

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: Kings
1400 W. Lacey Blvd.
Hanford, CA 93230

Applicant and Lead Agency: Tri-County Water Authority
944 Whitley Avenue, Ste. #E
Corcoran, CA 93212 559-762-7240
(Address)

Project Title: Policy and Procedures for Groundwater Extraction Allocation through Resolution No. 21-01

Project Applicant: Tri-County Water Authority

Project Location - Specific:

Applicable to lands within the Tri-County Water Authority GSA boundaries

Project Location - City: Project Location - County: Kings

Description of Nature, Purpose and Beneficiaries of Project:

The Policy and Procedures for Groundwater Extraction Allocation ("Policy & Procedures") is prepared pursuant to the Sustainable Groundwater Management Act (Water Code section 10720 et seq.) to address undesirable results, including overdraft conditions and land subsidence, due to overpumping of groundwater. The Policy and Procedures allows landowners to transition extractions to a basin-wide sustainable yield through groundwater allocation.

Name of Public Agency Approving Project: Tri-County Water Authority

Name of Person or Agency Carrying Out Project: Tri-County Water Authority

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
Declared Emergency (Sec. 21080(b)(3); 15269(a));
Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
Categorical Exemption. State type and section number: 14 CCR 15307, 15308, 15061(b)(3) and Water Code section 10728.6
Statutory Exemptions. State code number:

Reasons why project is exempt:

The primary goal of the Policy & Procedures is to achieve sustainability of the limited natural groundwater resources of the Tule and Tulare Lake subbasins in order to allow sustainable, reasonable and beneficial uses of this resource for agricultural and other uses. The Policy & Procedures is exempt from CQA review pursuant to CEQA Guidelines section 15307 as the action of a regulatory agency acting to protect natural resources; CEQA Guidelines section 15308 as the action of a regulatory agency acting to protect natural resources; and under the common sense exemption set forth in CEQA Guidelines section 15061(b)(3).

Lead Agency Contact Person: Deanna Jackson Area Code/Telephone/Extension: 559-762-7240

If filed by applicant:

- 1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: Deanna Jackson Date: April 6, 2021 Title: Executive Director

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR:

**California Environmental Quality Act (CEQA)
Compliance Certification Form**

Grantee/Applicant: Tri-County Water Authority

Project Name: Groundwater Extraction Allocations Policy and Procedures - Adopted Through Resolution

Project Address: N/A

When was CEQA analysis completed for this project? Date: February 18, 2021

What document(s) was filed for this project's CEQA analysis: (check all that apply)

- Notice of Determination
- Notice of Exemption
- Initial Study/Negative Declaration
- Initial Study/Mitigated Negative Declaration
- Environmental Impact Report
- Other: _____

Please attach the Notice of Exemption or the Notice of Determination as appropriate. If these forms were not completed please attach a letter from the Lead Agency explaining why, certifying the project has complied with CEQA and noting the date that the project was approved by the Lead Agency.

CEQA Lead Agency Contact Information:

Agency Name: Tri-County Water Authority Contact Person: Deanna Jackson

Mailing Address: 944 Whitley Avenue, Suite E, Corcoran, CA 93212

Phone: (559) 762-7240 Email: djackson@tcwater.org

Certification:

I hereby certify that the Lead Agency listed above has determined that it has complied with the California Environmental Quality Act (CEQA) for the project identified above and that the project is described in adequate and sufficient detail to allow the project's construction.

I certify that the CEQA analysis for this project encompasses all aspects of the work to be completed with these funds. This project is not part of any legally mandated mitigation.


Authorized Representative
(Signature)

April 6, 2021
Date

Deanna Jackson, Executive Director
Authorized Representative
(Printed Name and Title)

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

*Tri-County Water Authority
944 Whitley Ave., Suite E
Corcoran, CA 93212
559-762-7240*

**ORIGINAL
FILED**

APR 06 2021

**KRISTINE LEE
KINGS COUNTY CLERK**

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

Notice of Exemption

TITLE OF DOCUMENT

SEPARATE PAGE PURSUANT TO GOVERNMENT CODE 27361.6
ADDITIONAL FEES MAY BE REQUIRED

**Kings County
Receipt Detail**

Receipt Information

Receipt Time: 4/6/2021 3:48:56 PM **Receipt #:** 6110
Location: MAIN OFFICE **Department:** REAL ESTATE **Device:** FRONT DESK LEFT
Effective Date: 4/6/2021 12:00:00 AM **User:** R058
Customer: TRI-COUNTY WATER AUTHORITY
Address1:
Address2:
City: **State:** **Zip:**
Phone: **Email Address:**
Remarks: POLICY & PROCEDURES FOR GROUNDWATER EXTRACT - RESO NO 21-01
Change Issued: \$0.00 **Refund:** \$0.00 **Surplus:** \$0.00
Cash Total: \$0.00 **Check Total:** \$65.00 **Escrow Total:** \$0.00
VoucherTotal: \$0.00 **Credit Card Total:** \$0.00 **Legalease Total:** \$0.00

Revenue Information

Seq #	No Fee	Voucher	Reference #	Transaction Type	# Pages	Amount	SubSystem Id
1	N	N	NA-14680225	Noe	1	\$65.00	CASHADMIN

Payment Information

#	Type	Payment ID #	Amount	NSF
1	CHECK	1469	\$65.00	

Revenue Detail Information

Seq #	GL Seq	Revenue Account #	Amount	Payment #	Payment Type	Amount Paid	Amount Remaining
1	1	DFW CLERK FILING FEE	\$65.00	1	CHECK		

Account Transaction Information

Account #	Revenue #	GL Seq	Amount	Transaction Type	Reference #	Transaction Time
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Notice of Exemption

Appendix E

To: Office of Planning and Research
 P.O. Box 3044, Room 113
 Sacramento, CA 95812-3044

County Clerk
 County of: Tulare
 221 S Mooney Blvd, Room 105
 Visalia, CA 93291

Applicant and
 From: (Lead Agency): Tri-County Water Authority
944 Whitley Avenue, Ste. #E
Corcoran, CA 93212 559-762-7240
 (Address)

FILED
 TULARE COUNTY
 APR 07 2021

Project Title: Policy and Procedures for Groundwater Extraction Allocation through Resolution No. 21-01 ASSESSOR/CLERK/RECORDER
 Project Applicant: Tri-County Water Authority

Project Location - Specific:
Applicable to lands within the Tri-County Water Authority GSA boundaries

Project Location - City: _____ Project Location - County: Tulare

Description of Nature, Purpose and Beneficiaries of Project:
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 - Statutory Exemptions. State code number: _____

Reasons why project is exempt:
 The primary goal of the Policy & Procedures is to achieve sustainability of the limited natural groundwater resources of the Tule and Tulare Lake subbasins in order to allow sustainable, reasonable and beneficial uses of this resource for agricultural and other uses. The Policy & Procedures is exempt from CQA review pursuant to CEQA Guidelines section 15307 as the action of a regulatory agency acting to protect natural resources; CEQA Guidelines section 15308 as the action of a regulatory agency acting to protect natural resources; and under the common sense exemption set forth in CEQA Guidelines section 15061(b)(3).

Lead Agency
 Contact Person: Deanna Jackson Area Code/Telephone/Extension: 559-762-7240

- If filed by applicant:
1. Attach certified document of exemption finding.
 2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: Deanna Jackson Date: April 6, 2021 Title: Executive Director

▪ Signed by Lead Agency ▪ Signed by Applicant

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Compliance Certification Form**

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CEQA Lead Agency Contact Information:

Agency Name: Tri-County Water Authority Contact Person: Deanna Jackson

Mailing Address: 944 Whitley Avenue, Suite E, Corcoran, CA 93212

Phone: (559) 762-7240 Email: djackson@tcwater.org

Certification:

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I certify that the CEQA analysis for this project encompasses all aspects of the work to be completed with these funds. This project is not part of any legally mandated mitigation.



Authorized Representative
(Signature)

April 6, 2021
Date

Deanna Jackson, Executive Director

Authorized Representative
(Printed Name and Title)

**ASSESSOR/CLERK-RECORDER
COUNTY OF TULARE
County Civic Center – Room 103
Visalia, California 93291-4593**

May 7, 2021

**TRI-COUNTY WATER AUTHORITY
944 WHITLEY AVE STE E
CORCORAN CA 93212**



SUBJECT: Posting of Environmental Notices

NOTICE OF: EXEMPT

RECEIPT # 54-04072021-077

**PROJECT TITLE: POLICY AND PROCEDURES FOR GROUNDWATER
EXTRACTION ALLOCATION THROUGH RESOLUTION NO 21-01**

DATE POSTED: 04/07/2021

DATE REMOVED: 05/07/2021

**IF YOU HAVE ANY CONCERNS REGARDING THE ENCLOSED DOCUMENT,
PLEASE CONTACT OUR OFFICE (559) 636-5051.**

by, Chmel. Wamh
Deputy

Enc
Clerk Division
559-636-5051

RESOLUTION NO. 21-01

**BEFORE
THE BOARD OF DIRECTORS
OF TRI-COUNTY WATER AUTHORITY
RESOLUTION OF THE TRI-COUNTY WATER AUTHORITY APPROVING THE
POLICY AND PROCEDURES FOR GROUNDWATER EXTRACTION 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, Tri-County Water Authority (“TCWA”) Groundwater Sustainability Agency (“GSA”) adopted a groundwater sustainability plans (“GSPs”) for the Tule Subbasin on December 18, 2019, and for the Tulare Lake Subbasin on January 22, 2020, consistent with SGMA. The Tule and Tulare Lake subbasins (collectively, “Subbasins”) are located within the San Joaquin Valley Groundwater Basin; and

WHEREAS, SGMA, as codified in California Water Code 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 §10726.4(a)(3)); and to establish accounting rules (Water Code §10726.4(a)(4)) with the overall goal of sustainably managing groundwater basins. (See Water Code §10720.1); and

WHEREAS, the GSPs recognize that the Subbasins are in a state of overdraft and undesirable results, including land subsidence, must be mitigated through projects and management actions, which includes reduction in groundwater extractions; and

WHEREAS, the GSPs’ adaptive management approach for sustainably managing the Subbasins 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 Subbasins. In particular, the Tule Subbasin GSP states as follows:

In recognition of the data gaps that exist in water levels, water quality, subsidence measurements, groundwater pumping, and groundwater storage, TCWA will implement an adaptive management approach that will take into consideration actual changes in groundwater conditions resulting from proposed projects, potential impacts from future extreme drought periods, impacts of climate change, and unknown impacts resulting from project and management actions taken by TCWA and adjacent GSAs. This may result in the need for more extreme measures being implemented. The ability to make adjustments as more information is obtained, which reduces the currently-identified data gaps, allows for a flexible

management approach where decisions can be adjusted to ensure a better outcome for all groundwater users.

WHEREAS, the rainfall data for central San Joaquin Valley posted by NOAA National Weather Service show below normal rainfalls for the winter of 2020 (Oct. 0 inch; Nov. 0.13 inches; Dec. 0.54 inches) indicative of drought condition in 2021. Coupled with new data on the water budget (i.e., the sustainable levels of the Subbasins), TWCA Board is exercising its flexible management authority in the GSP to ensure that all undesirable results of the Subbasins, 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)); and

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 Policy and Procedures for Groundwater Extraction Allocation are transitional measures for sustainable management of the Subbasins while projects are being developed and implemented to provide supplemental water supplies and do not determine or alter water rights under common law or any provision of law (Water 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 Subbasins 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 XIII C or Article XIII D of the California Constitution; and

WHEREAS, TCWA sought public input of the Policy and Procedures for Groundwater Extraction Allocation through public workshops before TCWA's Advisory Committee on October 2, 2020, October 28, 2020, November 18, 2020 December 16, 2020, and January 27, 2021; and before the TCWA Board of Directors on January 14, 2021 and February 18, 2021; and

WHEREAS, the TCWA Board of Directors finds that the proposed Policy and Procedures for Groundwater Extraction Allocation is consistent with its GSPs and with SGMA to further the sustainability goal for the Subbasins within its jurisdiction; and

WHEREAS, the Policy and Procedures for Groundwater Extraction Allocation 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 Policy and Procedures for Groundwater Extraction Allocation is to achieve sustainability of the limited natural groundwater resource of the Subbasins in order to allow sustainable, reasonable and beneficial uses of this resource for agriculture and other uses. The Policy and Procedures 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, on 18th day of February 2021, the TCWA Board of Directors does hereby

1. Adopt the Policy and Procedures for Groundwater Extraction Allocation.
2. Adopt the foregoing recitals as true and correct.
3. The adoption of the Policy and Procedures for Groundwater Extraction Allocation is categorically exempt from CEQA review pursuant to CEQA Guidelines section 15307 as the action of a regulatory agency acting to protect natural resources.
4. The adoption of the Policy and Procedures for Groundwater Extraction Allocation is categorically exempt from CEQA review pursuant to CEQA Guidelines section 15308 as the action of a regulatory agency acting to protect the environment.
5. The adoption of the Policy and Procedures for Groundwater Extraction Allocation is exempt from CEQA review under the “common sense exemption,” set forth in CEQA Guidelines section 15061(b)(3).
6. The categorical exemptions applicable to adoption of the Policy and Procedures for Groundwater Extraction Allocation are not subject to any applicable exception, including the “unusual circumstances” exception.
6. The Executive Director is hereby authorized to file with the applicable County clerk’s offices the Notice of Exemption for the Policy and Procedures for Groundwater Extraction Allocation in conformance with the procedures provided for the filing of such notices in CEQA and the CEQA Guidelines.

Approved this day, the 18th of February 2021.


Chairman

Board of Director

ATTEST:


Deanna Jackson
Executive Director

Groundwater Extraction Allocations Policy and Procedures

1. Findings

- 1.1 Portions of the Tule and Tulare Subbasins (collectively, the “Subbasins”) are located within the Tri-County Water Authority (“TCWA”) Groundwater Sustainable Agency’s jurisdictional boundaries and have been designated by the California Department of Water Resources as high priority groundwater basins that are subject to critical conditions of overdraft.
- 1.2 TCWA adopted groundwater sustainability plans (“GSPs”) for the Subbasins consistent with the Sustainable Management Groundwater Act (“SGMA”) for the purpose of managing the Subbasins to address undesirable results including chronic lowering of groundwater levels and land subsidence.
- 1.3 A management action in the GSPs includes establishing groundwater extraction allocations based on the Subbasin’s sustainable yield in order to mitigate the undesirable results while water projects are being developed and implemented.
- 1.4 TCWA’s adaptive management approach set forth in its GSPs allows TCWA to make adjustments as more information is obtained, which reduces the currently-identified data gaps. Adaptive management provides flexibility where decisions can be adjusted with the ultimate goal of providing for sustainable management of the Subbasins.
- 1.5 The provisions in this Policy and Procedures for Groundwater Extraction Allocation (“Policy and Procedures”) are transitional measures while projects are implemented to provide supplement water supply to achieve sustainability of the Subbasins and does not determine or alter water rights under common law or any provision of law (Water Code §10720.5(a)).
- 1.6 The Policy and Procedures 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.

2. Policy

Undesirable results, including overdraft conditions and land subsidence within the TCWA’s jurisdiction area, must be mitigated in phases while projects to provide additional water supplies to the area are being developed and implemented.

3. Purpose and Approach

To assist landowners transition extractions to the basin-wide sustainable yield, allocations will be phased based on periodic reviews of the GSPs. TCWA established five (5) categories of water available to landowner’s account for registered parcels in the TCWA’s water accounting program. All qualified registered parcels will be eligible to receive a sustainable yield allocation. In addition to the sustainable yield allocation, qualified irrigated land, initially based on the 2018 Land IQ crop data, will be eligible to receive

Overdraft Transitional Tier 1 Groundwater Allocation subject to a civil penalty. If a landowner determines that an error has occurred in the determination of eligibility for Overdraft Transitional Tier 1 Groundwater Allocation, they may dispute the determination of the 2018 Land IQ crop data with crop records for 2018 and 2019 from the Irrigated Lands Regulatory Program or Dairy Program.

Priority of use will be as listed below:

1. Sustainable Yield Allocation / Sustainable Yield Carryover
2. Landowner Developed Credit
3. AWD Groundwater Mitigation Credit (Angiola Water District Only)
4. Overdraft Transitional Groundwater Tier 1 Allocation
5. Overdraft Groundwater Tier 2

4. Definitions

- 4.1 “2018 Land IQ Crop Data” means crop and vegetation data generated in 2018 from satellite and aerial imagery, land cover classification and analysis, and crop and vegetation mapping.
- 4.2 “AWD Groundwater Mitigation Credit” means any recharge credit available to Angiola Water District (“AWD”) under existing agreements for purchases of water used by the AWD landowners which subsequently recharges the Subbasins.
- 4.3 “Carryover” means the sustainable yield allocation amount remaining unused from the prior 5-year block which can be added to the following 5-year block.
- 4.4 “Civil penalty” means a penalty payment per acre-feet for groundwater extraction above the sustainable yield.
- 4.5 “De minimis extractor” means a person who extracts two acre-feet or less per year. For the purpose of herein Policy and Procedures, an owner or operator with less than 5 acres of land is considered a de minimis extractor unless it is demonstrated that the owner or operator extracts more than two acre-feet per year. (See, Water Code §10721(e).)
- 4.6 “Extractions” means removing groundwater through groundwater extraction facilities for reasonable and beneficial use(s).
- 4.7 “Good standing” means landowners who have complied with any and all policies and procedures and ordinances of TCWA, while not subject to any form of violation, late fee, penalty or lien.
- 4.8 “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. (Water Code §10721(g).)
- 4.9 “Groundwater extraction facility” means a device or method for extracting groundwater from within a basin. (Water Code §10721(h).)
- 4.10 “Irrigated lands” means lands irrigated by groundwater using a groundwater extraction facility(ies) for the active production of plant crops or livestock for

market and uses incidental hereto. The 2018 Land IQ Crop Data will be initially used to determine whether a parcel is an irrigated land for the purpose of herein Policy and Procedures.

- 4.11 "Landowner developed credit" means an amount of water credited to landowner account for a water project or projects that has (have) been developed by a landowner and has (have) been determined by TCWA to help mitigate one or more undesirable results of either the Tule or Tulare Subbasin. Projects may include, but are not limited to, water banking and recharge projects, or other approved projects that benefit groundwater sustainability. The amount of credit to be added to any such landowner account shall be at the sole determination of the TCWA Board of Directors based on technical data and other supportive documentation. The TCWA Board of Directors shall be the final arbiter of establishing landowner developed credit to be added to a landowner account.
- 4.12 "Landowner water banking or recharge project" means any project developed and implemented by a landowner to reduce groundwater extraction or increase groundwater recharge to benefit either the Tule or Tulare Subbasin. Any landowner developed credit derived from landowner water banking or recharge project shall be determined by the TWCA Board of Directors based on technical and other data which must demonstrate that the project helps mitigate one or more undesirable results of either the Tule or Tulare Subbasin.
- 4.13 "Leave behind" means the amount of remaining allocation not subject to sustainable yield carryover.
- 4.14 "Overdraft Transitional Tier 1 Groundwater Allocation" means an allocation of groundwater extraction in rolling 5-year blocks to qualified irrigated lands above the sustainable yield allocation and subject to Tier 1 civil penalty to allow landowners a transitional period to alter their respective operations or to develop a landowner water banking or recharge project to help mitigate one or more undesirable results of either the Tule or Tulare Subbasin.
- 4.15 "Overdraft Tier 2 Groundwater" means groundwater extraction above the Overdraft Transitional Tier 1 Groundwater Allocation subject to Tier 2 civil penalty.
- 4.16 "Qualified registered parcel" means land qualified to receive sustainable yield allocation because the land meets the following criteria: (a) is a registered parcel; and (b) is in good standing with TWCA.
- 4.17 "Qualified irrigated land" means land qualified to receive Overdraft Transitional Tier 1 Groundwater Allocation because the land meets the following criteria: (a) is qualified to receive sustainable yield allocation; and (b) is an irrigated land based initially on the 2018 Land IQ Crop Data.
- 4.18 "Registered parcel" means a parcel, 5 acres or larger, registered in the TCWA's water accounting program.
- 4.19 "Sustainable yield" means the maximum quantity of water, calculated over a base period representative of long-term conditions in the basin and including any

temporary surplus, that can be withdrawn annually from a groundwater supply without causing an undesirable result. (Water Code §10721(w).)

- 4.20 “Sustainable yield allocation” means the maximum quantity of groundwater extraction allotted to landowners of qualified registered parcel based on the sustainable yield of the Subbasins, calculated over rolling five (5) year periods that can be used on that parcel before civil penalty is imposed.
- 4.21 “Tier 1 civil penalty” means civil penalty amount due by a landowner or operator of qualified irrigated land at a rate of \$125/acre-feet for use of Overdraft Transitional Tier 1 Groundwater Allocation, which is above the sustainable yield allocation.
- 4.22 “Tier 2 civil penalty” means civil penalty amount due by a landowner of qualified irrigated land at a rate of \$500/acre-feet of extracted groundwater for any exceedance of groundwater extraction above the Overdraft Transitional Tier 1 Groundwater Allocation’s yearly cap or 5-year water block allocation cap.
- 4.23 “Transfer” means groundwater allocation sold or otherwise acquired from one landowner to another landowner of qualified registered parcel which will be added to that recipient’s landowner account. Any transfer credit shall be established by the TWCA Board based on technical data and other information which must demonstrate that the transfer will not worsen one or more undesirable results of either the Tule or Tulare Subbasin. The TCWA Board of Directors shall be the final arbiter of determining the transfer credit to be deducted from transferor’s landowner account and added to transferee’s landowner account.
- 4.24 “Undesirable result” means one or more of the following effects caused by groundwater conditions occurring throughout the basins: (a) chronic lowering of groundwater levels; (b) significant and unreasonable reduction of groundwater storage; (c) significant and unreasonable seawater intrusion; (d) significant and unreasonable degraded water quality; (e) significant and unreasonable land subsidence; and/or (f) depletions of interconnected surface water.

5. Procedures

5.1 Determination of Sustainable Yield Allocation.

- 5.1.1 All owners of land 5 acres or larger must register their respective parcels in TCWA’s water accounting program on or before March 30, 2021, in order to qualify for sustainable yield allocation.
- 5.1.2 Sustainable yield allocation will be available to every qualified registered parcel, 5 acres or larger, for reasonable and beneficial use within the TCWA’s jurisdictional boundaries. Sustainable yield allocation will be harmonized across TCWA’s jurisdictional boundaries. Sustainable yield allocation is based on available documentation, data and analysis in TCWA’s GSPs; and will be coordinated with other applicable GSAs with jurisdiction in the Subbasins. Sustainable yield allocation will be continually evaluated

and is subject to adjustment at each five-year GSP update.

- 5.1.3 Sustainable yield allocation is allotted in 5-year blocks. A landowner's sustainable yield allocation may qualify for carryover to add to the landowner account for the subsequent five-year block.
- 5.1.4 A landowner may transfer his/her sustainable yield allocation, or a portion thereof, to another landowner with qualified registered parcel within the TCWA jurisdictional boundaries; or the Tule Subbasin or the Tulare Lake Subbasin subject to coordination with the appropriate Tule or Tulare Subbasin GSAs and with approval by the TCWA Board of Directors.
- 5.1.5 Transfers and carryovers within the TCWA jurisdictional boundaries will be added to the appropriate landowner accounts in the TCWA's accounting program subject to approval by the TCWA Board of Directors.
- 5.1.6 All transfers must be approved by the TCWA Board of Directors; and all transfers outside TCWA jurisdictional boundaries must be approved by TCWA and the GSA with jurisdiction and comply with all relevant subbasin regulations. TCWA will keep an account of all transfers in the TCWA water accounting program.
- 5.1.7 Only qualified registered parcels are afforded sustainable yield allocation and all non-qualified lands, other than de minimis extractors, must cease extraction of groundwater until such time the lands become qualified.

5.2 Landowner Developed Credits

- 5.2.1 Landowner developed credits may be developed through landowner water banking or recharge projects or other approved projects that help mitigate one or more undesirable results of either the Tule or Tulare subbasin. Landowner developed projects must be approved by and registered with TCWA to be eligible for landowner developed credit. The TCWA Board of Directors shall be the final arbiter of determining landowner developed credit to be added to a landowner account.
- 5.2.2 In order to protect the Subbasins from undesirable results, a percentage of any landowner water banking or recharge projects will remain with TCWA. The amount of leave behind will depend on the place of use of the landowner developed credit generated from the water banking or recharge project. TCWA will adopt a separate banking policy to establish the leave behind amount.
- 5.2.3 Sustainable yield allocation transfers between landowners of qualified registered parcels must be documented and approved by the TCWA Board of Directors. The TCWA Board of Directors shall be the final arbiter of determining the transfer credit to be deducted from transferor's landowner account and added to transferee's landowner

account.

- 5.2.4 All transfers purchased from outside of TCWA boundaries must be approved by both GSAs with jurisdiction and comply with all relevant subbasin regulations of both GSAs. TWCA will develop a separate policy and procedures for transfers from outside of the TCWA jurisdictional boundaries.
- 5.2.5 All landowner developed credit will be maintained in TCWA water accounting program.
- 5.3 AWD Groundwater Mitigation Credit will be reported to TCWA yearly and may be distributed to Angiola Water District's ("AWD") or AWD landowners in the TCWA accounting program in accordance with AWD's policy upon its approval by the TCWA Board of Directors, which must occur prior to establishing an account for the AWD or the AWD landowners in the TCWA water accounting program.
- 5.4 Overdraft Transitional Groundwater Tier 1 Allocation
 - 5.4.1 Overdraft Transitional Groundwater Tier 1 Allocation will be available to qualified irrigated lands within the TCWA jurisdictional boundaries based on the 2018 Land IQ crop data. Qualified irrigated lands will be eligible to receive Overdraft Transitional Groundwater Tier 1 Allocation for the duration of the program subject to a civil penalty. Overdraft Transitional Groundwater Tier 1 Allocation, including a yearly cap and a 5-year block cap, will be allotted at the beginning of each 5-year block.
 - 5.4.2 For the first 5-year block, the yearly cap will be 3.4 AF/Acre.
 - 5.4.3 The Overdraft Transitional Groundwater Tier 1 Allocation, in its entirety or portions thereof, may be transferred between landowners of qualified irrigated lands within TCWA subject to the TCWA Board of Directors' approval. If transferred, the credit may be added to the transferee's Overdraft Transitional Groundwater Tier 1 Allocation Credit. The TCWA Board of Directors shall be the final arbiter of determining the transfer credit to be deducted from transferor's landowner account and added to transferee's landowner account. The transfer recipient will not be allowed to carryover the credit received from any such transfer to the subsequent 5-year block.
 - 5.4.4 Extractions above the sustainable yield allocation up to the Overdraft Transitional Groundwater Tier 1 Allocation will be imposed the Tier 1 civil penalty of \$125/AF for the first 5-year block, and the civil penalty will be issued to applicable landowners on a quarterly basis. Groundwater extractions exceeding the Overdraft Transitional Groundwater Tier 1 Allocation yearly cap will be imposed as Tier 2 civil penalty. Block civil penalty will be approved by the Board of Directors before each 5-year block allocation.

<u>Water Blocks</u>	<u>Tier 1</u>
a) 2021 – 2025	12 AF/Acre
b) 2026 – 2030	7.5 AF/Acre
c) 2031 – 2035	5 AF/Acre
d) 2036 – 2040	2.5 AF/Acre

5.5 Overdraft Groundwater Tier 2

5.5.1 Overdraft Groundwater Tier 2, which is groundwater extraction above the Overdraft Transitional Groundwater Tier 1 Allocation, will be available to the qualified irrigated lands that qualified for Overdraft Transitional Groundwater Tier 1 Allocation, subject to Tier 2 penalty. Groundwater extraction that exceeds the yearly cap or the 5-year water block allocation will pay an initial civil penalty amount of \$500.00/AF. The penalty rate will be approved by the TCWA Board of Directors at the end of each 5-year block to be imposed for the following 5-year block. Civil penalty for groundwater extractions exceeding the yearly cap will be issued the Tier 2 civil penalty the first quarter of the following calendar year. Groundwater extractions exceeding the 5-year sustainable yield allocation, that were not imposed the Tier 2 civil penalty for exceeding the yearly cap, will be imposed and issued Tier 2 civil penalty in the first quarter of each 5-year block.

6. **Landowner Water Banking or Recharge Project**

- 6.1 Landowners may voluntarily develop and implement landowner water banking or recharge project to benefit the Tule or Tulare Subbasin. In developing and implementing any such project, the landowner shall be solely responsible for complying with all applicable Federal, State and local laws, rules, regulations, ordinances and policies, including but not limited to the California Environmental Quality Act. At the request of TCWA, landowner responsible for any such project shall provide TCWA with a copy of any permit, order, agreement, environmental review document or any other records indicating compliance with applicable laws.
- 6.2 A landowner developing and implementing water banking or recharge project shall be solely responsible for determining the nature, location and extent of the facilities necessary for the banking or recharge project, and all associated costs and expenses, including design, permitting, construction, operation, maintenance, repair and replacement shall be the sole responsibility of the landowner.
- 6.3 A landowner developing and implementing landowner water banking or recharge project shall indemnify, defend and hold harmless TCWA, its Board of Directors, officers, employees, and agents for any damage or claim or claim of damage of any nature whatsoever associated with or related to landowner

water banking and recharge project, including but not limited to property damage or personal injury or death.

- 7. SGMA Penalties and Civil Remedies.** Any landowner or operator who violates the provisions of the herein Policy and Procedures is subject to the criminal and civil sanctions set forth in SGMA. TWCA may commence or sustain any civil action or proceeding, either at law or in equity, to enforce any of the provisions of the GSPs, or any policy and procedures promulgated therefrom, or to enjoin or restrain any violation thereof, or to collect any sums of money, including penalties, fees, charges and/or assessments, on behalf of the TCWA. The provisions of this Section 7 are to be supplementary and complementary to all of the provisions of SGMA, other state law, and any law cognizable at common law or in equity; and nothing herein shall be read, interpreted or construed in any manner so as to bar or limit TWCA from seeking any remedy to which it may otherwise be entitled.
- 8. Enforcement Policy and Procedures.** Any penalties or fines imposed shall be subject to the procedures set forth in the Enforcement Policy and Procedures.
- 9. Action Against TCWA.** Nothing contained in the herein Policy and Procedures shall constitute a waiver by TCWA or estop TCWA from asserting any defenses or immunities from liability as provided in law, including but not limited to those provided in Division 3.6, Title 1 of the Government Code.