MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY
RESOLUTION No. 2024-01

RESOLUTION OF THE MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY APPROVING RULES AND REGULATIONS SECTION 1: GROUNDWATER ALLOCATION

WHEREAS, on August 29, 2014, the California Legislature passed comprehensive groundwater legislation contained in Senate Bills 1168 and 1319 and Assembly Bill 1739, collectively, those bills, as subsequently amended, enacted the Sustainable Groundwater Management Act ("**SGMA**"). SGMA became effective on January 1, 2015; and

WHEREAS, Merced Subbasin GSA ("**MSGSA**") adopted a groundwater sustainability plan ("**GSP**") for the Merced Subbasin on July 19, 2022, consistent with SGMA; and

WHEREAS, SGMA, as codified in California Water Section 10726.4, grants authorities to GSAs to regulate groundwater extractions by (a) limiting extractions from individual groundwater wells and other means, including establishing groundwater extraction allocation (Water Code §10726.4(a)(2)); to temporarily and permanently transfer groundwater extraction allocations within the GSAs boundaries (Water Code §110726.4(a)(3)); and to establish accounting rules (Water Code §10726.4(a)(3)) and to establish accounting rules (Water Code §110726.4(a)(4)); with the overall goal of sustainably managing groundwater basins. (See Water Code §10720.1); and

WHEREAS, the GSP recognizes that the Basin is in a state of overdraft and undesirable result including land subsidence, must be mitigated through projects and management actions, which includes reduction in groundwater extractions; and

WHEREAS; the GSP's adaptive management approach for sustainably managing the Basin as more information is obtained which reduces the currently-identified data gaps, allows for a flexible management approach where decisions can be adjusted with the ultimate goal of providing for sustainable management of the Basin.

WHEREAS, the MSGSA Board is exercising its flexible management authority in the GSP to ensure that all undesirable results of the Basin, including subsidence, overdraft and lowering of groundwater levels are mitigated within the SGMA's 20-year sustainability timeframe. (Water Code §10727.2(b)(3)(A));

WHEREAS, the State Water Resources Control Board ("**SWRCB**") may intervene should the SWRCB determine that the Subbasins are not being managed in a manner that will likely attain their sustainability (Water Code §10735.2(a)(5)(A)(i), and

WHEREAS, the provisions in the proposed RULES AND REGULATIONS SECTION 1: GROUNDWATER ALLOCATION are transitional measures for sustainable management of the Basin and do not determine or alter water rights under common law or any provision of the Code §10720.5(a)); and

WHEREAS, SGMA authorizes a GSA to impose civil penalty not to exceed five hundred dollars ($500) per acre-foot for extraction of groundwater in excess of the amount the person is authorized under a rule, regulation, ordinance or resolution adopted by that GSA (Water Code §10732(a)(1)) and any such penalty is for the sole purpose of regulating conduct, specifically to regulate the use of groundwater in a manner to achieve sustainability of the Basin and not for the purpose of generating revenue (See, e.g., California Taxpayers Assn. v. Franchise Tax Board (2010) 190 Cal. App.4th 1139), and is not considered a regulatory fee or property-related service subject to Article XIIIC or Article XIIID of the California Constitution; and

WHEREAS, MSGSA sought public input of the proposed RULES AND REGULATIONS SECTION GROUNDWATER ALLOCATION SECTION 1 GROUNDWATER ALLOCATION RULE ("**Rule**"); during the development of Groundwater Allocation Rule, the MSGSA hosted joint Board and TAC workshops on June 27, 2024, July 24, 2024 and August 22, 2024, held a public hearing on July 11, 2024, and a Board meeting on August 8, 2024 to garner input from the public and stakeholders. In addition to these meetings, the MSGSA made a copy of the Draft Groundwater Allocation Rule available to the public on June 21, 2024, and the revised final Rule available to the public on August 12, 2024; and

WHEREAS, the MSGSA Board of Directors finds that the proposed Rule is consistent with its GSPs and with SGMA to further the sustainability goal for the Subbasins within its jurisdiction; and

WHEREAS, the proposed Rule is exempt from the California Environmental Quality Act ("**CEQA**") pursuant to Water Code Section 10728.6 and CEQA Guidelines Sections 10561(b)(3), 15307 and 15308; and

WHEREAS, the primary goal of the proposed Rule is to achieve sustainability of the limited natural groundwater resource of the Basin in order to allow sustainable, reasonable and beneficial uses of this resource for agriculture and other uses. The proposed Rule promotes continued agricultural operations through the herein regulations in order to sustainability manage the finite natural groundwater resources in attempts to assure the availability of this resource in the long-term.

NOW THEREFORE, BE IT RESOLVED, by the Governing Board of the Merced Subbasin GSA that the following actions are approved:

1. Adopt the RULES AND REGULATIONS SECTION 1: GROUNDWATER ALLOCATION RULE.

2. Adopt the foregoing recitals as true and correct.

3. The MSGSA Findings dated September 12, 2024 are hereby adopted and incorporated into this Resolution by this reference.

4. The adoption of the RULES AND REGULATIONS SECTION 1: GROUNDWATER ALLOCATION RULE is categorically exempt from CEQA review pursuant to CEQA

Guidelines section 15307 as the action of a regulatory agency acting to protect natural resources.

5. The adoption of the RULES AND REGULATIONS SECTION 1: GROUNDWATER ALLOCATION RULE is categorically exempt from CEQA review pursuant to CEQA Guidelines section 15308 as the action of a regulatory agency acting to protect the environment.

6. The adoption of the RULES AND REGULATIONS SECTION 1: GROUNDWATER ALLOCATION RULE is exempt from CEQA review under the common sense exemption, set forth in CEQA Guidelines section 15061 (b)(3).

7. The categorical exemptions applicable to adoption of the RULES AND REGULATIONS SECTION 1: GROUNDWATER ALLOCATION RULE are not subject to any applicable exception, including the "unusual circumstances" exemption.

8. The Executive Director is hereby authorized to file with the applicable County clerk's offices the Notice of Exemption for the RULES AND REGULATIONS SECTION 1: GROUNDWATER ALLOCATION RULE in performance with the procedures provided for the filing of such notices in CEQA and the CEQA Guidelines.

PASSED AND ADOPTED at a regular meeting of the Governing Board at Merced, California, this 10th day of October 2024, by the following vote:

AYES: Gallo, Giampaoli, Marchini, Pareira, Pedretti

NOES: None

ABSTAINING: Nervino

ABSENT: None

MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY

By: _____
Chair

ATTEST:

_____
Secretary