

RESOLUTION No. 2025-01

**THE BOARD OF DIRECTORS OF THE
EAST TURLOCK SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY**

**A RESOLUTION ADOPTING THE EAST TURLOCK SUBBASIN GROUNDWATER
SUSTAINABILITY AGENCY RULES AND REGULATIONS AND CERTAIN
FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The EAST TURLOCK SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY of Stanislaus and Merced Counties does resolve as follows:

A. WHEREAS, in August 2014, the California Legislature passed, and in September 2014 the Governor signed, legislation creating the Sustainable Groundwater Management Act (“SGMA”) “to provide local groundwater sustainability agencies with the authority and technical and financial assistance necessary to sustainably manage groundwater” (Wat. Code, § 10720(d)); and

B. WHEREAS, SGMA requires sustainable groundwater management through the development and implementation of groundwater sustainability plans (“GSPs”) (Wat. Code, § 10727); and

C. WHEREAS, SGMA requires groundwater sustainability agencies (“GSAs”) to manage groundwater in all basins designated by the Department of Water Resources (“DWR”) as a medium or high priority, including the Turlock Subbasin (designated basin number 5-22.03) (“Subbasin”), by submitting one or more GSPs covering the entire groundwater basin by January 31, 2022 (Wat. Code §§ 10720.7(a)(2), 10733.4); and

D. WHEREAS, the East Turlock Subbasin Groundwater Sustainability Agency (“ETSGSA”) is a joint powers authority formed in January 2017 to manage groundwater resources in the eastern portion of the Turlock Subbasin, in accordance with SGMA; and

E. WHEREAS, the West Turlock Subbasin Groundwater Sustainability Agency (“WTSGSA”) is the other GSA within the Subbasin responsible for sustainably managing groundwater within its portion of the Subbasin pursuant to SGMA; and

F. WHEREAS, ETSGSA and WTSGSA collaborated to develop one GSP for the entire Subbasin (the “Turlock GSP”), and are working collaboratively to implement the Turlock GSP within their respective portions of the Subbasin; and

G. WHEREAS, the Turlock GSP was adopted by the ETSGSA and the WTSGSA in January 2022 and submitted to DWR on January 28, 2022; and

H. WHEREAS, on January 18, 2024, DWR determined that the Turlock GSP was “incomplete”, which determination identified certain deficiencies for the Subbasin GSAs to address by preparing a revised and updated GSP within 180 days; and

I. WHEREAS, on July 11, 2024, the revised Turlock GSP (“Revised Turlock GSP”) was adopted by ETSGSA and WTSGSA after public hearings and was timely submitted to DWR; and

J. WHEREAS, ETSGSA is immediately responsible for implementing the Revised Turlock GSP while awaiting a further determination by DWR; and

K. WHEREAS, the Revised Turlock GSP recognizes that the Subbasin is in a state of overdraft and that undesirable results, including but not limited to chronic groundwater level decline, depletion of groundwater storage, depletion of interconnected surface water, and land subsidence, must be mitigated through projects and management actions such as groundwater demand reduction; and

L. WHEREAS, the Revised Turlock GSP includes – as a management action – a program adopted by the ETSGSA referred to as the Groundwater Demand Reduction Plan, which outlines demand management programs to arrest groundwater level decline by 2027 and achieve Minimum Thresholds by 2032, that will be ready for full implementation by ETSGSA in 2025, including: (1) a Groundwater Use Allocation and Fee Program that establishes groundwater allocations and escalating groundwater use reduction targets, as well as volume-based groundwater use fees charged at rates that increase based on the quantity of groundwater used, with the highest rates charged if use reduction targets are exceeded; (2) an internet-based Groundwater Accounting Platform to administer and track the program; and (3) proposed Rules and Regulations that govern groundwater use allocations, measurement, and implementation; and

M. WHEREAS, the proposed Rules and Regulations, attached hereto as **Exhibit “A”** and incorporated herein by this reference, contain a number of definitions, standards, and planned practices for various elements of Revised Turlock GSP implementation, including proposed groundwater allocations to be implemented concurrently with a proposed extraction-based groundwater use fee; and

N. WHEREAS, the proposed Rules and Regulations were developed with input from ETSGSA’s member agencies, an *ad hoc* committee comprised of ETSGSA landowners and representatives, and input from staff, technical consultants, and legal counsel; furthermore, the proposed Rules and Regulations were circulated, presented, and discussed publicly prior to adoption; and

O. WHEREAS, ETSGSA is authorized to adopt rules, regulations, ordinances, and resolutions for the purpose of implementing SGMA, and perform any act necessary or proper to carry out the purposes of SGMA (Wat. Code § 10725.2); and

P. WHEREAS, SGMA authorizes GSAs to regulate groundwater extractions by regulating, limiting, or suspending extractions from individual groundwater wells and other means, including by establishing groundwater extraction allocations; by authorizing temporary and permanent transfers of groundwater extraction allocations within the GSA’s boundaries if certain conditions are met; and by establishing accounting rules regarding unused groundwater extraction allocations, consistent with the GSP (Wat. Code § 10726.4), with the overall goal of sustainably managing groundwater basins and enhancing local management of groundwater (Wat. Code §10720.1); and

Q. WHEREAS, SGMA authorizes a GSA to impose civil penalties not to exceed five hundred dollars (\$500) per acre-foot extracted in excess of the amount that person is authorized to extract under a rule, regulation, ordinance, or resolution adopted by that GSA (Wat. 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 Subbasin 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 XIII D of the California Constitution; and

R. WHEREAS, in addition to the foregoing, ETSGSA is authorized to assess civil penalties on any person who violates any rule, regulation, ordinance, or resolution adopted by the GSA in an amount not to exceed 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 the ETSGSA has notified the person of the violation (Wat. Code § 10732(a)(2)); and

S. WHEREAS, the proposed Rules and Regulations considered herein are transitional measures for sustainable management of groundwater within ETSGSA boundaries and do not determine or alter water rights under common law or any provision of California law (Wat. Code §10720.5(a)); and

T. WHEREAS, WTSGSA, as lead agency under the California Environmental Quality Act (“CEQA”), prepared a program environmental impact report (“PEIR”) to analyze resources potentially affected by implementation of the Projects and Management Actions (“PMAs”) in the Subbasin under the Revised Turlock GSP, which included evaluation of management actions, such as groundwater allocations, extraction reporting and fees (See Table ES-2 on page ES-12 of the PEIR); and

U. WHEREAS, ETSGSA adopted the PEIR as a responsible agency under CEQA; and

V. WHEREAS, pursuant to CEQA Guidelines sections 10561(b)(3), 15307, and 15308, the adoption of these Rules and Regulations is exempt from CEQA, and therefore ETSGSA does not need to adopt any analysis from the PEIR; and

W. WHEREAS, the Board finds that these proposed Rules and Regulations are consistent with SGMA and the Revised Turlock GSP; and

X. WHEREAS, on December 19, 2024 and January 23, 2025, the ETSGSA Board of Directors held public meetings to consider adoption of the proposed Rules and Regulations.

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of the EAST TURLOCK SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY (“Board”) finds, orders and determines as follows:

1. The facts stated in the Recitals above are true and correct and are hereby incorporated herein.

2. The adoption of these Rules and Regulations is categorically exempt from CEQA pursuant to CEQA Guidelines section 15307 as the action of a regulatory agency acting to protect natural resources.

3. The adoption of these Rules and Regulations is categorically exempt from CEQA pursuant to CEQA Guidelines section 15308 as the action of a regulatory agency acting to protect the environment.

4. The adoption of these Rules and Regulations is exempt from CEQA review under the common sense exemption, set forth in CEQA Guidelines section 15061(b)(3).

5. The categorical exemptions applicable to the adoption of these Rules and Regulations are not subject to any applicable exception, including the “unusual circumstances” exemption.

6. The Board hereby adopts the Rules and Regulations, as depicted in **Exhibit “A”**.

7. The ETSGSA General Manager and Secretary are hereby authorized to file with the applicable County Clerks’ offices the Notice of Exemption for adoption of these Rules and Regulations in performance with the procedures provided for the filing of such notices pursuant to CEQA and the CEQA Guidelines.

8. The Board authorizes the ETSGSA General Manager and Secretary to take such other and additional actions as may be reasonably necessary to implement the purpose and intent of this Resolution.

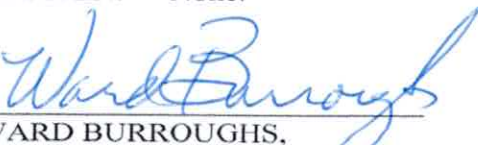
PASSED, APPROVED, AND ADOPTED this 23rd day of January 2025, by a motion from Alternate Member Matt Beaman and a second by Member Lloyd Pareira, with the following vote to wit:

AYES: Alternate Member Matt Beaman, Chairman Ward Burroughs, Member Lloyd Pareira, and Alternate Member Dennis Yotsuya.

NOES: None.

ABSENT: Member Vito Chiesa, Member Hicham EITal, and Member Dirk Ulrich.

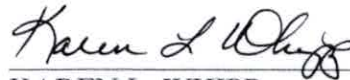
ABSTAIN: None.


WARD BURROUGHS,
Chairman of East Turlock Subbasin
Groundwater Sustainability Agency

**CERTIFICATE OF SECRETARY
OF
EAST TURLOCK SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY**

I, Karen L. Whipp, do hereby certify that I am the duly authorized and appointed Secretary of the East Turlock Subbasin Groundwater Sustainability Agency, a joint powers authority (“ETSGSA”); that the following is a true and correct copy of that certain resolution duly and unanimously adopted and approved by the Board of Directors of the Agency on the 23rd day of January 2025; and that said resolution has not been modified or rescinded and remains in full force and effect as the date hereof:

IN WITNESS WHEREOF, I have executed this Certificate on this 23rd day of January 2025.



KAREN L. WHIPP

Secretary of East Turlock Subbasin
Groundwater Sustainability Agency

EXHIBIT "A"
RULES AND REGULATIONS