

**June 9, 2022**

**AGENDA**

**2222 M Street, Board Room**

**Merced, CA**

**CLOSED SESSION**

**1:00 PM**

**REGULAR MEETING**

**2:00 PM**

Join Zoom Meeting

<https://us02web.zoom.us/j/87561581525?pwd=Q1dNSlkzTW8xZDIYQUJlYtiUWtXUT09>

Meeting ID: 875 6158 1525

Dial in: +1 669 900 6833

Passcode: 279455

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 May 12, 2022.

**7. LAND REPURPOSING PROGRAM DEVELOPMENT**

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

**8. FY 2022 PROPOSED BUDGET AND SGMA COMPLIANCE LANDOWNER FEE**

Action to approve the Fiscal Year 2022-2023 GSA budget and approve the FY 2022-2023 SGMA Compliance Land Owner Fee.

**9. WELL CONSISTENCY DETERMINATION TEMPLATE LETTER**

Informational item regarding the consistency determination template letter which allows MSGSA staff to provide written notification of the consistency determination to applicants upon review of a submitted permit application materials.

**10. STAFF REPORT**

**11. BOARD REPORTS**

**12. NEXT REGULAR MEETING**

**13. 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: JUNE 9, 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 May.

**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.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: JUNE 9, 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 administration and program elements. 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: JUNE 9, 2022**

**SUBJECT: FY2022/23 PROPOSED ADMINISTRATIVE OPERATING BUDGET AND  
SGMA COMPLIANCE LANDOWNER FEE**

### **SUMMARY:**

The Merced Subbasin GSA Joint Powers Authority Agreement requires the Governing Board approve a new administrative operating budget at the beginning of each fiscal year.

The proposed administrative operating budget for fiscal year 2022-2023 will fund the anticipated GSA administrative expenses, including staffing, legal counsel, engineering and technical support expenses, and office expenses. The Support Services Agreement between the County and the MSGSA is budgeted for \$75,000, this is an increase of \$5,000 over last year. As discussed last year, the intention is for the contract amount to increase by steps until the GSA is paying the actual total costs of staff support.

Under Technical Services, the budget proposes \$250,000 to support Phase 1 Implementation. This encompasses projects, studies and analyses identified in the First Five Implementation Plan and supports the activities in the Two Phased GSP Implementation Approach Resolution (Resolution 2021-02) which are necessary to support GSP implementation within the Merced Subbasin GSA's jurisdictional boundaries. These expenses do not include shared basin-wide GSP expenses.

Basin wide shared expenses associated with the Groundwater Sustainability Plan include the contract with Woodard and Curran, expenses for the Water Year 2022 Annual Report, and monitoring expenses associated with the basin-wide contract with QK.

The proposed administrative operating budget would require a SGMA Compliance Landowner Fee, as approved and authorized under Proposition 218 in July 2019, in the approximate amount of \$750,000 (this number may adjust minimally based on the end of year fund balance on June 30, 2022). A SGMA Compliance Landowner Fee with a target of collecting \$750,000 would result in an estimated per acre fee of \$3.50 for irrigated acres and \$0.50 for all remaining acres not exempt. This estimated fee may change slightly due to updates to the Assessor's Parcel Roll, end of year fund balance and pending invoices. This administrative operating budget is separate from the proposed Phase 1 Funding Mechanism budget recently defined in the Engineer's Report for the Phase 1 Funding Mechanism.

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

Action to approve the Fiscal Year 2022/23 GSA administrative operating budget and approve the FY 2022/23 SGMA Compliance Landowner Fee.

**Proposed Administrative  
Budget 2022/23**

ACCOUNT	REVENUE	
96924/97990	Prop. 218 SGMA Compliance Landowner Fee	750,000
<b>TOTAL GSA REVENUE</b>		<b>750,000</b>

**OPERATING EXPENSES**

**Legal Services**

21834	General	75,000
<b>Total Legal Services</b>		<b>75,000</b>

**Technical Services**

21810	Prop. 218 Fee Model Maintenance	5,000
21800	Hydrology/Modeling Update	25,000
21800	Phase 1 Implementation: Studies and Data Collection	250,000
<b>Total Technical Services</b>		<b>280,000</b>

**Miscellaneous Expenses**

21840	Administrative Services (County support plus 1 FTE)	150,000
21810	Audits	5,000
21700	Office Expense	8,000
21003	General Liability Insurance	2,500
21500	Memberships	2,000
22350	Website Development , Maintenance	5,000
21900	Legal Notices	1,000
21862	Public Outreach	15,000
21800	Grant Writing	50,000
	Contingency/Reserve 10-15%	75,000
<b>Total Miscellaneous Expenses</b>		<b>313,500</b>

**GROUNDWATER SUSTAINABILITY PLAN EXPENSES**

21810	GSP Development	275,000
97950	GSP Dev Available to Reimburse to Agencies	-
21810	GSP Annual Report/Five Year Update Development	55,000
21810	GSP implementation and monitoring	70,000
<b>TOTAL GROUNDWATER SUSTAINABILITY PLAN</b>		<b>400,000</b>

**TOTAL GSA ADMINISTRATIVE EXPENSES 1,068,500**

If expenditures exceed revenue, the difference will be made up by Fund Balance.

Estimated Fund Balance 318,500

**BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: JUNE 9, 2022**

**SUBJECT: WELL CONSISTENCY DETERMINATION TEMPLATE LETTER**

**SUMMARY:**

The County of Merced Board of Supervisors adopted amendments to the Groundwater Mining and Export Ordinance on February 8, 2022, which went 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.

On April 14, 2022, the Governing Board adopted The Merced Subbasin Groundwater Sustainability Agency: GSP Consistency Criteria for Well Construction Applications (Criteria) as Rule No. 1 of the MSGSA. Rule No. 1 allows MSGSA to respond to constituents within the Merced Subbasin GSA who approach the GSA requesting well consistency determinations for their County well permit applications. Pursuant to Rule No. 1, staff have developed a template letter for private wells that are determined to be consistent with the adopted Groundwater Sustainability Plan.

**REQUEST/RECOMMENDATION/ACTION NEEDED:**

Informational item regarding the review approach and consistency determination template letter which allows MSGSA staff to provide written notification of the consistency determination to qualifying applicants upon review of a submitted permit application materials.

[date]

[applicant name]

[address line 1]

[address line 2]

**Re: Merced Subbasin Groundwater Sustainability Determination of Consistency**

Dear [applicant],

Pursuant to the Merced Subbasin Groundwater Sustainability Agency's (MSGSA) Rule #1, we have reviewed materials submitted by you (the Applicant) regarding your intent to apply to the Merced County (County) through the Department of Environmental Health (DEH) for a well to be located at:

MSGSA Well Type: [well type: replacement or backup; agricultural or other]

Well location: [address and APN of existing and new well (as applicable)]

Proposed Action: [statement of action, e.g. deepen existing well, construct new and destroy old]

This letter provides the official documentation required by the DEH pursuant to County Ordinance 9.27.050 indicating a MSGSA's determination of consistency ("Consistency Determination") with the Merced Subbasin Groundwater Sustainability Plan (GSP) for the Applicant's proposed [well type].

Based upon information submitted by the Applicant, the MSGSA has made this Consistency Determination that the well is consistent with the GSP and deemed a "Consistent Well" pursuant to Rule #1. The Consistency Determination places the following conditions on the **Consistent Well [sequential well numbering for MSGSA tracking]**:

1. Water pumped from the well does not exceed:
  - a. [value] acre-feet per calendar year
2. Water pumped from the well is only applied on the following parcels:
  - a. [list of APN(s) historically served]
3. Water pumped from the well is used for the following purpose:
  - a. [purpose of use]

This Consistency Determination also sets forth specific compliance requirements that the Applicant must satisfy. These requirements are detailed in [MSGSA's Rule #1](#) and summarized below:

1. Register the Consistent Well with the MSGSA pursuant to Section 1.6.2



2. Install an accurate flow meter on the Consistent Well pursuant to Section 1.6.4.3
3. Report to the MSGSA the monthly extraction volumes from the Consistent Well, measured using the flow meter pursuant to Section 1.6.4.4.3. Use **Consistent Well [sequential well number]** for all referencing.
4. Agree to the entry by MSGSA staff and/or other authorized agents onto the parcel where the Consistent Well is located for the sole and exclusive purpose of conducting MSGSA business pursuant to Section 1.6.5. [Discretionary add: **The MSGSA representative will provide a 24-hour advance notice as a courtesy to the Applicant prior to entry.**]

If the MSGSA determines that the use of the Consistent Well violates these conditions, the Applicant is subject to the criminal and civil sanctions as set forth in MSGSA's Rule #1.

This Consistency Determination does not constitute a recommendation by the MSGSA to the County to either approve or deny the subject well permit application, nor is the MSGSA making a determination as to whether the proposed replacement well application complies with any County ordinance.

Through signature below, the Applicant acknowledges and agrees to the requirements detailed in MSGSA's Rule #1, which include, among other provisions, that extractions from the well could be restricted at any time by the MSGSA consistent with the Sustainable Groundwater Management Act, whereby such restrictions may limit the seasonality and monthly and annual quantity of extraction.

Sincerely,

Lloyd Pareira,  
Merced Subbasin GSA Governing Board Chair

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By signing below, the Applicant acknowledges and accepts the conditions in this Consistency Determination and as detailed in MSGSA's Rule #1. Please return a copy of the signed letter to:

Merced Subbasin GSA  
Attn: Lloyd Pareira  
2222 M Street, Merced CA 95340

**Applicant: [applicant name]**

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Signature

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Date