill	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	n/a	n/a	n/a	\$ 9,000,000
Funds From County to GSA	n/a	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	n/a	n/a	
GSA Expenditure	n/a	\$ 3,000,000	\$ 3,000,000	\$ 3,000,000	n/a	n/a	
Fund Balance	n/a	\$ -	\$ -	\$ -	n/a	n/a	
<b>Annual Fee (range): \$13.60 to \$14.10 per acre</b>							
<b>Option 4 - Ramp-up Participation to 2025 but no contract past 2025</b>							
	2022	2023	2024	2025	2026	2027	Total
County Tax Bill	\$ 2,208,333	\$ 2,208,333	\$ 2,208,333	n/a	n/a	n/a	\$ 6,625,000
Funds From County to GSA	n/a	\$ 2,208,333	\$ 2,208,333	\$ 2,208,333	n/a	n/a	
GSA Expenditure	n/a	\$ 1,500,000	\$ 2,125,000	\$ 3,000,000	n/a	n/a	
Fund Balance	n/a	\$ 708,333	\$ 791,667	\$ -	n/a	n/a	
<b>Annual Fee (range) \$10.00 to \$10.40 per acre</b>							



## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: APRIL 14, 2022**

**SUBJECT: APPOINTMENT OF TECHNICAL ADVISORY COMMITTEE MEMBERS**

### **SUMMARY:**

In 2021, the Governing Board approved restructuring of the Technical and Advisory Committees into a single Technical Advisory Committee (TAC). Since then the TAC has met on a bimonthly basis to provide third party feedback on implementation activities such as the well consistency policy, land repurposing program development and public engagement, among others. Membership of the TAC is intended to be broad in order to allow for members to provide analysis and recommendation on technical components as well as assist with stakeholder outreach and educational efforts.

The TAC will continue to meet bimonthly and provide feedback on GSP implementation activities. Feedback from the TAC is provided to the Board via a representative when available. The proposed members have been identified by Board members. Staff is recommending the membership proposed be appointed.

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

Action to appoint members to and update the existing membership of the TAC as proposed.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: APRIL 14, 2022**

**SUBJECT: ASSOCIATION OF CALIFORNIA WATER AGENCIES (ACWA) JPIA MEMBERSHIP**

### **SUMMARY:**

As part of Phase 1 of GSP implementation, staff will be holding public workshops and begin video logging and monitoring existing wells on private party. Many of the locations where the GSA would hold these workshops require that the GSA hold liability insurance. Additionally, the access agreement drafted by the GSA's legal counsel, Jeanne Zolezzi, requires that the GSA hold liability insurance and include each of the monitoring locations in the insurance coverage.

In order to proceed with GSP implementation activities, staff is recommending that the GSA submit an ACWA membership application which would allow the GSA to purchase coverage through the ACWA JPIA upon becoming a member. The total annual membership cost is estimated to be \$2,855.

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

Action to authorize staff to submit a membership application to the ACWA JPIA in order to purchase liability insurance for the GSA.